

As filed with the U.S. Securities and Exchange Commission on October 31, 2014

Registration No. 333-198769
Registration No. 333-198769-01

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

AMENDMENT NO. 3
TO
FORM S-4
REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

9060669 CANADA INC.
NEW RED CANADA LIMITED PARTNERSHIP
(Exact name of registrant as specified in its charter)

Canada
(State or other jurisdiction of
incorporation or organization)

Ontario, Canada
(State or other jurisdiction of
incorporation or organization)

4899
(Primary Standard Industrial
Classification Code Number)

4899
(Primary Standard Industrial
Classification Code Number)

Not Applicable
(I.R.S. Employer
Identification No.)

Not Applicable
(I.R.S. Employer
Identification No.)

c/o Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126
(305) 378-3000

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

Jill Granat
Senior Vice President, General Counsel and Secretary
c/o Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126
(305) 378-3000

Jill Sutton
Executive Vice President, General
Counsel and Secretary
Tim Hortons Inc.
874 Sinclair Road
Oakville, ON, Canada
(905) 339-6102

Stephen Fraidin
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(212) 403-1000

Clay Horner
Doug Bryce
Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto, Ontario
Canada M5X 1B8
(416) 362-2111

Approximate date of commencement of proposed sale to the public:
As soon as practicable after this Registration Statement becomes effective and as part of the merger described in the enclosed joint
proxy statement/prospectus and management proxy circular.

If the securities being registered on this Form are being offered in connection with the formation of a holding company and there is compliance with General Instruction G, check the following box. ☐

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If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act of 1933, as amended, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of “large accelerated filer,” “accelerated filer” and “smaller reporting company” in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer	☐	Accelerated filer	☐
Non-accelerated filer	☒ (Do not check if a smaller reporting company)	Smaller reporting company	☐

If applicable, place an X in the box to designate the appropriate rule provision relied upon in conducting this transaction:

Exchange Act Rule 13e-4(i) (Cross-Border Issuer Tender Offer) ☐
Exchange Act Rule 14d-1(d) (Cross-Border Third-Party Tender Offer) ☐

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933, as amended, or until the registration statement shall become effective on such dates as the Commission, acting pursuant to said Section 8(a), may determine.

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The information contained herein is not complete and may be changed. These securities may not be issued until the registration statement filed with the Securities and Exchange Commission is effective. This joint information statement/circular shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of such securities, in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to appropriate registration or qualification under the securities laws of such jurisdiction.

PRELIMINARY INFORMATION STATEMENT/CIRCULAR—SUBJECT TO COMPLETION DATED OCTOBER 31, 2014



ARRANGEMENT RESOLUTION PROPOSAL—TIM HORTONS SHAREHOLDERS VOTES ARE VERY IMPORTANT

[•], 2014

Burger King Worldwide, Inc. ("Burger King Worldwide") and Tim Hortons Inc. ("Tim Hortons") announced on August 26, 2014, that they had agreed to a transaction under the terms of the Arrangement Agreement and Plan of Merger (the "arrangement agreement") by and among Tim Hortons, Burger King Worldwide, 9060669 Canada Inc., a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company) ("Holdings"), New Red Canada Limited Partnership, a limited partnership organized under the laws of Ontario and wholly owned subsidiary of Holdings (f/k/a New Red Canada Partnership) ("Partnership"), Blue Merger Sub, Inc., a corporation incorporated under the laws of Delaware and a wholly owned subsidiary of Partnership ("Merger Sub"), and 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly owned subsidiary of Partnership ("Amalgamation Sub").

To effect the transaction, Amalgamation Sub will acquire all of the outstanding shares of Tim Hortons pursuant to a plan of arrangement under Canadian law, which will result in Tim Hortons becoming an indirect subsidiary of both Holdings and Partnership (the "arrangement"). Merger Sub will then merge with and into Burger King Worldwide, with Burger King Worldwide surviving the merger as an indirect subsidiary of both Holdings and Partnership (the "merger" and, together with the arrangement, the "transactions"). Holdings, which will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons, will be the general partner of Partnership and own a majority interest (by vote and value) in Partnership, which will be represented by common units and preferred units of Partnership. As a result, Holdings will be entitled to distributions from Partnership that generally correspond to dividends and distributions that are paid by Holdings in respect of common shares and preferred shares of Holdings that are issued and outstanding from time to time. The balance of the partnership units of Partnership will initially be held by former holders of Burger King Worldwide common stock in the form of newly issued Partnership exchangeable units. Partnership will also be renamed as mutually agreed between Burger King Worldwide and Tim Hortons.

Tim Hortons must obtain the approval of its shareholders before the arrangement can be completed. We are sending this document to Tim Hortons shareholders to ask them to consider, and if thought advisable, approve with or without variation, a special resolution (the "arrangement resolution") with respect to the arrangement pursuant to section 192 of the Canada Business Corporations Act (the "CBCA"). Burger King Worldwide's majority stockholder has already committed to provide its written consent to approve the merger and adopt the arrangement agreement within five business days following the date on which the enclosed document (the "joint information statement/circular") has been declared effective, which will constitute the only stockholder approval required from holders of Burger King Worldwide common stock. We are sending this document to the other Burger King Worldwide stockholders in order to inform them of such approval and of the transactions.

If the arrangement is completed, each holder of a common share of Tim Hortons will be entitled to receive C\$65.50 in cash and 0.8025 newly issued Holdings common shares in exchange for each Tim Hortons common share held by such shareholder. However, Tim Hortons shareholders may make an election to receive cash (a "cash election"), which will entitle such shareholder to receive C\$88.50 in cash in exchange for each Tim Hortons common share held by such shareholder, or make an election to receive Holdings common shares (an "arrangement shares election"), which will entitle such shareholder to receive 3.0879 newly issued Holdings common shares in exchange for each Tim Hortons common share held by such shareholder, in each case, subject to proration in accordance with the plan of arrangement as described further in the enclosed document.

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If the merger is completed, each share of Burger King Worldwide common stock outstanding immediately prior to the effective time of the merger will be converted into the right to receive, if no exchangeable election (as described below) has been made with respect to such common stock, 0.99 newly issued Holdings common shares and 0.01 newly issued Partnership exchangeable units, subject to proration as set forth in the arrangement agreement and as described below. A Burger King Worldwide stockholder may make an election to receive consideration solely in the form of Partnership exchangeable units (an “exchangeable election”), which will entitle such stockholder to receive one Partnership exchangeable unit in exchange for each share of Burger King Worldwide common stock, subject to proration as described below. The election to receive the Partnership exchangeable unit consideration will be subject to allocation procedures designed to ensure that the fair market value of Holdings’ interest in Partnership is no less than 50.1% of the fair market value of all equity interests in Partnership as of the date on which the transactions are completed. If exchangeable elections are made by a number of Burger King Worldwide stockholders that would result in such former Burger King Worldwide stockholders owning Partnership exchangeable units that represent more than 49.9% of the fair market value of Partnership, then each Burger King Worldwide stockholder will be entitled to receive Partnership exchangeable units subject to the proration procedures described below.

If the aggregate number of Partnership exchangeable units that would be issued to Burger King Worldwide stockholders after taking into account all exchangeable elections made would represent a value in excess of 49.9% of the fair market value of all equity interests in Partnership, then a proration factor will be determined to ensure that Holdings maintains ownership of 50.1% of the fair market value of all equity interests in Partnership as of the date on which the transactions are completed. Each holder of Burger King Worldwide common stock will receive Partnership exchangeable units equal to (a) the number of Partnership exchangeable units such stockholder would have received if no proration were applicable (the “non-prorated exchangeable units”) multiplied by (b) the proration factor. We refer to the number of units a Burger King Worldwide stockholder receives following proration as the “prorated exchangeable units”. Each such stockholder will then receive a number of additional Holdings common shares equal to the difference between the non-prorated exchangeable units and the prorated exchangeable units.

Pursuant to the terms of the limited partnership agreement of Partnership (the “partnership agreement”), each Partnership exchangeable unit will be entitled to distributions from Partnership in an amount equal to any dividends or distributions that are declared and payable in respect of a Holdings common share. Each exchangeable unit holder will also have the benefit of a voting trust agreement (the “voting trust agreement”), pursuant to which a trustee (the “trustee”) will hold a special voting share in Holdings that will entitle the trustee to a number of votes equal to the number of Partnership exchangeable units outstanding, and the holders of Partnership exchangeable units will be able to direct the trustee, as their proxy, to vote on their behalf in substantially all votes that are presented to Holdings common shareholders. From and after the one year anniversary of the completion of the transactions, each holder of a Partnership exchangeable unit will have the right to require Partnership to exchange all or any portion of such holder’s Partnership exchangeable units for Holdings common shares at a ratio of one Holdings common share for each Partnership exchangeable unit, subject to the right of Holdings, in its capacity as the general partner of Partnership, to cause Partnership to repurchase the partnership exchangeable units for cash (in an amount determined in accordance with the terms of the partnership agreement as described further in the enclosed document). Partnership and the terms of the Partnership exchangeable units are further described in the enclosed document.

Based on the number of Burger King Worldwide and Tim Hortons common shares estimated to be outstanding immediately prior to the completion of the transactions, we estimate that, upon completion, former Tim Hortons shareholders will own approximately 22% of the common equity of the combined company through ownership of Holdings common shares and former Burger King Worldwide stockholders will own approximately 76% of the common equity of the combined company through ownership of both Holdings common shares and Partnership exchangeable units, in each case, on a fully exchanged and fully diluted basis. In connection with the transactions, Berkshire Hathaway Inc. (“Berkshire”) will purchase for an aggregate purchase price of \$3,000,000,000 (USD), (a) Class A 9% cumulative compounding perpetual voting preferred shares of Holdings (the “preferred shares”) and (b) a warrant to purchase Holdings common shares (the “warrant”), which shares issuable pursuant to the warrant will represent 1.75% of the fully diluted common shares of Holdings as of the completion of the transactions, at an exercise price per Holdings common share of \$0.01. The warrant may be exercised until the fifth anniversary of the closing of the transactions. Berkshire has informed Holdings that it intends to exercise the warrant promptly following the closing of the transactions. After taking into account the voting power attributed to the preferred shares, former holders of Burger King Worldwide common stock will control approximately 68% of the voting power of Holdings and former Tim Hortons shareholders will control approximately 21% of the voting power of Holdings.

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Tim Hortons common shares are traded on each of the New York Stock Exchange (the “NYSE”) and the Toronto Stock Exchange (the “TSX”) under the symbol THI, and Burger King Worldwide common stock is traded on the NYSE under the symbol BKW. The parties have agreed that Tim Hortons common shares will delist from the NYSE and the TSX effective following the closing of the arrangement and that Burger King Worldwide common stock will delist from the NYSE effective following the closing of the merger. Holdings has or will apply to list the Holdings common shares to be issued or made issuable pursuant to the arrangement and the merger on the NYSE and the TSX, and Partnership has applied to list the Partnership exchangeable units to be issued or made issuable pursuant to the merger on the TSX. Listing will be subject to Holdings fulfilling all of the listing requirements of the NYSE and the TSX and Partnership fulfilling all the listing requirements of the TSX.

Tim Hortons is soliciting proxies for use at a special meeting of its shareholders (the “Tim Hortons special meeting”) to consider and vote upon the arrangement resolution.

We cannot complete the arrangement or the merger unless the shareholders of Tim Hortons approve the arrangement resolution. **Your vote is very important, regardless of the number of Tim Hortons common shares you own. Whether or not you expect to attend the Tim Hortons meeting in person, please vote your shares as promptly as possible so that your shares may be represented and voted at the Tim Hortons meeting .**

After careful consideration, the boards of directors of each of Tim Hortons and Burger King Worldwide have unanimously approved the arrangement agreement and the transactions contemplated thereby, including the arrangement and the merger. The Tim Hortons board of directors unanimously recommends that Tim Hortons shareholders vote “FOR” the arrangement resolution to be submitted at the Tim Hortons special meeting.

The joint information statement/circular is a prospectus related to the issuance of Holdings common shares and Partnership exchangeable units in the transactions, a management proxy circular for Tim Hortons to use in soliciting proxies for the Tim Hortons special meeting, and an information statement for those Burger King Worldwide stockholders who have not previously committed to approve by written consent the merger and adopt the arrangement agreement. As stated above, the written consent of Burger King Worldwide’s majority stockholder will constitute the only stockholder approval required from holders of Burger King Worldwide common stock, and no further action on the part of Burger King Worldwide stockholders is required in connection with adopting the arrangement agreement and the merger. We are sending this document to the other Burger King Worldwide stockholders in order to inform them of such approval and of the transactions. The joint information statement/circular is an important document containing answers to frequently asked questions and a summary description of the arrangement and the merger, followed by more detailed information about Tim Hortons, Burger King Worldwide, Holdings, Partnership, the transactions and the arrangement agreement. **The obligations of Tim Hortons and Burger King Worldwide to complete the transactions are subject to the satisfaction or waiver of the conditions to closing set forth in the arrangement agreement. You should read this entire joint information statement/circular carefully. In particular, we urge you to read the section entitled “ [Risk Factors](#) ”.**

We thank you for your consideration and continued support.

Sincerely,
Daniel Schwartz
Chief Executive Officer
Burger King Worldwide, Inc.

Marc Caira
President and Chief Executive Officer
Tim Hortons Inc.

Neither the Securities and Exchange Commission nor any state securities commission, nor any securities regulatory authority in Canada, has approved or disapproved of the securities to be issued under this joint information statement/circular or determined that this joint information statement/circular is accurate or complete. Any representation to the contrary is a criminal offense.

This joint information statement/ circular is dated [•], 2014, and is being mailed to Tim Hortons shareholders and Burger King Worldwide stockholders on or about [•], 2014.

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NOTICE OF SPECIAL MEETING OF TIM HORTONS INC.

NOTICE IS HEREBY GIVEN that, pursuant to an order of the Ontario Superior Court of Justice (Commercial List) dated [•], 2014 (the “interim order”), a special meeting (the “special meeting”) of shareholders (the “Tim Hortons shareholders”) of Tim Hortons Inc. (“Tim Hortons”) will be held as follows:

When

[•], 2014
[•] [a.m.] (Toronto time)

Where

[•]
Toronto, Ontario, Canada

Items of Business

1. To consider, and if thought fit, approve with or without variation, a special resolution (the “arrangement resolution”), the full text of which is set forth in Annex C to the joint information statement/circular of Burger King Worldwide, Inc. (“Burger King Worldwide”) and Tim Hortons (the “joint information statement/circular”) accompanying this notice of meeting and forming part of the joint information statement/circular contemplated by the arrangement agreement and plan of merger (the “arrangement agreement”) between Tim Hortons, Burger King Worldwide, 9060669 Canada Inc. (f/k/a 1011773 B.C. Unlimited Liability Company), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), Blue Merger Sub, Inc. and 8997900 Canada Inc. dated August 26, 2014, a copy of which is included as Annex A to the joint information statement/circular, of Tim Hortons shareholders to approve an arrangement (the “arrangement”) under section 192 of the *Canada Business Corporations Act* (the “CBCA”), all as more particularly described in the joint information statement/circular, which resolution, to be effective, must be passed by at least two-thirds of the votes cast at the special meeting in person or by proxy by Tim Hortons shareholders; and
2. To transact such further or other business as may properly come before the special meeting and any adjournments or postponements thereof.

Specific details of the matters before the special meeting are set forth in the joint information statement/circular which accompanies this Notice of Special Meeting.

The Tim Hortons board of directors has unanimously approved the arrangement agreement and the transactions contemplated thereby and has determined that the arrangement is fair, from a financial point of view, to Tim Hortons shareholders and is in the best interests of Tim Hortons. For the reasons set forth in the enclosed joint information statement/circular, the Tim Hortons board of directors unanimously recommends that Tim Hortons shareholders vote “FOR” the arrangement resolution.

Registered holders of common shares of Tim Hortons at the close of business on [•], 2014, are entitled to vote. Votes of Tim Hortons shareholders are very important, so Tim Hortons shareholders should vote their shares of Tim Hortons even if they cannot attend the special meeting.

Tim Hortons shareholders can vote prior to the special meeting by phone or on the internet, or by completing the enclosed proxy form or voting instruction form as soon as possible. Voting promptly helps reduce the cost of additional proxy solicitation.

The Tim Hortons transfer agent must receive voting instructions from Tim Hortons shareholders before midnight, Toronto time, on [•], 2014, the second business day before the special meeting. If the special meeting is postponed or adjourned, the deadline will be before midnight, Toronto time, on the business day before the special meeting is reconvened.

If you, as a Tim Hortons shareholder, hold your shares of Tim Hortons through an intermediary (your bank, broker or other nominee), you are a beneficial shareholder of Tim Hortons and should have received a voting instruction form. You will need to give your voting instructions to your intermediary, so you should allow sufficient time for your intermediary to receive them and submit them to Tim Hortons transfer agent. Each intermediary has its own deadline so Tim Hortons shareholders will need to follow the instructions on the enclosed voting instruction form.

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If you are a Tim Hortons registered shareholder, you can vote your Tim Hortons common shares by mail, phone or the internet, or you can attend the special meeting and vote your Tim Hortons common shares in person. See “*The Tim Hortons Special Meeting of Shareholders — How to Vote*” in the accompanying joint information statement/circular for more information.

Tim Hortons shareholders who are planning to return the form of proxy or voting instruction form are encouraged to review the joint information statement/circular carefully before submitting the applicable form.

Registered shareholders of Tim Hortons are expected to be granted the right to dissent in respect of the arrangement resolution pursuant to the interim order. If the arrangement becomes effective, a registered Tim Hortons shareholder who dissents in respect of the arrangement resolution (each, a “dissenting Tim Hortons shareholder”) is entitled to be paid the fair value of such dissenting Tim Hortons shareholder’s shares, provided that such dissenting Tim Hortons shareholder has delivered a written objection to the arrangement resolution to Tim Hortons not later than 5:00 p.m., Toronto time, on [•], 2014, being two business days preceding the special meeting (or, if the special meeting is postponed or adjourned, two business days preceding the date of the postponed or adjourned special meeting) and has otherwise complied strictly with the dissent procedures described in the joint information statement/circular, including the relevant provisions of section 190 of the CBCA, as expected to be modified by the interim order and the plan of arrangement. Beneficial shareholders of Tim Hortons who wish to dissent should be aware that only registered shareholders of Tim Hortons are entitled to dissent. Failure to comply strictly with the dissent procedures described in the joint information statement/circular may result in the loss of any right of dissent. These rights are described in detail in the accompanying joint information statement/circular under the heading “*The Transactions—Appraisal / Dissent Rights—Tim Hortons*”. The text of section 190 of the CBCA, which will be relevant in any dissent proceeding, is set forth in Annex K to the joint information statement/circular.

All of these items of business will be considered at the special meeting, or at any meeting that is reconvened if the special meeting is postponed or adjourned. Thank you for your continued interest in Tim Hortons.

Jill E. Sutton

Executive Vice President, General Counsel and Secretary
Tim Hortons Inc.

Oakville, Ontario, Canada

[•], 2014

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Please note: Tim Hortons proxy materials are also available on the internet (www.envisionreports.com/THI2014 and www.timhortons-invest.com).

Tim Hortons Inc. Special Meeting of Shareholders

[•], 2014

[•] a.m. (Toronto time)

Important things to know:

- Doors open and check-in begins at [•] a.m. (Toronto time).
- Admission and seating are on a first-come, first-served basis.
- Cameras, mobile phones, recording equipment and other electronic devices are not permitted.
- Proof of Tim Hortons share ownership and government-issued photo identification may be required to attend the special meeting.

The special meeting will be broadcast live over the internet beginning at [•] a.m. (Toronto time) at www.timhortons-invest.com, and Tim Hortons will archive the webcast on the Tim Hortons website after the special meeting.

Parking/Access for the [•] Toronto, Canada

[Map to be included.]

Questions?

Tim Hortons Investor Relations
905.339.4940

**Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, Florida 33126**

**NOTICE OF APPROVAL GIVEN BY BURGER KING WORLDWIDE STOCKHOLDERS AND ACTION TO BE TAKEN BY
BURGER KING WORLDWIDE**

To the Stockholders of Burger King Worldwide, Inc.:

BURGER KING WORLDWIDE, INC. IS NOT ASKING YOU FOR YOUR PROXY AND YOU ARE REQUESTED NOT TO SEND US A PROXY. THE ACTIONS DESCRIBED BELOW WILL BE APPROVED BY WRITTEN CONSENT OF THE HOLDER OF A MAJORITY OF BURGER KING WORLDWIDE, INC.'S OUTSTANDING SHARES OF COMMON STOCK WITHIN FIVE BUSINESS DAYS AFTER THE REGISTRATION STATEMENT OF WHICH THIS JOINT INFORMATION STATEMENT/CIRCULAR IS A PART HAS BEEN DECLARED EFFECTIVE, PURSUANT TO THE TERMS OF A VOTING AGREEMENT ENTERED INTO ON AUGUST 26, 2014, BY AND AMONG TIM HORTONS INC. AND THE HOLDER OF A MAJORITY OF BURGER KING WORLDWIDE, INC.'S OUTSTANDING SHARES OF COMMON STOCK (THE "VOTING AGREEMENT"). A VOTE OF THE REMAINING STOCKHOLDERS WILL NOT BE NECESSARY.

This joint information statement/circular is being furnished in connection with the Arrangement Agreement and Plan of Merger, dated as of August 26, 2014 (the "arrangement agreement"), by and among Tim Hortons Inc., a corporation organized under the laws of Canada ("Tim Hortons"), Burger King Worldwide, Inc. ("Burger King Worldwide"), 9060669 Canada Inc., a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company) ("Holdings"), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), a limited partnership organized under the laws of Ontario whose partnership interests are held either directly or indirectly by Holdings ("Partnership"), Blue Merger Sub, Inc., a corporation incorporated under the laws of Delaware and a wholly owned subsidiary of Partnership ("Merger Sub"), and 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly owned subsidiary of Partnership ("Amalgamation Sub"), as such agreement may be amended from time to time.

If Tim Hortons shareholders approve and adopt the arrangement resolution relating to the arrangement agreement and plan of arrangement and the arrangement and the merger are subsequently completed, Amalgamation Sub will acquire Tim Hortons pursuant to a plan of arrangement under Canadian law (the "arrangement") and Merger Sub will merge with and into Burger King Worldwide, with Burger King Worldwide as the surviving corporation in the merger (the "merger" and, together with the arrangement, the "transactions"). The merger will become effective immediately following the effectiveness of the arrangement, to the fullest extent possible.

At the effective time of the merger, each share of Burger King Worldwide common stock outstanding immediately prior to the effective time of the merger will be converted into the right to receive 0.99 newly issued Holdings common shares and 0.01 newly issued Partnership exchangeable units, subject to proration as set forth in the arrangement agreement and described below. However, a holder of Burger King Worldwide common stock may elect to receive consideration solely in the form of Partnership exchangeable units, in which case each share of Burger King Worldwide common stock for which such election was made will be converted into the right to receive one Partnership exchangeable unit in exchange for each share of Burger King Worldwide common stock, subject to proration as set forth in the arrangement agreement and described below. The election to receive the exchangeable unit consideration will be subject to allocation procedures designed to ensure that the fair market value of Holdings' interest in Partnership is no less than 50.1% of the fair market value of all equity interests in Partnership as of the date on which the transactions are completed. If the aggregate number of Partnership exchangeable units that would be issued to Burger King Worldwide stockholders after taking into account all exchangeable elections made would represent a value in excess 49.9% of the fair market value of all equity interests in Partnership, then a proration factor will be determined to ensure that Holdings maintains ownership of 50.1% of the fair market value of Partnership as of the date on which the transactions are completed. Each

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holder of Burger King Worldwide common stock will receive Partnership exchangeable units equal to (a) the number of exchangeable units such stockholder would have received if no proration were applicable (the “non-prorated exchangeable units”) multiplied by (b) the proration factor. We refer to the number of units a Burger King Worldwide stockholder receives following proration as the “prorated exchangeable units”. Each such stockholder will then receive a number of additional Holdings common shares equal to the difference between the non-prorated exchangeable units and the prorated exchangeable units.

Adoption of the arrangement agreement and approval of the merger by the holders of a majority of the outstanding shares of Burger King Worldwide common stock is required by the General Corporation Law of the State of Delaware (the “DGCL”). However, pursuant to the voting agreement, within five business days after the registration statement of which this joint information statement/circular is a part has been declared effective, 3G Special Situations Fund II, L.P., which currently owns 69.22% of the outstanding shares of Burger King Worldwide common stock, will execute a written consent in the form attached hereto as Annex J adopting the arrangement agreement and approving the merger. Therefore, no further action on the part of Burger King Worldwide stockholders is required in connection with adopting the arrangement agreement and the merger. However, pursuant to the requirements of section 14(c) of the Securities Exchange Act of 1934 and section 228(d) of the DGCL, Burger King Worldwide is required to send to its stockholders a written information statement, which is satisfied by delivery of this document, at least 20 calendar days prior to the date upon which the merger can occur. This document is being mailed on or about [•], 2014, to holders of record as of November 3, 2014, of shares of Burger King Worldwide common stock.

By Order of the board of directors,

Jill Granat
Senior Vice President, General Counsel and Secretary

[•], 2014

ABOUT THIS JOINT INFORMATION STATEMENT/CIRCULAR

References to this “joint information statement/circular” mean this joint information statement/circular, which forms part of a registration statement on Form S-4 filed with the U.S. Securities and Exchange Commission (the “SEC”) by Holdings and Partnership, constitutes a prospectus of Holdings and Partnership under section 5 of the Securities Act of 1933, as amended (the “Securities Act”), with respect to the common shares of Holdings (the “Holdings common shares”) and exchangeable units of Partnership (the “Partnership exchangeable units”) to be issued or that are issuable pursuant to the transactions. This joint information statement/circular also constitutes an information statement of Burger King Worldwide under section 14(c) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), a management proxy circular of Tim Hortons under National Instrument 51-102 Continuous Disclosure Obligations (“NI 51-102”) of the Canadian Securities Administrators (the “CSA”) and a management proxy circular of Tim Hortons under section 150 of the Canada Business Corporations Act (the “CBCA”). This joint information statement/circular accompanies a notice of meeting with respect to the special meeting of Tim Hortons shareholders (the “Tim Hortons special meeting”) and a notice of action taken by written consent of Burger King Worldwide stockholders.

You should rely only on the information contained in or incorporated by reference into this joint information statement/circular. No one has been authorized to provide you with information that is different from the information contained in, or incorporated by reference into, this joint information statement/circular. This joint information statement/circular is dated [•], 2014. You should not assume that the information contained in this joint information statement/circular is accurate as of any date other than that date. None of the mailing of this joint information statement/circular to Burger King Worldwide stockholders and Tim Hortons shareholders and the issuance by Holdings of Holdings common shares or the issuance by Partnership of Partnership exchangeable units necessary to effect the transactions as contemplated by the arrangement agreement will create any implication to the contrary. For greater certainty, to the extent that any information provided on the website of Tim Hortons or Burger King Worldwide or by Tim Hortons exchange agent acting in connection with the arrangement (the “arrangement exchange agent”) or Burger King Worldwide’s exchange agent acting in connection with the merger (the “merger exchange agent”) is inconsistent with this joint information statement/circular, you should rely on the information provided in this joint information statement/circular.

This joint information statement/circular does not constitute an offer to sell, or a solicitation of an offer to buy, any securities, or the solicitation of a proxy, in any jurisdiction to or from any person to whom it is unlawful to make any such offer or solicitation. Information incorporated by reference or contained in this joint information statement/circular regarding Burger King Worldwide has been provided by Burger King Worldwide, and information incorporated by reference or contained in this joint information statement/circular regarding Tim Hortons has been provided by Tim Hortons. Neither Tim Hortons nor Burger King Worldwide has any knowledge that would indicate that any statements contained herein taken from or based upon such information provided by the other is untrue or incomplete. In accordance with the arrangement agreement, each of Burger King Worldwide and Tim Hortons agreed to provide all necessary information that is required by law to be included in this joint information statement/circular and ensure that such information does not contain any misrepresentation.

Neither Tim Hortons shareholders nor Burger King Worldwide stockholders should construe the contents of this joint information statement/circular as legal, tax or financial advice and should consult with their own legal, tax, financial or other professional advisors.

All summaries of, and references to, the agreements governing the terms of the transactions in this joint information statement/circular are qualified in their entirety by the copies of and complete text of such agreements in the forms attached hereto as Annexes and available on the System for Electronic Document Analysis and Retrieval (“SEDAR”) at www.sedar.com, and the SEC website of Electronic Data Gathering Analysis and Retrieval System (“EDGAR”) at www.sec.gov.

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Neither the SEC nor any state securities commission, nor any securities regulatory authority in Canada, has approved or disapproved of the securities to be issued under this joint information statement/circular or determined that this joint information statement/circular is accurate or complete. Any representation to the contrary is a criminal offense.

Other Important Information About This Joint Information Statement/Circular

Complying with Laws and Regulations

Tim Hortons is a corporation incorporated under the CBCA and qualifies as a foreign private issuer in the United States for purposes of the Exchange Act. Although not required to do so as a foreign private issuer in the United States, Tim Hortons continues to file annual reports on Form 10-K, quarterly reports on Form 10-Q, and current reports on Form 8-K with the SEC instead of filing the reports available to foreign private issuers. All of these reports are available through the at www.sedar.com and on EDGAR at www.sec.gov.

Tim Hortons complies with the spirit of the U.S. proxy rules whenever possible and as long as they do not conflict with corporate or securities disclosure requirements in Canada. As a Canadian corporation and foreign private issuer in the United States, Tim Hortons is not subject to the requirements of Section 14(a) of the Exchange Act or Regulation 14A. Tim Hortons has, therefore, prepared the management proxy circular forming part of this joint information statement/circular in accordance with Canadian corporate and securities law requirements, which in most respects are substantially similar to the U.S. securities rules governing disclosure requirements.

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QUESTIONS AND ANSWERS ABOUT THE TRANSACTIONS AND THE TIM HORTONS SPECIAL MEETING

Set forth below are questions that you, as a shareholder of Tim Hortons or a stockholder of Burger King Worldwide, may have regarding the transactions and the other matters to be considered at the Tim Hortons special meeting or the other matters that will be approved via written consent by stockholders of Burger King Worldwide and the answers to those questions. Tim Hortons and Burger King Worldwide urge you to read carefully the remainder of this joint information statement/circular as the information in this section does not provide all the information that might be important to you with respect to the arrangement and the merger and the other matters to be considered at the Tim Hortons special meeting or which will be approved by written consent of Burger King Worldwide stockholders. Additional important information is also contained in the Annexes to, and the documents incorporated by reference into, this joint information statement/circular. All references in this joint information statement/circular to “Tim Hortons” refer to Tim Hortons Inc., a Canadian corporation; all references in this joint information statement/circular to “Burger King Worldwide” refer to Burger King Worldwide, Inc., a Delaware corporation; and all references to the “arrangement agreement” refer to the Arrangement Agreement and Plan of Merger, dated as of August 26, 2014, among Tim Hortons, Burger King Worldwide, 9060669 Canada Inc., a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company) (“Holdings”), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), a limited partnership organized under the laws of Ontario whose partnership interests are held either directly or indirectly by Holdings (“Partnership”), Blue Merger Sub, Inc., a corporation incorporated under the laws of Delaware and a wholly owned subsidiary of Partnership (“Merger Sub”), and 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly owned subsidiary of Partnership (“Amalgamation Sub”), a copy of which is included as Annex A to this joint information statement/circular. Holdings, which will be renamed in connection with the completion of the transactions, is sometimes referred to in this joint information statement/circular as the “combined company”; unless otherwise indicated or as the context requires, all references in this joint information statement/circular to “we,” “our” and “us” refer to Holdings as the combined company following the completion of the transactions. All references to USD or \$ are to United States dollars, and all references to C\$ are to Canadian dollars.

General Questions and Answers

Q: What is the proposed transaction?

A: Tim Hortons and Burger King Worldwide have agreed to a transaction pursuant to the terms of the arrangement agreement. To effect the transaction, Amalgamation Sub will acquire all of the issued and outstanding Tim Hortons common shares pursuant to a plan of arrangement under Canadian law, which will result in Tim Hortons becoming an indirect subsidiary of Holdings and Partnership.

Merger Sub will then merge with and into Burger King Worldwide, with Burger King Worldwide as the surviving corporation in the merger. Burger King Worldwide will survive as an indirect subsidiary of both Holdings and Partnership.

Holdings will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons prior to the closing. Holdings will act as the general partner of Partnership and will own a majority interest in Partnership represented by Class A common partnership units (“common units”) and preferred units of Partnership (“preferred units”), which will entitle Holdings to distributions from Partnership that generally correspond to dividends and distributions that are paid by Holdings in respect of common shares and Class A 9% cumulative compounding perpetual voting preferred shares of Holdings (the “preferred shares”) that are issued and outstanding from time to time. The balance of the partnership units of Partnership will initially be held in the form of Partnership exchangeable units by the former holders of Burger King Worldwide common stock.

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Q: Has the Tim Hortons board of directors unanimously approved the arrangement?

A: Yes. Following consultation with Tim Hortons senior management and with legal, financial and other advisors, the review of a significant amount of information and consideration of a number of factors (including the interest of all affected stakeholders), the Tim Hortons board of directors has unanimously determined that the arrangement is in the best interest of Tim Hortons.

Q: Does the Tim Hortons board of directors recommend that I vote “FOR” the arrangement resolution?

A: Yes. The Tim Hortons board of directors recommends that Tim Hortons shareholders vote “**FOR**” the resolution of Tim Hortons shareholders, the full text of which is set forth in Annex C to this joint information statement/circular, referred to as the “arrangement resolution”, to approve an arrangement under section 192 of the CBCA, at the Tim Hortons special meeting.

Q: What are Tim Hortons reasons for the arrangement?

A: In evaluating the arrangement, the Tim Hortons board of directors consulted with Tim Hortons senior management and with legal, financial and other advisors, reviewed a significant amount of information and considered a number of factors and concluded in its business judgment that the arrangement is expected to maintain the strong position of Tim Hortons and to enhance its future strategic opportunities and that, considering the interests of all affected stakeholders, the arrangement is in the best interest of Tim Hortons.

The Tim Hortons board of directors reached this conclusion for a number of reasons, including:

- the receipt of a substantial premium by Tim Hortons shareholders;
- the many strategic benefits to Tim Hortons arising from the transactions, including the creation of the third largest global quick-service restaurant (“QSR”) company, with over 18,000 restaurants in approximately 100 countries, while maintaining the integrity and capitalizing on the strengths of the two distinct industry-leading brands;
- the support of Burger King Worldwide for the Tim Hortons “core principles” (see “*The Transactions—Recommendation of Tim Hortons Board of Directors; Tim Hortons Reasons for the Arrangement*”), which are significant to Tim Hortons stakeholders and Canada;
- preserving the rich heritages and continued success of both the Tim Hortons and Burger King Worldwide brands independently; and
- the combined company is expected to accelerate Tim Hortons international growth.

For a more complete discussion of these reasons, see “*The Transactions—Recommendation of Tim Hortons Board of Directors; Tim Hortons Reasons for the Arrangement*.”

Q: Do any of the executive officers or directors of Tim Hortons have interests in the merger that may differ from, or be in addition to, those of Tim Hortons shareholders generally?

A: In considering the recommendation of the Tim Hortons board of directors with respect to the transactions, Tim Hortons shareholders should be aware that the executive officers and directors of Tim Hortons have certain interests in the transactions that may be different from, or in addition to, the interests of Tim Hortons shareholders generally. The Tim Hortons board of directors was aware of these interests and considered them, among other matters, in approving the arrangement agreement and the transactions contemplated thereby, including the arrangement, and making its recommendation that the Tim Hortons shareholders adopt the arrangement agreement and approve the transactions contemplated thereby. These interests include:

- upon consummation of the transactions, outstanding Tim Hortons restricted stock units and performance stock units will vest and be settled for Tim Hortons common shares (which will be exchanged for the arrangement consideration) and outstanding Tim Hortons deferred stock units will vest and be settled for cash;

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- outstanding Tim Hortons stock options (and their tandem stock appreciation rights) that have vested can be exercised or surrendered for Tim Hortons common shares prior to or contingent upon the consummation of the arrangement, and all outstanding Tim Hortons stock options (with tandem stock appreciations rights) that are not exercised or surrendered prior to or contingent upon the consummation of the arrangement will be converted in connection with the transactions into options to purchase Holdings common shares which, pursuant to the employment or change-in-control agreements with the executive officers, would vest upon a qualifying termination;
- employment and change-in-control agreements with the executive officers of Tim Hortons provide for severance benefits in the event of certain qualifying terminations of employment following the consummation of the transactions; and
- the directors and executive officers of Tim Hortons are entitled to continued indemnification and insurance coverage under the arrangement agreement.

For more information, see “*The Transactions—Interests of Certain Persons related to Tim Hortons in the Transactions*”.

Q: What percentage of the outstanding Holdings common shares will Tim Hortons and Burger King Worldwide stockholders own following the transactions?

A: Based on the number of shares of Burger King Worldwide common stock and the number of Tim Hortons common shares estimated to be outstanding immediately prior to the completion of the transactions, we estimate that, upon the completion, former Tim Hortons shareholders will own approximately 22% of the common equity of the combined company through ownership of Holdings common shares and former Burger King Worldwide stockholders will own approximately 76% of the common equity of the combined company through ownership of both Holdings common shares and Partnership exchangeable units, in each case, on a fully exchanged and fully diluted basis.

Burger King Worldwide’s largest stockholder, 3G Special Situations Fund II, L.P., which we refer to as “3G”, will own approximately 51% of the common equity of the combined company through ownership of both Holdings common shares and Partnership exchangeable units. This ownership will represent approximately 48% of the total voting power of Holdings voting shares. 3G is controlled by 3G Capital Partners Ltd., which we refer to as 3G Capital, a New York private equity firm.

In connection with the transactions, Berkshire Hathaway Inc. (“Berkshire”) will purchase, for an aggregate purchase price of \$3.0 billion, (a) the preferred shares and (b) a warrant to purchase common shares (the “warrant”), which will represent 1.75% of the fully-diluted Holdings common shares as of the completion of the transactions at an exercise price per Holdings common share of \$0.01. The warrant may be exercised until the fifth anniversary of the closing of the transactions. Berkshire has informed Holdings that it intends to exercise the warrant promptly following the closing of the transactions. After taking into account the voting power attributed to the preferred shares, former holders of Burger King Worldwide common stock will control approximately 68% of the voting power of Holdings and former Tim Hortons shareholders will control approximately 21% of the voting power of Holdings. See “*Post-Transactions Organizational Structure—Description of Holdings Share Capital*.”

Q: When do you expect the transactions to be completed?

A: Tim Hortons and Burger King Worldwide are working to complete the transactions before the end of 2014. However, the transactions are subject to the approval of the arrangement resolution by the required vote of Tim Hortons shareholders, the approval of the Ontario Superior Court of Justice (Commercial List), which is referred to in this joint information statement/circular as the “Ontario court”, the approval of the listing of the Holdings common shares and Partnership exchangeable units, as well as the obtaining of approval under the *Investment Canada Act*, as amended, including the regulations promulgated thereunder (which we refer to in this joint

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information statement/circular as the “Investment Canada Act”) and other regulatory and third party approvals and other conditions, and it is possible that factors outside the control of both companies could result in the transactions being completed at a later time, or not at all. See “ *The Arrangement Agreement—Conditions to the Completion of the Arrangement and the Merger* ” and “ *Risk Factors* ”. Tim Hortons and Burger King Worldwide hope to complete the transactions as soon as reasonably practicable.

Q: What happens if the transactions are not completed?

A: If the transactions are not completed, neither Burger King Worldwide stockholders nor Tim Hortons shareholders will receive any consideration for their shares of Burger King Worldwide common stock or Tim Hortons common shares, as applicable. Instead, both Burger King Worldwide and Tim Hortons will remain independent public companies; Burger King Worldwide common stock will continue to be listed and traded on the New York Stock Exchange (the “NYSE”) and Tim Hortons common shares will continue to be listed and traded on the NYSE and Toronto Stock Exchange (the “TSX”). Under specified circumstances, Burger King Worldwide or Tim Hortons may be required to pay a fee to Tim Hortons or Burger King Worldwide, respectively, with respect to the termination of the arrangement agreement. In addition, in the event the arrangement agreement is terminated because Tim Hortons shareholders do not approve the arrangement resolution, Tim Hortons may be required to pay to Burger King Worldwide a termination fee in an amount of C\$40 million. The termination fees are described in more detail under “ *The Arrangement Agreement—Termination of the Arrangement Agreement* ”.

Q: What is required to complete the transactions?

A: The obligations of Tim Hortons and Burger King Worldwide to consummate the arrangement, the merger and the other transactions contemplated by the arrangement agreement are subject to certain conditions, including conditions with respect to approval of the arrangement resolution by Tim Hortons shareholders; approval by the Ontario court; accuracy of representations and warranties of the other party to the applicable standard provided by the arrangement agreement; no fact, circumstance, change, effect or event occurring that had or would reasonably be expected to have a material adverse effect on Tim Hortons or Burger King Worldwide; compliance by the other party with its covenants in the arrangement agreement in all material respects; all required regulatory approvals being obtained and remaining in full force and effect and applicable waiting or suspensory periods relating to the required regulatory approvals having expired or been terminated, in each case without the imposition of a restraint; the approval of the NYSE for listing (subject only to official notice of issuance) and the conditional approval by the TSX (subject only to customary listing conditions) of the Holdings common shares to be issued in the merger and the arrangement; the conditional approval by the TSX (subject only to customary listing conditions) of Partnership exchangeable units to be issued in the merger; and the effectiveness of the registration statement of which this joint information statement/circular forms a part, as well as other customary closing conditions. The only condition to the closing of the merger is the closing of the arrangement. Accordingly, if the arrangement is completed, the parties will also be obligated to consummate the merger. See “ *The Arrangement Agreement—Conditions to the Completion of the Arrangement and the Merger* .”

Q: What will be the relationship between Holdings, Partnership, Burger King Worldwide and Tim Hortons after the transactions?

A: Burger King Worldwide and Tim Hortons will both survive the transactions as indirect subsidiaries of Partnership and Holdings. Holdings will act as the general partner of Partnership and will own a majority interest (by vote and value) in Partnership represented by common units and preferred units of Partnership which will entitle Holdings to distributions from Partnership that generally correspond to dividends and distributions that are paid by Holdings in respect of common shares and preferred shares of Holdings that are issued and outstanding from time to time. The balance of the partnership units of Partnership will initially be held by the former holders of Burger King Worldwide common stock in the form of newly issued Partnership exchangeable units.

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Q: Where will Holdings and Partnership be headquartered after consummation of the transactions?

A: Following the consummation of the transactions, the headquarters of each of Holdings and Partnership will be in Canada. Among the factors considered in the decision to headquarter Holdings and Partnership in Canada were the fact that Canada will represent the combined company's largest market in terms of revenue and the acknowledgement of the Tim Hortons board of directors that it was one of its "core principles" to support the arrangement (as described in more detail in the section "*Recommendation of Tim Hortons Board of Directors; Tim Hortons Reasons for the Arrangement*" beginning on page 93 of the attached joint information statement/circular).

Q: What is the amount of financing to be incurred in connection with the transactions?

A: Subsidiaries of Holdings have entered into a credit agreement which provides for up to \$7.25 billion of senior secured facilities (not all of which is expected to be drawn at the closing of the transactions and \$6.75 billion of which has been funded into escrow pending the consummation of the transactions). Subsidiaries of Holdings have also entered into an indenture in connection with the issuance and sale of senior secured second lien notes in an aggregate principal amount of \$2.25 billion, and proceeds from the issuance of such notes were deposited into escrow pending the consummation of the transactions. In addition, Burger King Worldwide expects to finance the transactions through a \$3 billion preferred equity issuance by Holdings to Berkshire. See "*The Transactions—Financing for the Transactions.*"

Q: Did the Tim Hortons board of directors consider any risks or potentially negative factors in determining that the arrangement was in the best interests of Tim Hortons?

A: Yes. In the course of its deliberations, the Tim Hortons board of directors considered a variety of risks and other potentially negative factors including, among others, the following:

- the exchange ratio is fixed and will not be adjusted to reflect any fluctuations in the price of the Burger King Worldwide common stock or Tim Hortons common shares prior to the effective time of the arrangement;
- the risk that the interests of 3G Capital, which will control approximately 48% of the voting power of Holdings following the closing of the transactions, may not always be aligned with the interests of former Tim Hortons shareholders and the other Burger King Worldwide stockholders and that it may exercise its voting rights in a manner that may be adverse to the interests of such shareholders;
- the risk that Holdings' substantial leverage and debt service obligations after giving effect to the transactions could adversely affect Holdings' business, including by increasing Holdings' vulnerability to, and reducing its flexibility to respond to, general adverse economic and industry conditions; and
- the challenges posed by the common ownership of two business enterprises of the size and scope of Burger King Worldwide and Tim Hortons, including the possibility that the anticipated benefits sought to be obtained from the arrangement might not be achieved in the timeframe contemplated or at all or that the other numerous risks and uncertainties which could adversely affect Burger King Worldwide's or Tim Hortons operating results would materialize.

For additional information with respect to the risks and potentially negative factors considered by the Tim Hortons board of directors, see "*The Transactions—Tim Hortons Reasons for the Recommendation.*"

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Questions and Answers for Burger King Worldwide Stockholders

Q: Why am I receiving this joint information statement/circular?

A: This document is also an information statement which is being delivered to Burger King Worldwide stockholders. In order to complete the merger, Burger King Worldwide stockholders must adopt the arrangement agreement and approve the transactions contemplated thereby. A Burger King Worldwide stockholder, 3G, which owns a sufficient number of shares of Burger King Worldwide common stock, has entered into a voting agreement with Tim Hortons, which we refer to as the “voting agreement”, pursuant to which 3G committed to deliver a written consent adopting the arrangement agreement and approving the transactions. A form of the written consent to be delivered by 3G is attached to this joint information statement/circular as Annex J (the “3G written consent”). At the time the 3G written consent is delivered, it will constitute the only Burger King Worldwide stockholder approval required to approve the merger and adopt the arrangement agreement. Accordingly, your vote is not required and Burger King Worldwide is not asking you for a proxy. However, applicable provisions of Delaware law and certain securities regulations require us to provide you with information regarding the merger even though your vote or consent is neither required nor requested to adopt the arrangement agreement or complete the transactions contemplated thereby, including the merger.

Q: Is the approval of Burger King Worldwide stockholders necessary to adopt the merger? Why am I not being asked to vote on the merger?

A: Delaware law and Burger King Worldwide’s organizational documents allow Burger King Worldwide’s stockholders to act by written consent instead of holding a meeting. At the time the 3G written consent is delivered, a sufficient number of Burger King Worldwide stockholders will have approved the merger and adopted the arrangement agreement. Therefore, Burger King Worldwide will not need to hold a special meeting and no vote is required on your part. We are not asking you for a proxy, and you are requested not to send us a proxy. You will, however, be able to make an election to receive only Partnership exchangeable units in the merger if you so choose, subject to proration as provided in the arrangement agreement and as described below.

Q: What will I receive in the merger?

A: At the effective time of the merger, each share of Burger King Worldwide common stock outstanding immediately prior to the effective time of the merger will be converted into the right to receive 0.99 newly issued Holdings common shares and 0.01 newly issued Partnership exchangeable units, subject to proration as provided in the arrangement agreement and as described in this joint information statement/circular.

A Burger King Worldwide stockholder may, however, make an election to receive consideration solely in the form of Partnership exchangeable units (which we refer to as an “exchangeable election”), in which case each share of Burger King Worldwide common stock for which such election has been made will be converted into the right to receive one Partnership exchangeable unit, subject to proration as provided in the arrangement agreement and as described in this joint information statement/circular.

Holdings common shares and Partnership exchangeable units issuable in the merger will be direct registration system shares and units and will not be represented by certificates after the merger is effected. As such, your ownership of Holdings common shares and Partnership exchangeable units, as applicable, will be recorded in book entry form if you are currently a registered holder by Holdings’ transfer agent, or by your broker if you are currently a beneficial holder, with no need for any additional action your part.

For additional information regarding the election and proration procedures see “*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock.*” We refer to the right to receive a mix of Holdings common shares and Partnership exchangeable units in connection with the merger as the “Holdings consideration” in this joint information statement/circular. We refer to the right of a Burger King Worldwide stockholder who has made an exchangeable election to receive solely Partnership exchangeable units in connection with the merger as “exchangeable unit consideration” in this joint information statement/

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circular. We refer to the consideration to be received by a holder of Burger King Worldwide common stock in the merger, whether in the form of the Holdings consideration or the exchangeable unit consideration as the “merger consideration” in this joint information statement/circular.

Q: How do I make an election to receive only Partnership exchangeable units in the merger?

A: Each Burger King Worldwide stockholder is being sent an election form and letter of transmittal. You must properly complete and deliver to the merger exchange agent the election materials, together with your stock certificates if you hold stock certificates for your shares of Burger King Worldwide common stock or an agent’s message or other evidence of transfer satisfactory to the merger exchange agent if you hold your shares of Burger King Worldwide common stock in book entry form. Your election form will not be deemed properly completed if you fail to deliver such stock certificates, agent’s message or other evidence of transfer to the merger exchange agent. A return envelope will be enclosed for submitting the election form and required materials to the merger exchange agent.

If your shares of Burger King Worldwide common stock are held in a brokerage or other custodial account, you should receive instructions from the entity which holds your shares advising you of the procedures for making your exchangeable election and delivering your shares. If you do not receive these instructions, you should contact the entity which holds your shares.

In the event the arrangement agreement is terminated, any Burger King Worldwide stock certificates that you previously sent to the merger exchange agent will be promptly returned to you without charge. For additional information about how to make an exchangeable election, see “*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock.*”

Q: Can I make one election for some of my shares and another election for the rest?

A: Yes. Each election form permits the holder to specify the number of such holder’s shares of Burger King Worldwide common stock with respect to which such holder makes an Partnership exchangeable election. Such election will be honored, subject to the proration procedures with respect to the Partnership exchangeable units described in this joint information statement/circular. For additional information about how to make an exchangeable election, see “*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock.*”

Q: Does the Burger King Worldwide board of directors recommend that a Burger King Worldwide stockholder make an exchangeable election?

A: The Burger King Worldwide board of directors makes no recommendation as to whether any stockholder should make an exchangeable election.

Q: Is 3G making an exchangeable election?

A: Pursuant to the voting agreement, 3G agreed with Tim Hortons that it would make an exchangeable election with respect to all shares of Burger King Worldwide common stock that it holds. However, each Burger King Worldwide stockholder’s determination to make an exchangeable election is a purely voluntary decision and 3G’s commitment to make such election is not, nor should it be viewed as, a recommendation to make an exchangeable election to any other Burger King Worldwide stockholder.

Q: Will each Burger King Worldwide stockholder who makes an exchangeable election be entitled to receive Partnership exchangeable units?

A: The election to receive the Partnership exchangeable unit consideration will be subject to allocation procedures designed to ensure that the fair market value of Holdings’ interest in Partnership is no less than 50.1%

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of the fair market value of all equity interests in Partnership as of the date on which the transactions are completed. If exchangeable elections are made by a number of Burger King Worldwide stockholders that would result in such former Burger King Worldwide stockholders owning Partnership exchangeable units that represent more than 49.9% of the fair market value of Partnership, then each Burger King Worldwide stockholder will be entitled to receive Partnership exchangeable units subject to the proration procedures described below.

If the aggregate number of Partnership exchangeable units that would be issued to Burger King Worldwide stockholders after taking into account all exchangeable elections made would represent a value in excess of 49.9% of the fair market value of all equity interests in Partnership, then a proration factor will be determined to ensure that Holdings maintains ownership of 50.1% of the fair market value of Partnership. Each holder of Burger King Worldwide common stock will receive Partnership exchangeable units equal to (a) the number of Partnership exchangeable units such stockholder would have received if no proration were applicable (the “non-prorated exchangeable units”) multiplied by (b) the proration factor. We refer to the number of units a Burger King Worldwide stockholder receives following proration as the “prorated exchangeable units”). Such stockholder will then receive a number of additional Holdings common shares equal to the difference between the number of Partnership exchangeable units such stockholder would have received if no proration were applicable (the “non-prorated exchangeable units”) and the prorated exchangeable units.

For more information regarding the proration of exchangeable elections, see “*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock.*”

Q: Can I sell my shares of Burger King Worldwide common stock after I submit an election form?

A: Under the terms of the arrangement agreement, in the event you make an exchangeable election, you will be required to deliver to the merger exchange agent the stock certificates evidencing your shares or an agent’s message or other evidence of transfer of the shares of Burger King Worldwide common stock to be converted into Partnership exchangeable units, in each case together with a properly completed and executed election form. In order to make a valid exchangeable election, you must deliver the stock certificates or an agent’s message or other evidence of transfer of the shares of Burger King Worldwide common stock and a duly completed and executed election form on or before the election deadline, which is the business day that is three business days prior to the anticipated closing date of the transactions. Accordingly, there may be a period of up to three business days between the election deadline and the date the merger is completed.

During the period from the date upon which you submit your election form until the closing of the merger, you will not be able to sell or otherwise transfer any shares of Burger King Worldwide common stock subject to the exchangeable election. However, if you revoke your exchangeable election with respect to any of your shares of Burger King Worldwide common stock prior to the election deadline, you will only be able to sell those shares following the return to you of the stock certificates evidencing those shares if there is sufficient time for the sale to be completed prior to the closing of the merger unless a subsequent exchangeable election is made prior to the election deadline that is not revoked.

Q: Will Partnership exchangeable units be listed on an exchange?

A: It is a condition to the completion of the transactions that the Partnership exchangeable units issued as merger consideration in the merger be conditionally approved for listing for trading on the TSX subject only to the satisfaction of customary listing conditions of the TSX. Partnership has applied to list the Partnership exchangeable units to be issued or made issuable pursuant to the merger on the TSX under the symbol [•].

Q: Will holders of Partnership exchangeable units be entitled to receive dividends?

A: The Partnership exchangeable units will be subject to the terms of the partnership agreement. Pursuant to the terms of the partnership agreement, each Partnership exchangeable unit will be entitled to distributions from Partnership in an amount equal to any dividends or distributions that shall have been declared and be payable in

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respect of a common share of Holdings. For additional information regarding dividends payable to holders of Partnership exchangeable units, see “*Post-Transactions Organizational Structure—Description of the Partnership Exchangeable Units*.”

Q: Will holders of Partnership exchangeable units be entitled to vote with respect to matters presented to Holdings shareholders?

A: Yes. Each Partnership exchangeable unit holder will have the benefit of a voting trust agreement to be entered into by and among Partnership, Holdings and a trustee to be agreed upon by Burger King Worldwide and Holdings (whom we refer to as the “trustee”). The trustee will hold a special voting share in Holdings (the “special voting share”) that entitles the trustee to a number of votes equal to the number of Partnership exchangeable units outstanding. Pursuant to the terms of the voting trust agreement, the holders of Partnership exchangeable units can direct the trustee, as their proxy, to vote on their behalf in substantially all votes that are presented to the common shareholders of Holdings.

Q: Will Partnership exchangeable units be exchangeable for Holdings common shares?

A: From and after the one-year anniversary of the closing date of the transactions, each holder of a Partnership exchangeable unit will have the right to require Partnership to exchange all or any portion of such holder’s Partnership exchangeable units for Holdings common shares at a ratio of one Holdings common share for each Partnership exchangeable unit, subject to the right of Holdings, in its capacity as the general partner of Partnership, to cause Partnership to repurchase the Partnership exchangeable units for cash (in an amount determined in accordance with the terms of the partnership agreement). Prior to the one-year anniversary of the closing of the transactions, holders of Partnership exchangeable units may not require Partnership to exchange their Partnership exchangeable units. If a holder of exchangeable units determines to exercise its exchange right with respect to such units, Holdings has the option, in its sole discretion, to deliver either Holdings’ common shares or the cash equivalent thereof. Accordingly, there can be no assurance that a holder of Partnership exchangeable units will be able to maintain its investment in Holdings’ business following any such exercise. For additional information about how to exchange Partnership exchangeable units, see “*Post-Transactions Organizational Structure—Description of the Partnership Exchangeable Units*”.

Q: What will happen to my Burger King Worldwide equity-based awards in the merger?

A: At the effective time of the merger, each outstanding Burger King Worldwide option will be converted into the right to receive, on the same terms and conditions as were applicable under the award agreement issued in connection with such Burger King Worldwide option (including with respect to vesting and exercise price), an option to acquire common shares from Holdings in respect of the same number of Holdings common shares as were subject to the underlying Burger King Worldwide option. At the effective time of the merger, each outstanding restricted stock unit will be converted into the right to receive, on the same terms and conditions as were applicable under such Burger King Worldwide restricted stock unit (including with respect to vesting), a restricted stock unit with respect to the same number of Holdings common shares as were subject to the underlying Burger King Worldwide restricted stock unit.

Q: What will happen to future dividends or distributions with respect to shares of Burger King Worldwide common stock?

A: Burger King Worldwide agreed that, beginning as of the date of the arrangement agreement, August 26, 2014, it will not and will not permit any of its subsidiaries to, without the prior written consent of Tim Hortons, make any dividend payments or distributions in respect of the Burger King Worldwide common stock other than routine quarterly cash dividends.

Holdings’ decision as to whether or not to pay dividends on its common shares in the future, and if so, in what amount, will be made by Holdings’ board of directors and will depend on, among other factors, Holdings’ cash requirements, financial condition, restrictions imposed by its debt instruments, earnings and legal considerations.

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No dividends or other distributions with respect to Holdings common shares or Partnership exchangeable units with a record date following the effective time of the merger will be paid to any former holder of shares of Burger King Worldwide common stock until such shares are surrendered to the merger exchange agent. Following surrender of such shares, the record holder of such shares of Burger King Worldwide common stock will be paid the amount of dividends or distributions (without interest) with a record date on or after the effective time of the merger that were not previously paid to such holder.

For additional information on dividends, see “*The Transactions—Distributions with respect to Unexchanged Tim Hortons Common Shares and Shares of Burger King Worldwide Common Stock*”.

Q: What are Burger King Worldwide’s reasons for the transactions?

A: The Burger King Worldwide board of directors considered many factors in making its determination that the arrangement agreement and the transactions contemplated thereby (including the merger), were fair and reasonable and in the best interests of Burger King Worldwide and Burger King Worldwide’s stockholders. The factors considered by the Burger King Worldwide board of directors in making such determination included, among others, the fact that the combined company would be the third largest global QSR chain while permitting the parties to maintain two separate iconic and profitable brands; the synergies that are anticipated to be recognized by the combined company; the anticipated market capitalization and liquidity; the capital structure of the combined company; and the financial strength of Tim Hortons. For a more complete discussion of these factors, see “*The Transactions—Burger King Worldwide’s Reasons for the Merger*”.

In considering the recommendation of the board of directors of Burger King Worldwide and its reasons for the transactions, you should be aware that certain executive officers and all of the directors of Burger King Worldwide will have interests in the transactions that may be different from, or in addition to, the interests of Burger King Worldwide’s stockholders generally. In particular, stockholders should be aware that each of the members of the Burger King Worldwide board of directors is expected to serve as a director on the Holdings board of directors. In addition, certain members of Burger King Worldwide’s senior management team may be a part of the senior management of Holdings after closing of the transactions and may be entitled to receive compensation in such capacity. Both officers and directors of Burger King Worldwide will be entitled to ongoing indemnification and coverage under directors’ and officers’ liability insurance policies from Holdings. See “*The Transactions—Interests of Certain Persons related to Tim Hortons in the Transactions*” and “*The Transactions—Interests of Certain Persons related to Burger King Worldwide in the Transactions*.”

Q: What are the potentially negative factors relating to the transactions considered by the Burger King Worldwide board of directors in considering the transactions?

A: In addition to considering many of the positive attributes of the transactions, the Burger King Worldwide board of directors also considered potentially negative factors before determining that the transactions were in the best interests of Burger King Worldwide and its stockholders. These potentially negative factors included, among others, the fact that there is a fixed exchange ratio that will not be adjusted to reflect the trading prices of the parties’ publicly traded common equity and the potential disruption to Burger King Worldwide’s business that could result from the announcement of the transactions. For a more complete discussion of these factors, see “*The Transactions—Burger King Worldwide’s Reasons for the Merger*”.

Q: Has the Burger King Worldwide board of directors unanimously approved the arrangement agreement and the transactions contemplated thereby?

A: After careful consideration, the Burger King Worldwide board of directors has unanimously (i) approved and declared advisable the arrangement agreement and the transactions contemplated by the arrangement agreement, including the arrangement and the merger, (ii) determined that the arrangement agreement and such transactions are fair to, and in the best interests of, the Burger King Worldwide stockholders, and (iii) resolved to recommend that the Burger King Worldwide stockholders adopt the arrangement agreement, in each case upon the terms and subject to the conditions of the agreement.

Q: What are the U.S. federal income tax consequences of the transactions to holders of Burger King Worldwide common stock?

A: It is intended that the receipt of Partnership exchangeable units pursuant to the merger will qualify as an exchange within the meaning of section 721 of the Internal Revenue Code of 1986, as amended (the “Code”) for U.S. federal income tax purposes. Under such treatment, to the extent a Burger King Worldwide stockholder receives Partnership units, a U.S. holder (as defined on page [•] of this joint information statement/circular) should recognize gain in a taxable exchange in an amount equal to the excess, if any, of (i) the fair market value of the interest in the Holdings Voting Trust received in the exchange, over (ii) a pro rata portion (based on the relative values of the Holdings voting shares and Partnership units received by such holder) of the holder’s aggregate adjusted tax basis in the Burger King Worldwide stock exchanged for Partnership units. The value of an interest in the Holdings Voting Trust is expected to be nominal. See “ *The Transactions—Material U.S. Federal Income Tax Consequences of the Merger to U.S. Holders—Burger King Worldwide Stockholders Receiving Partnership Units .*”

It is intended that the merger, taken together with the arrangement, qualify as a transaction described in section 351 of the Code. Under such treatment, to the extent a Burger King Worldwide stockholder receives Holdings common shares, U.S. holders of Burger King Worldwide stock will be required to recognize gain (but not loss) on their exchange of Burger King Worldwide stock for Holdings common shares in the merger. The amount of gain recognized should equal the excess, if any, of the fair market value of Holdings common shares received in the merger over the U.S. holder’s adjusted tax basis in the Burger King Worldwide stock exchanged therefor. Such gain or loss must be determined separately for separate blocks of Burger King Worldwide stock (i.e., stock acquired at different times or prices). Thus, if a U.S. holder transfers some Burger King Worldwide stock on which gains are realized and other Burger King Worldwide stock on which losses are realized, the U.S. holder may not net the losses against the gains to determine the amount of gain recognized. See “ *The Transactions—Material U.S. Federal Income Tax Consequences of the Merger to U.S. Holders—Burger King Worldwide Stockholders Receiving Holdings Common Shares .*”

Non-U.S. holders (as defined on page [•] of this joint information statement/circular) of Burger King Worldwide generally will not be subject to U.S. federal income tax on any gain recognized on the transactions unless the gain is effectively connected with a U.S. trade or business of such non-U.S. holder (or, if an income tax treaty applies, is attributable to a United States “permanent establishment”) or such non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of the disposition, and certain other conditions are met. See “ *The Transactions—Material U.S. Federal Income Tax Considerations for Non-U.S. Holders—The Transactions .*”

Q: What are the Canadian federal income tax consequences of the transactions to holders of Burger King Worldwide common stock?

A: A Burger King Worldwide stockholder who is resident in Canada for the purposes of the *Income Tax Act* (Canada) (the “Tax Act”) and holds Burger King Worldwide common stock as capital property will realize a capital gain (or capital loss) on the merger equal to the amount by which the sum of the fair market value, at the time of the merger, of the Partnership exchangeable units and any Holdings common shares received in exchange for such stockholder’s Burger King Worldwide common stock and any cash received in lieu of a fractional Partnership exchangeable unit or Holdings common share, net of any reasonable costs of disposition, exceeds (or is less than) the aggregate adjusted cost base to such shareholder of such Burger King Worldwide common stock.

Generally, a Burger King Worldwide stockholder who is not resident in Canada for purposes of the *Income Tax Act* (Canada) will not be subject to tax under the Tax Act in respect of any capital gain realized on the exchange of Burger King Worldwide common stock for Partnership exchangeable units and any Holdings common shares.

The foregoing is a brief summary of Canadian federal income tax consequences only and is qualified by the more detailed general description of Canadian federal income tax considerations under “ *The Transactions—*

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Material Canadian Federal Income Tax Consequences of the Transactions”. Burger King Worldwide stockholders are urged to consult their own tax and legal advisors to determine the particular tax consequences to them of the merger.

Q: Will appraisal rights be available for dissenting Burger King Worldwide stockholders?

A: No. There are no appraisal rights available to Burger King Worldwide stockholders in connection with the merger.

Q: What do I need to do now?

A: Carefully read and consider the information contained in, and incorporated by reference into, this joint information statement/circular, including its Annexes. If after reviewing all such information you decide to make a Partnership exchangeable election, you must properly complete and deliver to the merger exchange agent the election materials prior to the election deadline.

Q: Should I send certificates representing shares of Burger King Worldwide common stock now?

A: Unless you are submitting an election form to make a Partnership exchangeable election, please do not send any stock certificates or documents representing your ownership of Burger King Worldwide common stock at this time. If the transactions are consummated, you will receive a subsequent letter explaining what to do with your stock certificates.

Q: Who can help answer my questions?

A: Burger King Worldwide stockholders who have questions about the merger or desire additional copies of this joint information statement/circular should contact:

Investor Relations
(305) 378-7696
investor@whopper.com

Questions and Answers for Tim Hortons Shareholders

Q. Why am I receiving this joint information statement/circular?

A: This document is being delivered to Tim Hortons shareholders as a management proxy circular in connection with the solicitation of proxies by or on behalf of the management of Tim Hortons in connection with the arrangement. In order to complete the arrangement, Tim Hortons shareholders must approve the arrangement resolution. Tim Hortons will hold a special meeting of its shareholders to obtain this approval.

Q: What are the proposals on which I am being asked to vote in my capacity as a Tim Hortons shareholder?

A: At the Tim Hortons special meeting, Tim Hortons shareholders will vote on the arrangement resolution, to approve an arrangement under section 192 of the CBCA.

The Tim Hortons board of directors recommends that Tim Hortons shareholders vote their shares “FOR” approval of the arrangement resolution.

Q: What will I receive in the arrangement?

A: If the arrangement is completed, at the effective time of the arrangement each holder of a common share of Tim Hortons will be entitled to receive C\$65.50 in cash and 0.8025 newly issued Holdings common shares (the

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“arrangement mixed consideration”) in exchange for each common share of Tim Hortons held by such shareholder, other than shareholders who (a) make an election to receive cash (a “cash election”), who will be entitled to receive C\$88.50 in cash in exchange for each Tim Hortons common share held by such shareholder, subject to proration as described in this joint information statement/circular (the “arrangement cash consideration”) or (b) make an election to receive Holdings common shares (a “shares election”), who will be entitled to receive 3.0879 newly issued Holdings common shares in exchange for each share of Tim Hortons held by such shareholder, subject to proration as described in this joint information statement/circular (the “arrangement shares consideration”).

Holdings common shares issuable in the arrangement will be direct registration system shares and will not be represented by certificates after the arrangement is effected. As such, your ownership of Holdings common shares will be recorded in book entry form if you are currently a registered holder by Holdings’ transfer agent, or by your broker if you are currently a beneficial holder, with no need for any additional action on your part.

References to the “arrangement consideration” in this joint information statement/circular mean the consideration to be received by a holder of Tim Hortons common shares in the arrangement, whether in the form of mixed consideration, cash or Holdings common shares. We refer to the election to receive the arrangement mixed consideration, the cash election or the shares election as the “arrangement election” in this joint information statement/circular.

Q: What is the value of the arrangement consideration?

A: Based upon the closing price of shares of Burger King Worldwide common stock as of August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, the arrangement mixed consideration values each Tim Hortons common share at approximately C\$89.39, which is calculated as the sum of (i) C\$65.50, which is the cash portion of the consideration to be paid to Tim Hortons shareholders and (ii) C\$23.89, which is the closing price in U.S. dollars of a share of Burger King Worldwide common stock as of such date multiplied by the exchange ratio of 0.8025 multiplied by a USD/CAD noon exchange rate of 1.0980 reported by the Bank of Canada as of August 25, 2014. Tim Hortons shareholders may elect to receive C\$88.50 in cash (the arrangement cash consideration) or 3.0879 Holdings common shares (the arrangement shares consideration) instead of receiving the arrangement mixed consideration.

Q: How do I make a cash election or a shares election in the arrangement?

A: Each registered Tim Hortons shareholder is being sent an election form and letter of transmittal. A return envelope will be enclosed for submitting the election form and the letter of transmittal to the arrangement exchange agent.

If your shares are held in a brokerage or other custodial account, you should receive instructions from the entity which holds your shares advising you of the procedures for making your election and delivering your shares. If you do not receive these instructions, you should contact the entity which holds your shares.

If you fail to make a proper election by the election deadline, you will be deemed to have elected to receive the arrangement mixed consideration in respect of your Tim Hortons common shares. See *“The Transactions—Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration; Dissenter’s Rights; Withholding Rights.”*

Q: Can I make one election for some of my shares and another election for the rest?

A: Yes. Each election form permits the holder to specify the number of such holder’s Tim Hortons common shares with respect to which such holder makes a cash election or a shares election. Such election will be honored, subject to the adjustments with respect to such elections described in this joint information statement/circular.

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Q: Does the Tim Hortons board of directors recommend that a Tim Hortons shareholder make a cash election or shares election?

A: The Tim Hortons board of directors makes no recommendation as to whether any shareholder should make a cash election or shares election.

Q: Will each Tim Hortons shareholder who makes a cash election or shares election be entitled to receive solely cash or solely Holdings common shares elected?

A: Not necessarily. Tim Hortons shareholders who elect to receive the arrangement cash consideration or the arrangement shares consideration will be subject to proration as described in this joint information statement/circular so that the total amount of cash paid and the total number of Holdings common shares issued to Tim Hortons shareholders as a whole are equal to the total amount of cash and number of Holdings common shares that would have been paid and issued if all of Tim Hortons shareholders received the arrangement mixed consideration. If the cash election is oversubscribed, a Tim Hortons shareholder who makes a cash election will receive less cash and more Holdings common shares for each Tim Hortons common share than they elected. If the shares election is oversubscribed, a Tim Hortons shareholder who makes a shares election will receive more cash and fewer Holdings common shares for each Tim Hortons common share than they elected.

The mix of consideration payable to Tim Hortons shareholders who make the cash election or the shares election, after giving effect to the proration procedure, will not be known until Holdings tallies the results of the elections made by Tim Hortons shareholders, which will not occur until shortly prior to the closing of the arrangement.

See “ *The Transactions—Description of Preliminary Steps Prior to the Arrangement* ” and “ *The Transactions—Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration; Dissenter’s Rights ; Withholding Rights* ”.

Q: Can I sell my Tim Hortons common shares after submitting an election form?

A: Under the terms of the plan of arrangement, in order to make an arrangement election, you will be required to deliver a properly completed and executed election form to the arrangement exchange agent on or before the election deadline, which is three business days prior to the anticipated effective date of the arrangement. Accordingly, there will be a period of time between the date a valid election has been received and the date the arrangement is completed. During the period from the date upon which you submit your election form until the closing of the arrangement, you will not be able to sell or otherwise transfer any Tim Hortons common shares subject to the arrangement election.

Any duly completed election form and letter of transmittal, once deposited with the exchange agent, will be irrevocable and may not be withdrawn by a Tim Hortons shareholder.

Q: What will happen to my Tim Hortons equity-based awards in the arrangement?

A: Under the arrangement, equity awards previously granted by Tim Hortons will be treated as follows:

Stock Options. Pursuant to the arrangement, each outstanding vested Tim Hortons stock option for which a Tim Hortons optionholder has executed a surrender form (a “surrendered Tim Hortons stock option”) will be surrendered and transferred to Tim Hortons in consideration for the issuance of the number of Tim Hortons common shares, rounded down to the nearest whole share, equal in value to the in-the-money value of such surrendered Tim Hortons stock option. The in-the-money value of the Tim Hortons stock option is the amount by which the fair market value of a Tim Hortons common share exceeds the exercise price of the Tim Hortons stock option. The surrendered Tim Hortons stock options will be terminated at the time of their surrender and Tim Hortons common shares issued in respect of such surrendered stock options will be treated as described below.

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Pursuant to the arrangement, each outstanding Tim Hortons stock option (and its tandem stock appreciation right), whether vested or unvested, that is not a surrendered Tim Hortons stock option will be exchanged for a stock option (with a tandem stock appreciation right) to acquire from Holdings a number of Holdings common shares equal to the product of: (a) the number of Tim Hortons common shares subject to such Tim Hortons stock option multiplied by (b) the exchange ratio of 3.0879 (and rounded down to the nearest whole number of Holdings common shares). The exercise price per Holdings common share of such Holdings stock option shall be equal to the quotient of: (a) the exercise price per Tim Hortons common share subject to the exchanged Tim Hortons stock option divided by (b) the exchange ratio of 3.0879 (with the aggregate exercise price being rounded up to the nearest whole cent), provided that the in-the-money value of such Holdings stock options immediately after the issuance of such Holdings stock options may not exceed the in-the-money value of the Tim Hortons stock options immediately prior to such issuance. Subject to the foregoing, each Holdings stock option will have the same terms and conditions as were applicable to the exchanged Tim Hortons stock option.

Restricted Stock Units and Performance Stock Units. Pursuant to the arrangement, all outstanding Tim Hortons restricted stock units and performance stock units will vest, with the number of performance stock units vesting determined based on the maximum or highest level achievable, and Tim Hortons common shares will be issued in full settlement of such awards on the basis of one Tim Hortons common share for each restricted stock unit or performance stock unit.

Tim Hortons common shares issued in consideration for surrendered Tim Hortons stock options or in settlement of restricted stock unit awards and performance stock unit awards will be transferred to Amalgamation Sub pursuant to the arrangement and the holders of such Tim Hortons common shares will be entitled to make an election in respect of the arrangement consideration to be received in consideration for such transfer.

Deferred Stock Units. At the effective time of the arrangement, all outstanding Tim Hortons deferred stock units will ordinarily vest in accordance with the plan terms of the Tim Hortons deferred stock units, or DSUs, and require settlement as the director will cease to serve in such capacity for Tim Hortons. Each DSU will be settled for the value of C\$65.50 plus the value of 0.8025 newly issued common shares of Holdings (with the value determined based on the opening price of a common share of Holdings on the TSX on the first trading day following the effective time of the arrangement).

Q: What will happen to my future dividends or distributions?

A: As of the date of the arrangement agreement, August 26, 2014, Tim Hortons agreed that it will generally not and will not permit any of its subsidiaries to, without the prior written consent of Burger King Worldwide, make any dividend payments or distributions in respect of the Tim Hortons common shares or the equity interests of its subsidiaries other than for dividends consistent with past practices provided that such dividend is in an amount not to exceed C\$0.32 per Tim Hortons common share. If any dividend is paid in excess of C\$0.32 per Tim Hortons common share, then Tim Hortons and Burger King Worldwide have agreed to adjust the cash portion of the arrangement mixed consideration payable to Tim Hortons shareholders to reflect the original intention of Tim Hortons and Burger King Worldwide.

No dividends or other distributions with respect to Holdings common shares with a record date following the effective time of the arrangement will be paid to any former holder of shares of Tim Hortons common shares until such shareholder submits its election form and letter of transmittal to the arrangement exchange agent. Following surrender of such shares, the record holder of shares of Tim Hortons common shares will be paid the amount of dividends or distributions (without interest) with a record date on or after the effective time of the arrangement that were not previously paid to such holder. For additional information on dividends, see “*The Transactions—Distributions with respect to Unexchanged Tim Hortons Common Shares and Shares of Burger King Worldwide Common Stock*” . For additional information about how to submit your election form and letter of transmittal, see “*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock*” .

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Q: What vote is required to approve the arrangement resolution?

A: The arrangement resolution requires the affirmative vote of at least $66\frac{2}{3}\%$ of the votes cast on the arrangement resolution by Tim Hortons shareholders present in person or represented by proxy at the Tim Hortons special meeting.

Q: When and where will the Tim Hortons shareholder meetings be held?

A: The Tim Hortons special meeting will be held at the [•] in Toronto, Ontario, Canada, [•] on [•], 2014 at [•] a.m. (Toronto time).

Q: Who is entitled to attend the Tim Hortons special meeting?

A: All Tim Hortons shareholders are invited to attend the Tim Hortons special meeting, including registered and beneficial shareholders of Tim Hortons.

Q: Who is entitled to vote at the Tim Hortons special meeting?

A: Only Tim Hortons shareholders of record as of the record date for the Tim Hortons special meeting and their duly appointed proxies are entitled to vote at the Tim Hortons special meeting.

Tim Hortons has fixed November 3, 2014 as the record date for the Tim Hortons special meeting, which we refer to in this joint information statement/circular as the “Tim Hortons record date”. If you were a Tim Hortons shareholder as of the close of business on such date, you are entitled to vote on matters that come before the Tim Hortons special meeting.

Q: How many votes do I have?

A: Each Tim Hortons common share represented in person or by proxy at the meeting is entitled to one vote, other than Tim Hortons common shares held by the TDL RSU Employee Benefit Plan Trust. Tim Hortons had [•] Tim Hortons common shares issued and outstanding at the close of business on the Tim Hortons record date. Of this total, [•] Tim Hortons common shares are entitled to vote at the Tim Hortons special meeting while the remaining [•] Tim Hortons common shares held by The TDL RSU Employee Benefit Plan Trust are not. On a vote by show of hands, every registered shareholder and duly appointed proxyholder present in person has one vote. There are no other classes of voting securities other than the Tim Hortons common shares.

Q: How do I vote?

A: First, determine whether you are a registered shareholder or a beneficial shareholder of Tim Hortons common shares. You are a registered shareholder of Tim Hortons if your Tim Hortons common shares are registered in your name, as opposed to being held through a broker or other intermediary, which we refer to in this joint information statement/circular as an “intermediary”).

If you are a registered shareholder, you may vote in any of the following ways:

- *By phone* —Call toll free (866) 732-VOTE (8683) from a touchtone phone and follow the instructions;
- *On the internet* —Go to www.investorvote.com and follow the instructions on the screen;
- *By mail* —Complete the proxy form, sign and date it, and mail it in the postage-paid envelope provided; or
- *In person* —Check in with a Computershare Trust Company of Canada (“Computershare”) representative when you arrive at the Tim Hortons special meeting and be sure to bring government-issued picture identification.

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If you are a beneficial Tim Hortons shareholder, you may vote in any of the following ways:

- *By phone* —Follow the instructions on the voting instruction form provided by your intermediary;
- *On the internet* —Go to www.proxyvote.com and follow the instructions on the screen;
- *By mail* —Complete the voting instruction form, sign and date it, and mail it in the return envelope provided as soon as possible, so your intermediary receives the form in time to carry out your instructions; or
- *In person* —The voting instruction form provided by your intermediary will provide instructions on how you may vote in person at the Tim Hortons special meeting. The following is a general summary of the most common alternatives provided by intermediaries:
 - The instructions provided by your intermediary may permit you to vote in person at the Tim Hortons special meeting by appointing yourself as proxyholder for your Tim Hortons common shares by printing your own name in the space provided, signing the form and NOT indicating your voting instructions. If you do so, send the form to your intermediary as soon as possible to give your intermediary enough time to act on your instructions. Computershare must receive instructions through your intermediary before midnight (Toronto time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto time) on the business day before the Tim Hortons special meeting is reconvened.
 - Alternatively, the instructions provided by your intermediary may state that in order to vote in person at the Tim Hortons special meeting, you must indicate on the voting instruction form that you want to receive a proxy form, sign and date it, and send the completed voting instruction form to your intermediary as soon as possible. You should then receive a proxy form from your intermediary, which you will need to complete, appointing yourself as proxyholder. Sign and date the proxy form and send it as soon as possible to Computershare in the envelope provided. Computershare must receive the properly completed proxy form by midnight (Toronto time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto time) on the business day before the Tim Hortons special meeting is reconvened.

Canadian securities laws require brokers and other intermediaries to seek voting instructions from beneficial shareholders in advance of shareholder meetings. The various brokers and other intermediaries have their own mailing procedures and provide their own return instructions to clients, which should be carefully followed by beneficial shareholders in order to ensure that their Tim Hortons common shares are voted at the Tim Hortons special meeting. The voting instruction form supplied to a beneficial shareholder by its broker (or the agent of the broker) is substantially similar to the instrument of proxy provided directly to registered shareholders by Tim Hortons. However, its purpose is limited to instructing the registered shareholder (i.e., the intermediary or agent of the intermediary) how to vote on behalf of the beneficial shareholder. A beneficial shareholder who receives a voting instruction form from its broker or other intermediary cannot use that form to vote Tim Hortons common shares directly at the Tim Hortons special meeting. The voting instruction form must be returned to your broker or other intermediary (or instructions respecting the voting of Tim Hortons common shares must otherwise be communicated to your broker or other intermediary) well in advance of the Tim Hortons special meeting in order to have the Tim Hortons common shares voted. If you have any questions respecting the voting of Tim Hortons common shares held through a broker or other intermediary, please contact that broker or other intermediary for assistance.

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Q: My shares are held in “street name” by my broker, or I am a beneficial shareholder. Will my intermediary automatically vote my shares for me?

A: If you are a beneficial shareholder of Tim Hortons and your intermediary (i) does not have discretionary authority to vote your Tim Hortons common shares on a particular matter and has not received instructions from you on how to vote, or (ii) does have discretionary authority but has not received proper instructions from you and cannot vote your Tim Hortons common shares as a result, then your votes will not be cast. In such cases, the intermediary simply declines to vote your Tim Hortons common shares. As a result of restrictions under the CBCA and rules governing members of the NYSE, your intermediary cannot vote your Tim Hortons common shares on a discretionary basis if you do not provide proper voting instructions.

If abstentions are received by the scrutineer, they will only be counted for determining whether or not Tim Hortons has a quorum. Abstentions are not counted towards shareholder votes on any matter described in this joint information statement/circular.

Q: What will happen if I return my form of proxy or voting instruction form without indicating how to vote?

A: Proxyholders must vote Tim Hortons common shares according to the instructions given to them by Tim Hortons shareholders. If you, as a Tim Hortons shareholder, do not specify your voting instructions, your proxyholder can vote as he/she sees fit. If you do not specify your voting instructions and you have appointed Tim Hortons representatives appointed by the Tim Hortons board of directors to act as your proxyholder, they will vote *for* approving the arrangement resolution.

Proxyholders have the authority to vote as he/she sees fit with respect to any other matters that properly come before the Tim Hortons special meeting and with respect to any amendments to the matters identified in the notice of meeting or any adjournment or postponement thereof, whether or not the amendment or other matter that comes before the Tim Hortons special meeting is or is not routine and whether or not the amendment or other matter that comes before the Tim Hortons special meeting is contested. As of the date of this joint information statement/circular, Tim Hortons is not aware of any items to be brought before the Tim Hortons special meeting that are not described in this joint information statement/circular.

Q: What constitutes a quorum?

A: A quorum for Tim Hortons is the presence, in person or by proxy, at the opening of the Tim Hortons special meeting of a minimum number of at least five Tim Hortons shareholders holding, in the aggregate, at least 51% of the outstanding Tim Hortons common shares as of the Tim Hortons record date entitled to vote at the Tim Hortons special meeting, in order for the Tim Hortons special meeting to proceed and to transact business. Abstentions are treated as present when determining if Tim Hortons has a quorum.

Q: Can I change my vote after I have returned a proxy form or voting instruction form?

A: *If you are a beneficial shareholder* : You may change your vote by providing new instructions on a voting instruction form or proxy form with a later date, or at a later time in the case of voting by telephone or through the internet, to your broker or other intermediary; provided that your new voting instructions are received by Computershare before midnight (Toronto Time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto Time) on the business day before the Tim Hortons special meeting is reconvened. Be sure to allow enough time for your intermediary to receive your instructions or revocation and act on them prior to that deadline. You must contact your intermediary in order to revoke your previous voting instructions without submitting new voting instructions. You will need to allow for enough time for your intermediary to act on such instructions prior to the vote on the matter.

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If you are a registered shareholder : You may change your vote by providing a new proxy form with a later date, or provide new voting instructions at a later time in the case of voting by telephone or through the internet, to Computershare; provided that your new voting instructions are received by Computershare before midnight (Toronto Time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto Time) on the business day before the Tim Hortons special meeting is reconvened. In addition, you can attend the Tim Hortons special meeting in person and cast a different vote if you specifically request the opportunity to do so at the Tim Hortons special meeting. Also, you can revoke your previous voting instructions without submitting new voting instructions at any time prior to the final vote at the meeting by delivering a written notice to the chairman of the meeting prior to the vote on the matter or by any other manner permitted by law. The written notice of revocation may be executed by the registered shareholder or by an attorney who provides your written authorization. If the shareholder is a corporation, the written notice must be executed by its duly authorized officer or attorney.

Q: What happens if I sell my shares before the Tim Hortons special meeting?

A: The record date of the Tim Hortons special meeting is November 3, 2014. If you transfer your Tim Hortons common shares after the Tim Hortons record date but before the Tim Hortons special meeting, you will retain (subject to any arrangements made with the purchaser of your shares) your right to vote at your meeting. In order for Tim Hortons shareholders to receive the arrangement consideration, they must hold their Tim Hortons common shares through the effective time of the arrangement.

Q: Are Tim Hortons shareholders entitled to dissent rights?

A: Registered shareholders of Tim Hortons are expected to be entitled to dissent rights in connection with the arrangement, provided that the applicable Tim Hortons shareholder complies with all applicable requirements and procedures under the CBCA, as expected to be modified by the order given by the Ontario court (the “interim order”). A beneficial shareholder wishing to exercise dissent rights must become a registered holder prior to the deadline for exercising dissent rights, which deadline is not later than 5:00 p.m., Toronto time, on [•], 2014, being two business days preceding the Tim Hortons special meeting (or, if the Tim Hortons special meeting is postponed or adjourned, two business days preceding the date of the postponed or adjourned special meeting). See “ *The Transactions—Appraisal / Dissent Rights* ”.

Q: What are the U.S. federal income tax consequences of the transactions to holders of Tim Hortons common shares?

A: It is intended that the arrangement, taken together with the merger, qualify as a transaction described in section 351 of the Code. Under such treatment, the U.S. federal income tax consequences to U.S. holders of Tim Hortons common shares will depend on the mix of consideration and the amount of cash received in the arrangement. In the case of a U.S. holder of Tim Hortons common shares who receives solely cash in the arrangement, such U.S. holder generally will recognize gain or loss in an amount equal to the difference between the amount of cash received and such U.S. holder’s adjusted tax basis in the Tim Hortons common shares exchanged. In the case of a U.S. holder of Tim Hortons common shares who receives a combination of cash (including any cash received in lieu of a fractional Holdings common share) and Holdings common shares in the arrangement, (A) if the sum of such cash (including any cash received in lieu of a fractional Holdings common share) and the fair market value of such Holdings common shares is greater than such U.S. holder’s adjusted tax basis in the Tim Hortons common shares exchanged, then such U.S. holder should recognize gain equal to the lesser of (i) the amount by which the sum of such cash and fair market value of such Holdings common shares exceeds such U.S. holder’s adjusted tax basis in such U.S. holder’s Tim Hortons common shares; and (ii) the cash received by such U.S. holder in the arrangement and (B) if the sum of such cash and fair market value of such Holdings common shares is less than such U.S. holder’s adjusted tax basis in such U.S. holder’s Tim Hortons common shares, such U.S. holder should not recognize a loss. Such gain or loss must be determined separately for separate blocks of Tim Hortons common shares (i.e., shares acquired at different times or prices). Thus, if a U.S. holder transfers some Tim Hortons common shares on which gains are realized and other Tim

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Hortons common shares on which losses are realized, the U.S. holder may not net the losses against the gains to determine the amount of gain recognized. See “*Material U.S. Federal Income Tax Consequences of the Arrangement to U.S. Holders*”.

Non-U.S. holders of Tim Hortons generally will not be subject to U.S. federal income tax on any gain recognized on the transactions unless the gain is effectively connected with a U.S. trade or business of such non-U.S. holder (or, if an income tax treaty applies, is attributable to a United States “permanent establishment”) or such non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of the disposition, and certain other conditions are met. See “*The Transactions—Material U.S. Federal Income Tax Considerations for Non-U.S. Holders*”.

Q: What are the Canadian federal income tax consequences of the transactions to holders of Tim Hortons common shares?

A: Tim Hortons shareholders who are residents of Canada for purposes of the Tax Act will realize a capital gain (or capital loss) on the disposition of their Tim Hortons common shares pursuant to the plan of arrangement regardless of whether or not they receive the arrangement mixed consideration or make the cash election or the arrangement shares election. The capital gain (or the capital loss) will be equal to the amount, if any, by which the sum of the cash, if any, and the fair market value, at the time of the arrangement, of any Holdings common shares received in exchange for such shareholder’s Tim Hortons common shares, net of any reasonable costs of disposition, exceed (or are less than) the adjusted cost base to such shareholders of their Tim Hortons common shares immediately before the disposition. Tim Hortons shareholders who are not residents of Canada for purposes of the Tax Act and whose Tim Hortons common shares are not “taxable Canadian property” will not be subject to tax under the Tax Act on the disposition of their Tim Hortons common shares pursuant to the plan of arrangement regardless of whether or not they make the cash election or the arrangement shares election. The foregoing is a brief summary of Canadian federal income tax consequences only and is qualified by the more detailed general description of Canadian federal income tax considerations under “*The Transactions—Material Canadian Federal Income Tax Consequences of the Transactions*”. Tim Hortons shareholders are urged to consult their own tax and legal advisors to determine the particular tax consequences to them of the arrangement.

Q: What do I need to do now?

A: Carefully read and consider the information contained in, and incorporated by reference into, this joint information statement/circular, including its Annexes, then please authorize a proxy to vote your shares as soon as possible so that your shares may be represented at the Tim Hortons special meeting. If after reviewing all such information you decide to make a cash election or shares election, you must properly complete and deliver to the exchange agent the election form and letter of transmittal prior to the election deadline.

See “*The Transactions—Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration; Dissenter’s Rights; Withholding Rights*”.

Q: Should I send in my election form and letter of transmittal now?

A: To make a shares election or a cash election, each registered Tim Hortons shareholder must forward a properly completed and signed election form and letter of transmittal in order to receive the arrangement consideration. It is recommended that Tim Hortons shareholders complete, sign and return the election form and letter of transmittal to the arrangement exchange agent as soon as possible if it wishes to make either such election.

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Q: Who is soliciting my proxy?

A: Tim Hortons management is soliciting your proxy for use at the Tim Hortons special meeting and any adjournment or postponement thereof. All associated costs of the proxy solicitation will be borne by Burger King Worldwide. In addition to the use of the mail, proxies may be solicited directly by directors, officers and other employees of Tim Hortons, without additional remuneration, by personal interview, telephone, facsimile or otherwise. Tim Hortons will also request brokerage firms, nominees, custodians and fiduciaries to forward proxy materials to the beneficial owners of Tim Hortons common shares and Burger King Worldwide will provide customary reimbursement to such firms for the cost of forwarding these materials. Tim Hortons has retained [•] to assist in its solicitation of proxies and has agreed to pay them a fee of approximately \$[•], plus reasonable out-of-pocket expenses, for these services.

Q: Who can help answer my questions?

A: Tim Hortons shareholders who have questions about the arrangement resolution to be voted on at the Tim Hortons special meeting or desire additional copies of this joint information statement/circular or additional proxy cards or voting instruction forms should contact Tim Hortons Investor Relations at (905) 339-4940.

SUMMARY

This summary highlights selected information contained in this joint information statement/circular and may not contain all of the information that is important to you. You should read carefully this entire joint information statement/circular, including the Annexes and the documents incorporated by reference, to fully understand the transactions and the voting procedures for the special meeting of Tim Hortons shareholders (the “Tim Hortons special meeting”).

The Arrangement Agreement and Plan of Merger, which we refer to as the “arrangement agreement” dated as of August 26, 2014, by and among Burger King Worldwide, Inc. (“Burger King Worldwide”), Tim Hortons Inc. (“Tim Hortons”), 9060669 Canada Inc., a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company) (“Holdings”), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), a limited partnership organized under the laws of Ontario whose partnership interests are held either directly or indirectly by Holdings (“Partnership”), Blue Merger Sub, Inc., a corporation incorporated under the laws of Delaware and a wholly owned subsidiary of Partnership (“Merger Sub”), and 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly owned subsidiary of Partnership (“Amalgamation Sub”) is attached as Annex A to this joint information statement/circular. The terms “we,” “us” and “our” refer to Holdings after giving effect to the transactions described in this joint information statement/circular.

This summary and the rest of this document contain forward-looking statements about events that are not certain to occur, and you should not place undue reliance on those statements; see the section entitled “*Cautionary Note Regarding Forward Looking Statements*” for more information. The page references have been included in this summary to direct you to a more complete description of the topics presented below. See also the section entitled “*Where You Can Find More Information*”.

The Arrangement Agreement, Plan of Arrangement and the Transactions (page [•])

Burger King Worldwide agreed to combine with Tim Hortons pursuant to the arrangement agreement in a transaction that will result in Burger King Worldwide and Tim Hortons being indirect subsidiaries of Holdings and Partnership. The transactions will be effectuated in two primary steps. In the first step, Amalgamation Sub will acquire Tim Hortons pursuant to a plan of arrangement under Canadian law, which will result in Tim Hortons becoming an indirect subsidiary of both Holdings and Partnership (the “arrangement”). In the second step, Merger Sub will merge with and into Burger King Worldwide, with Burger King Worldwide as the surviving corporation in the merger, which will result in Burger King Worldwide becoming an indirect subsidiary of both Holdings and Partnership (the “merger” and, together with the arrangement, the “transactions”). Holdings, which will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons, will be the general partner of Partnership and will own a majority interest in Partnership (based on vote and value) as described below, with the balance of the partnership units of Partnership initially being held by the holders of Burger King Worldwide common stock prior to the effective time of the merger.

The arrangement agreement and the plan of arrangement are attached as Annex A and Annex B, respectively, to this joint information statement/circular. We encourage you to read these documents in their entirety; they are the principal documents governing the transactions and the other related transactions.

Information About the Companies (page [•])

TIM HORTONS INC.
874 Sinclair Road
Oakville, Ontario, Canada
L6K 2Y1
(905) 845-6511

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Tim Hortons Inc. is one of the largest publicly-traded quick service restaurant chains in North America based on market capitalization and the largest in Canada based on systemwide sales and number of locations. Tim Hortons appeals to a broad range of consumer tastes, with a menu that includes its premium blend coffee, espresso-based hot and cold specialty drinks (including lattes, cappuccinos and espresso shots), iced cappuccinos, specialty and steeped teas, cold beverages, fruit smoothies, home-style soups, chili, grilled Panini and classic sandwiches, wraps, yogurt and berries, oatmeal, breakfast sandwiches and wraps, and fresh baked goods, including donuts, Timbits[®], bagels, muffins, cookies, croissants, Danishes, pastries and more.

BURGER KING WORLDWIDE, INC.

5505 Blue Lagoon Drive
Miami, Florida, USA 33126
(305) 378-3000

Burger King Worldwide, Inc. is a Delaware corporation formed on April 2, 2012 and the indirect parent of Burger King Corporation, a Florida corporation that franchises and operates fast food hamburger restaurants, principally under the Burger King[®] brand. Burger King Worldwide is the world's second largest fast food hamburger restaurant chain as measured by the total number of restaurants. As of December 31, 2013, Burger King Worldwide owned or franchised a total of 13,808 restaurants in 98 countries and U.S. territories worldwide, of which approximately 100% were franchised. Burger King Worldwide restaurants are limited service restaurants that feature flame-grilled hamburgers, chicken and other specialty sandwiches, French fries, soft drinks and other affordably-priced food items. Burger King Worldwide believes its restaurants appeal to a broad spectrum of consumers, with multiple day parts and product platforms appealing to different customer groups. During its nearly 60 years of operating history, Burger King Worldwide has developed a scalable and cost-efficient quick service hamburger restaurant model that offers guests fast and delicious food.

9060669 CANADA INC.

155 Wellington Street West
Toronto, Ontario, Canada
M5V 3J7
(305) 378-3000

Holdings was initially formed as an unlimited liability company under the laws of British Columbia on August 25, 2014 and continued as a corporation under the laws of Canada on October 23, 2014. Holdings was formed solely to effect the transactions and has not conducted any business, other than in connection with the arrangement agreement, equity financing, debt financing and related ancillary agreements to which Holdings is a party. Prior to the closing of the transactions and pursuant to the arrangement agreement, Holdings will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons. Pursuant to the arrangement agreement, Tim Hortons and Burger King Worldwide will survive as indirect subsidiaries of Holdings. Holdings has or will apply to list its common stock for trading on the New York Stock Exchange (the "NYSE") and the Toronto Stock Exchange (the "TSX") under the symbol [•].

NEW RED CANADA LIMITED PARTNERSHIP

155 Wellington Street West
Toronto, Ontario, Canada
M5V 3J7
(305) 378-3000

New Red Canada Limited Partnership (f/k/a New Red Canada Partnership) is a limited partnership organized under the laws of Ontario whose partnership interests are held either directly or indirectly by Holdings. Partnership was formed solely to effect the transactions and has not conducted any business, other than in connection with the

arrangement agreement, equity financing, debt financing and related ancillary agreements to which Partnership is a party. Pursuant to the arrangement agreement, Tim Hortons and Burger King Worldwide will survive as indirect subsidiaries of Partnership. Pursuant to the arrangement agreement and prior to closing, Partnership will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons. Partnership has applied to list its Partnership exchangeable units issued as merger consideration in the transactions for trading on the TSX under the symbol [•].

BLUE MERGER SUB, INC.
c/o Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, Florida, USA 33126
(305) 378-3000

Blue Merger Sub, Inc. is a corporation incorporated under the laws of Delaware and a wholly owned subsidiary of Partnership. Merger Sub was formed solely to effect the transactions and has not conducted any business, other than in connection with the arrangement agreement and related ancillary agreements to which Merger Sub is a party. Pursuant to the arrangement agreement, Merger Sub will merge with and into Burger King Worldwide, with Burger King Worldwide continuing as the surviving corporation and subsidiary of Holdings and Partnership.

8997900 CANADA INC.
1600-925 West Georgia Street
Vancouver, British Columbia, Canada
V6C 3L2
(305) 378-3000

8997900 Canada Inc. is a corporation organized under the laws of Canada and a wholly owned subsidiary of Partnership. Amalgamation Sub was formed solely to effect the transactions and has not conducted any business, other than in connection with the arrangement agreement, plan of arrangement and related ancillary agreements to which Amalgamation Sub is a party. Pursuant to the arrangement agreement, Amalgamation Sub will acquire Tim Hortons pursuant to a plan of arrangement, which will result in Tim Hortons becoming a subsidiary of Holdings and Partnership.

Consideration to be Received in the Transactions (page [•])

If the arrangement is completed, each holder of a common share of Tim Hortons will be entitled to receive C\$65.50 in cash and 0.8025 newly issued Holdings common shares (collectively, the “arrangement mixed consideration”) in exchange for each common share of Tim Hortons held by such shareholder, other than shareholders who:

- make an election to receive cash (a “cash election”), who will be entitled to receive C\$88.50 in cash in exchange for each common share of Tim Hortons held by such shareholder (the “arrangement cash consideration”); or
- make an election to receive Holdings common shares (a “shares election”), who will be entitled to receive 3.0879 newly issued Holdings common shares in exchange for each share of Tim Hortons held by such shareholder (the “arrangement shares consideration”).

Any cash election or shares election is subject to proration in accordance with the plan of arrangement, as described in “*The Transactions—Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration; Dissenter’s Rights; Withholding Rights*”.

If the merger is completed, each share of Burger King Worldwide common stock outstanding immediately prior to the effective time of the merger will be converted into the right to receive (a) if no exchangeable election (as described below) has been made, 0.99 newly issued Holdings common shares and 0.01 newly issued Partnership exchangeable units (together, the “Holdings consideration”) or (b) if the stockholder makes an election to receive consideration solely in the form of Partnership exchangeable units (an “exchangeable election”), one Partnership exchangeable unit (the “exchangeable consideration”) in exchange for each share of Burger King Worldwide common stock, in each case subject to proration as set forth in the arrangement agreement, as described in “*The Transactions—Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration; Dissenter’s Rights; Withholding Rights*”.

Based on the number of shares of Burger King Worldwide common stock and the number of Tim Hortons common shares estimated to be outstanding immediately prior to the closing of the transactions, we estimate that, upon the closing, former Tim Hortons shareholders will own approximately 22% of the common equity of the combined company through ownership of Holdings common shares and former Burger King Worldwide stockholders will own approximately 76% of the common equity of the combined company through ownership of both Holdings common shares and Partnership exchangeable units, in each case, on a fully-diluted basis (for greater certainty, as used in the joint information statement/circular, “fully-diluted” includes “fully-exchanged”). In connection with the transactions, Berkshire Hathaway Inc. (“Berkshire”) will purchase for a price of \$3 billion, Class A 9% cumulative compounding perpetual voting preferred shares of Holdings (the “preferred shares”) and a warrant to purchase Holdings common shares, which will represent 1.75% of the fully-diluted Holdings common shares, including the common shares issuable upon exercise of the warrant. The warrant may be exercised until the fifth anniversary of the closing of the transactions. Berkshire has informed Holdings that it intends to exercise the warrant promptly following the closing of the transactions.

Value of Arrangement Consideration (page [•]))

Shares of Burger King Worldwide common stock are listed and traded on the NYSE under the symbol BKW. Tim Hortons common shares are listed and traded on the TSX and the NYSE under the symbol THI. The following table shows the closing prices of shares of Burger King Worldwide common stock as reported on the NYSE and Tim Hortons common shares as reported on the TSX on August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, and on September 12, 2014, the last practicable day before the date of this joint information statement/circular. The table also shows the equivalent value of the consideration per Tim Hortons common share, which was calculated by adding (i) C\$65.50, which is the cash portion of the consideration to be paid to Tim Hortons shareholders and (ii) the closing price of a share of Burger King Worldwide as of the specified date multiplied by the exchange ratio of 0.8025. See also “*Financial Information—Comparative Per Share Market Price Data and Dividend Information*”.

	Tim Hortons Common Shares	Burger King Worldwide Common Stock	Equivalent value of acquisition consideration per Tim Hortons common share
August 22, 2014	C\$ 68.78	C\$ 23.89	C\$ 89.39(1)
August 25, 2014	C\$ 82.03	C\$ 28.55	C\$ 94.05(1)
September 12, 2014	C\$88.36	C\$ 27.02	C\$92.52(1)

(1) Based on a USD/CAD noon exchange rate of 1.0980 reported by the Bank of Canada as of August 25, 2014.

Risk Factors (page [•]))

There are a number of risk factors relating to the transactions, Tim Hortons, Burger King Worldwide and the combined companies, all of which should be carefully considered by Tim Hortons shareholders and Burger King Worldwide stockholders. For additional information regarding the risks you should consider in connection with the transactions, see “ *Risk Factors* ”.

Comparison of the Rights of Holders of Tim Hortons Common Shares, Burger King Worldwide Common Stock, Holdings Common Shares and Partnership Exchangeable Units (page [•]))

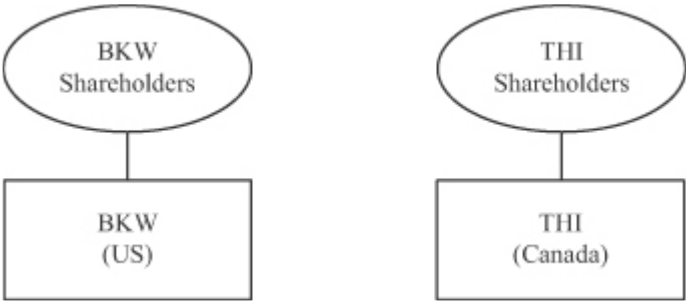
As a result of the arrangement, the holders of Tim Hortons common shares will become holders of Holdings common shares (to the extent they receive shares rather than cash in the arrangement). While their rights will continue to be governed by the CBCA, their rights will also be governed by the articles and by-laws of Holdings instead of Tim Hortons Articles of Incorporation, as amended, and By-Law No. 1 of Tim Hortons. Following the arrangement, former Tim Hortons shareholders will have different rights as Holdings shareholders than they did as Tim Hortons shareholders. For a summary of the material differences between the rights of Tim Hortons shareholders and Holdings shareholders, see “ *Comparison of Rights of Tim Hortons Shareholders and Holdings Shareholders* ”.

As a result of the merger, the holders of Burger King Worldwide common stock will become holders of Holdings common shares and Partnership exchangeable units and their rights will be governed by the CBCA and the articles and by-laws of Holdings, in respect of Holdings common shares, and the *Limited Partnerships Act* (Ontario) and the partnership agreement of Partnership, in respect of the Partnership exchangeable units, instead of Delaware General Corporation Law, which we refer to as the “DGCL” and Burger King Worldwide’s amended and restated certificate of incorporation and amended and restated bylaws. Following the merger, former Burger King Worldwide stockholders will have different rights as Holdings shareholders and Partnership exchangeable unitholders than they did as Burger King Worldwide stockholders.

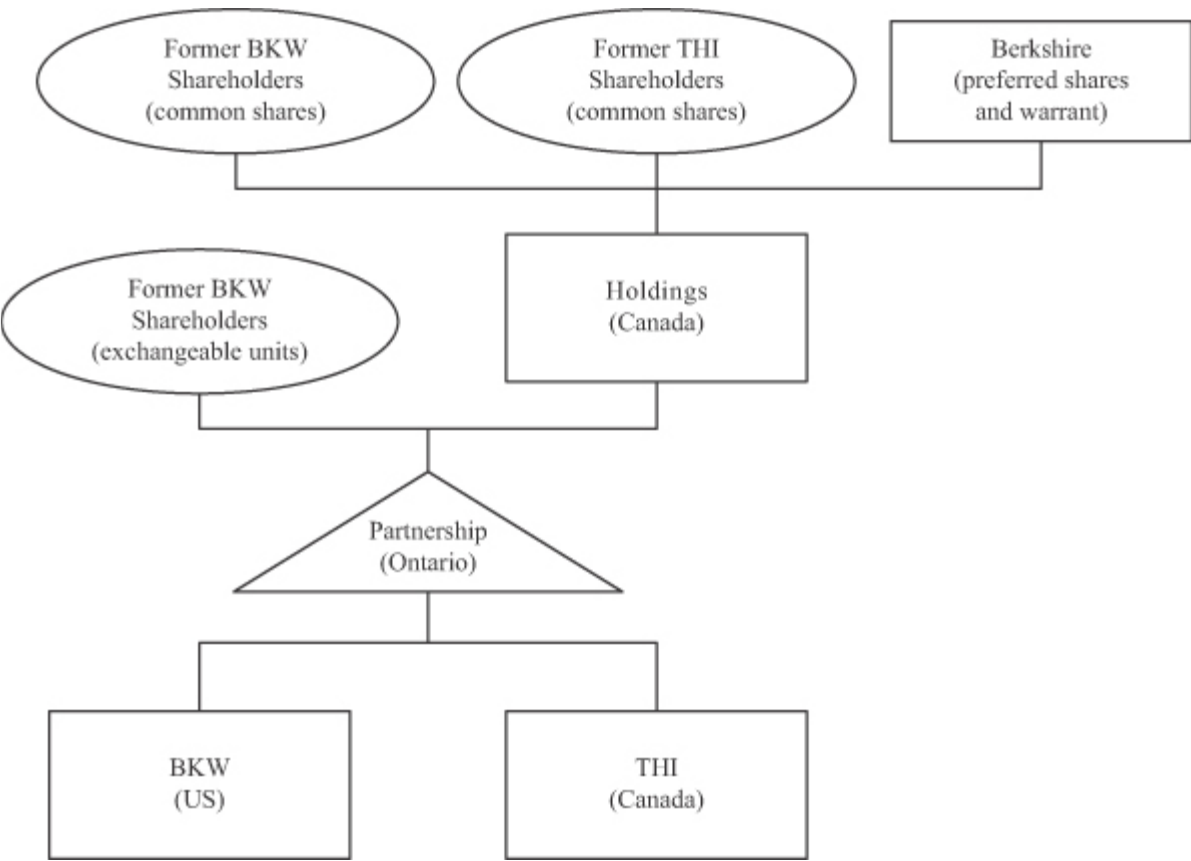
Effect of the Transactions (page [•]))

The following diagrams are a simplified illustration of the structure of Tim Hortons and Burger King Worldwide before and following the completion of the transactions.

Simplified structure before the completion of the transactions



Simplified structure following the completion of the transactions



Treatment of Tim Hortons Equity-Based Awards (page [•])

Tim Hortons Stock Options. Pursuant to the arrangement, each outstanding vested Tim Hortons stock option for which a Tim Hortons optionholder has executed a surrender form (a “surrendered Tim Hortons stock option”) will be surrendered and transferred to Tim Hortons in consideration for the issuance of the number of Tim Hortons common shares, rounded down to the nearest whole share, equal in value to the in-the-money value of such surrendered Tim Hortons stock option. The in-the-money value of the Tim Hortons stock option is the amount by which the fair market value of a Tim Hortons common share exceeds the exercise price of the Tim Hortons stock option. The surrendered Tim Hortons stock options will be terminated at the time of their surrender and Tim Hortons common shares issued in respect of such surrendered stock options will be treated as described below.

Pursuant to the arrangement, each outstanding Tim Hortons stock option (and its tandem stock appreciation right), whether vested or unvested, that is not a surrendered Tim Hortons stock option will be exchanged for a stock option (with a tandem stock appreciation right) to acquire from Holdings a number of Holdings common shares equal to the product of: (a) the number of Tim Hortons common shares subject to such Tim Hortons stock option multiplied by (b) the exchange ratio of 3.0879 (and rounded down to the nearest whole number of Holdings common shares). The exercise price per Holdings common share of such Holdings stock option shall be equal to the quotient of: (a) the exercise price per Tim Hortons common share subject to the exchanged Tim Hortons stock option divided by (b) the exchange ratio of 3.0879 (with the aggregate exercise price being

rounded up to the nearest whole cent), provided that the in-the-money value of such Holdings stock options immediately after the issuance of such Holdings stock options may not exceed the in-the-money value of the Tim Hortons stock options immediately prior to such issuance. Subject to the foregoing, each Holdings stock option will have the same terms and conditions as were applicable to the exchanged Tim Hortons stock option.

Restricted Stock Units and Performance Stock Units. Pursuant to the arrangement, all outstanding Tim Hortons restricted stock units and performance stock units will vest, with the number of performance stock units vesting determined based on the maximum or highest level achievable, and Tim Hortons common shares will be issued in full settlement of such awards on the basis of one Tim Hortons common share for each restricted stock unit or performance stock unit.

Tim Hortons common shares issued in consideration for surrendered Tim Hortons stock options or in settlement of restricted stock unit awards and performance stock unit awards will be transferred to Amalgamation Sub pursuant to the arrangement and the holders of such Tim Hortons common shares will be entitled to make an election in respect of the arrangement consideration to be received in consideration for such transfer.

Deferred Stock Units. At the effective time of the arrangement, all outstanding Tim Hortons deferred stock units will ordinarily vest in accordance with the plan terms of the Tim Hortons deferred stock units, or DSUs, and require settlement as the director will cease to serve in such capacity for Tim Hortons. Each DSU will be settled for the value of C\$65.50 plus the value of 0.8025 newly issued common shares of Holdings (with the value determined based on the opening price of a common share of Holdings on the TSX on the first trading day following the effective time of the arrangement).

Treatment of Burger King Worldwide Equity-Based Awards (page [•])

At the effective time of the merger, each outstanding Burger King Worldwide option will be converted into the right to receive, on the same terms and conditions as were applicable under the award agreements issued in connection with such Burger King Worldwide option (including with respect to vesting and exercise price), an option to acquire common shares from Holdings in respect of the same number of Holdings common shares as were subject to the underlying Burger King Worldwide option. At the effective time of the merger, each outstanding restricted stock unit will be converted into the right to receive, on the same terms and conditions as were applicable under such Burger King Worldwide restricted stock unit (including with respect to vesting), a restricted stock unit with respect to the same number of Holdings common shares as were subject to the underlying Burger King Worldwide restricted stock unit.

Partnership Units (page [•])

Immediately following the transactions, Holdings will own a majority interest (by vote and value) in Partnership represented by common units and preferred units of Partnership which will entitle Holdings to distributions from Partnership that generally correspond to dividends and distributions that are paid by Holdings in respect of common shares and preferred shares of Holdings that are issued and outstanding from time to time. The balance of the partnership units of Partnership will initially be held by the former holders of Burger King Worldwide common stock in the form of newly issued Partnership exchangeable units.

Each of the common units, preferred units and the Partnership exchangeable units will be subject to the terms of the partnership agreement. Pursuant to the terms of the partnership agreement, each Partnership exchangeable unit will be entitled to distributions from Partnership in an amount equal to any dividends or distributions that shall have been declared and be payable in respect of a common share of Holdings.

Each exchangeable unit holder will have the benefit of a voting trust agreement (the “voting trust agreement”), by and among Partnership, Holdings and a trustee to be agreed upon by Burger King Worldwide

and Holdings (the “trustee”). The trustee will hold a special voting share in Holdings that entitles the trustee to a number of votes equal to the number of Partnership exchangeable units outstanding. Pursuant to the terms of the voting trust agreement, the holders of Partnership exchangeable units can direct the trustee, as their proxy, to vote on their behalf with respect to substantially all matters to be voted upon that are presented to the common shareholders of Holdings.

From and after the one-year anniversary of the closing date of the transactions, each holder of a Partnership exchangeable unit will have the right to require Partnership to exchange all or any portion of such holder’s Partnership exchangeable units for Holdings common shares at a ratio of one Holdings common share for each Partnership exchangeable unit, subject to the right of Holdings, in its capacity as the general partner of Partnership, to cause Partnership to repurchase the exchangeable units for cash (in an amount determined in accordance with the terms of the partnership agreement). Prior to the one-year anniversary of the closing of the transactions, holders of Partnership exchangeable units may not require Partnership to exchange their exchangeable units. See “ *Post-Transactions Organizational Structure—Partnership Agreement* ”.

Election Procedures for Exchangeable Elections by Burger King Worldwide Stockholders (page [•])

Prior to the effective time of the transactions, Burger King Worldwide will appoint the merger exchange agent for the purpose of exchanging Burger King Worldwide common stock for the applicable arrangement consideration. Concurrently with the mailing of this joint information statement/circular, an election form will be mailed to each record holder of Burger King Worldwide common stock. The election forms will permit the holder (or the beneficial owner through appropriate and customary documentation) to specify the number of shares for which such holder elects to receive the exchangeable consideration. The election must be made prior to the election deadline. The election deadline will be 5:00 p.m., New York City time, on the third business day prior to the date the transactions will close. Such date will be publicly announced by Burger King Worldwide as soon as reasonably practicable but in any event no later than five business days prior to the anticipated closing date of the merger.

To make a valid election, each record holder of Burger King Worldwide common stock (or the beneficial owner through appropriate and customary documentation) must submit a properly completed election form so that it is actually received by the merger exchange agent at or prior to the election deadline. An election form will be properly completed only if accompanied by any additional documents specified by the procedures set forth in the election form.

If a Burger King Worldwide common stockholder does not submit the election form and other required materials, the election form and other required materials are not received by the merger exchange agent by the election deadline or the election form and other required materials are improperly completed and/or are not signed, such stockholder will be deemed not to have made an election. Burger King Worldwide common stockholders not making an election will be deemed to have elected to receive the Holdings consideration.

Election Procedures for Shares Elections or Cash Elections by Tim Hortons Shareholders (page [•])

Prior to the effective time of the transactions, Tim Hortons will appoint an arrangement exchange agent for the purpose of exchanging Tim Hortons common shares for the applicable arrangement consideration. Concurrently with the mailing of this joint information statement/circular, an election form and letter of transmittal will be mailed to each record holder of Tim Hortons common shares. The election form and letter of transmittal will permit the record holder (or the beneficial owner through appropriate and customary documentation) to specify the number of shares for which such holder makes a shares election or a cash election. The election must be made prior to the election deadline. The election deadline will be 5:00 p.m., Toronto time, on the business day which is three business days preceding the anticipated effective date of the arrangement. Tim Hortons will give at least two business days’ notice of the election deadline by news release disseminated on newswire.

To make a valid election, each Tim Hortons shareholder must submit a properly completed election form so that it is actually received by the arrangement exchange agent at or prior to the election deadline. An election form and letter of transmittal will be properly completed only if accompanied by any additional documents specified by the procedures set forth in the election form and letter of transmittal.

If a Tim Hortons shareholder does not submit the election form and letter of transmittal and other required materials, the election form and other required materials are not received by the arrangement exchange agent by the election deadline or the election form and other required materials are improperly completed and/or are not signed, such shareholder will be deemed to have elected to receive the arrangement mixed consideration.

Recommendation by the Tim Hortons Board of Directors (page [•]))

At a meeting held on August 25, 2014, the Tim Hortons board of directors unanimously determined that the arrangement was in the best interests of Tim Hortons. **Accordingly, the Tim Hortons board of directors recommends that Tim Hortons shareholders vote “FOR” the arrangement resolution at the Tim Hortons special meeting .**

In evaluating the arrangement, the Tim Hortons board of directors consulted with Tim Hortons senior management and with legal, financial and other advisors, reviewed a significant amount of information and considered a number of factors, conducted a comprehensive evaluation through a thorough process and concluded in its business judgment that the arrangement is expected to maintain the strong position of Tim Hortons in the QSR industry, while enhancing its future strategic opportunities beyond what Tim Hortons could achieve on a stand-alone basis. Considering the interests of all affected stakeholders, including Tim Hortons shareholders, franchisees, employees, guests, communities and Canada, the Tim Hortons board of directors determined that the arrangement is in the best interests of Tim Hortons.

In considering the recommendation of the Tim Hortons board of directors, you should be aware that directors and executive officers of Tim Hortons have interests in the proposed transactions that are in addition to, or different from, any interests they might have as shareholders. See “ *The Transactions—Interests of Certain Persons related to Tim Hortons in the Transactions* ”.

Reasons of the Burger King Worldwide Board of Directors (page [•]))

The Burger King Worldwide board of directors believes that the merger and the other transactions contemplated by the arrangement agreement are in the best interests of Burger King Worldwide stockholders and Burger King Worldwide. The Burger King Worldwide board of directors has unanimously approved the merger and the entry into the arrangement agreement.

Lock-up Agreements with Tim Hortons Directors (page [•]))

In connection with entering into of the arrangement agreement, Burger King Worldwide entered into lock-up agreements with each of the directors of Tim Hortons. Each of the Tim Hortons directors has agreed to vote or to cause to be voted all Tim Hortons common shares beneficially owned by such Tim Hortons directors as follows: (i) at the Tim Hortons special meeting (or any adjournment or postponement thereof) in favor of the arrangement and any other matter necessary for the consummation of the transactions; and (ii) against any acquisition proposal and/or any matter that could reasonably be expected to materially delay, prevent or frustrate the successful completion of the transactions at any meeting of Tim Hortons shareholders called for the purpose of considering same. As of August 26, 2014, directors of Tim Hortons collectively owned Tim Hortons common shares representing less than 1% of the voting power of Tim Hortons.

Opinions of Tim Hortons Financial Advisors (page [•])

Citi

In connection with the transactions, Tim Hortons retained Citigroup Global Markets Inc., which is referred to as “Citi”, to render an opinion to the Tim Hortons Board of Directors with respect to fairness, from a financial point of view, of the arrangement consideration proposed to be received by the holders of Tim Hortons common shares. On August 25, 2014, at a meeting of the Tim Hortons board of directors held to evaluate the transactions, Citi rendered to the Tim Hortons board of directors an oral opinion, confirmed in a written opinion dated August 26, 2014, concerning the arrangement consideration to be received by holders of Tim Hortons common shares. The full text of Citi’s written opinion, which is attached to this joint information statement/circular as Annex G, sets forth the assumptions made, procedures followed, matters considered and limitations on the review undertaken. The summary of Citi’s opinion in this joint information statement/circular is qualified in its entirety by reference to the full text of its written opinion. **Citi’s opinion was provided for the information of the Tim Hortons board of directors (in its capacity as such) in its evaluation of the arrangement consideration from a financial point of view and Citi expressed no view as to, and its opinion did not address, any other aspects or implications of the transactions or the underlying business decision of Tim Hortons to effect the transactions, the relative merits of the transactions as compared to any alternative business strategies that might exist for Tim Hortons or the effect of any other transaction in which Tim Hortons might engage. Citi’s opinion is not intended to be and does not constitute a recommendation to any shareholder as to how such shareholder should vote or act on any matters relating to the proposed transactions, including whether any shareholder should elect to receive either the arrangement cash consideration or the arrangement shares consideration or make no election. With respect to such elections, Citi expressed no opinions as to the related proration mechanisms, procedures and limitations in the arrangement agreement .**

Citi’s opinion speaks as of the date rendered and, as such, addressed only the fairness, from a financial point of view, of the arrangement consideration to be received in the transactions by holders of Tim Hortons common shares pursuant to the arrangement agreement.

RBC Capital Markets

In connection with the arrangement, Tim Hortons financial advisor, RBC Dominion Securities Inc., a member company of RBC Capital Markets, which we refer to as “RBC Capital Markets,” delivered an oral opinion, confirmed by delivery of a written opinion, dated August 25, 2014, to the Tim Hortons board of directors as to the fairness, from a financial point of view and as of such date, of the consideration under the arrangement to holders of Tim Hortons common shares. The full text of RBC Capital Markets’ written opinion, dated August 25, 2014, is attached as Annex H to this joint information statement/circular and sets forth, among other things, the procedures followed, assumptions made, factors considered and qualifications and limitations on the review undertaken by RBC Capital Markets in connection with its opinion. **RBC Capital Markets delivered its opinion to the Tim Hortons board of directors for the benefit, information and assistance of the Tim Hortons board of directors (in its capacity as such) in connection with and for purposes of its evaluation of the transactions. RBC Capital Markets’ opinion addressed only the arrangement consideration from a financial point of view and did not address any other aspect of the transactions, including with respect to proration mechanisms, procedures and limitations in the arrangement agreement. RBC Capital Markets’ opinion also did not address the underlying business decision of Tim Hortons to engage in the transactions or the relative merits of the transactions compared to any alternative business strategy or transaction that might be available to Tim Hortons or in which Tim Hortons might engage. RBC Capital Markets does not express any opinion and does not make any recommendation to any shareholder of Tim Hortons as to how such shareholder should vote or act with respect to any proposal to be voted upon in connection with the arrangement or any other matter, including with respect to arrangement consideration elections.**

Opinion of Burger King Worldwide Financial Advisor (page [•])

Lazard Frères & Co. LLC, which is referred to as “Lazard”, rendered its oral opinion, subsequently confirmed in writing, to the board of directors of Burger King Worldwide that, as of August 25, 2014, and based upon and subject to the assumptions, procedures, factors, qualifications and limitations set forth therein, the consideration to be received by the stockholders of Burger King Worldwide (other than Holdings, Partnership, Merger Sub and affiliates of Burger King Worldwide) in the transactions was fair, from a financial point of view, to such stockholders of Burger King Worldwide.

The full text of Lazard’s written opinion, dated August 25, 2014, which sets forth the assumptions made, procedures followed, factors considered and qualifications and limitations on the review undertaken by Lazard in connection with its opinion, is attached to this joint information statement/circular as Annex I and is incorporated into this joint information statement/circular by reference. The description of Lazard’s opinion set forth in this joint information statement/circular is qualified in its entirety by reference to the full text of Lazard’s written opinion attached as Annex I. Lazard’s opinion was directed to the board of directors of Burger King Worldwide in connection with its evaluation of the transactions and only addressed the fairness as of the date of the opinion, from a financial point of view, of the consideration to be received by the stockholders of Burger King Worldwide (other than Holdings, Partnership, Merger Sub and affiliates of Burger King Worldwide) in the transactions. Lazard’s opinion was not intended to, and does not constitute, a recommendation to any stockholder of Burger King Worldwide or Tim Hortons as to how such stockholder should vote or act with respect to the transactions or any matter relating thereto.

No Further Burger King Worldwide Stockholder Approval Required (page [•])

Burger King Worldwide is not asking you to vote to approve the merger or adopt the arrangement agreement. On August 26, 2014, 3G, which holds 69.22% of Burger King Worldwide’s outstanding common stock, agreed to deliver to Tim Hortons a written consent approving the merger and adopting the arrangement agreement five days following the effectiveness of the registration statement which is a part of this joint information statement/circular. This consent is sufficient for Burger King Worldwide stockholder approval of the transactions and no other vote is required.

Post Transactions Governance

Upon completion of the transactions, the Holdings board of directors will be comprised of eleven directors. Three directors of Holdings will be designated by Tim Hortons prior to the closing of the transactions. Mr. Caira has been selected by the Tim Hortons board of directors as one of Tim Hortons designees, and he is expected to serve as vice chairman of Holdings. Each of the other two director designees will be Canadian residents and must satisfy the independence requirements of the TSX and under Canadian securities laws. The remaining eight directors will be the current directors of Burger King Worldwide.

Following the completion of the transactions, Daniel Schwartz, the current Chief Executive Officer of Burger King Worldwide, will serve as the Chief Executive Officer of Holdings, and the remainder of the executive officers of Holdings will be announced prior to the closing of the transactions.

From time to time prior to the closing of the transactions, decisions may be made with respect to the management and operations of Holdings following the completion of the transactions, including the selection of additional executive officers of Holdings.

Interests of Certain Persons related to Tim Hortons in the Transactions (page [•])

In considering the recommendation of the Tim Hortons board of directors with respect to the transactions, Tim Hortons shareholders should be aware that the executive officers and directors of Tim Hortons have certain interests in the transactions that may be different from, or in addition to, the interests of Tim Hortons shareholders generally. The Tim Hortons board of directors was aware of these interests and considered them, among other matters, in approving the arrangement agreement and the transactions contemplated thereby, including the arrangement, and making its recommendation that the Tim Hortons shareholders adopt the arrangement agreement and approve the transactions contemplated thereby. These interests include:

- Upon consummation of the transactions, outstanding Tim Hortons restricted stock units and performance stock units will vest and be settled for Tim Hortons common shares (which will be exchanged for the arrangement considerations) and outstanding Tim Hortons deferred stock units will vest and be settled for cash;
- Outstanding Tim Hortons stock options (and their tandem stock appreciation rights) that have vested can be exercised or surrendered for Tim Hortons common shares prior to or contingent upon the consummation of the arrangement, and all outstanding Tim Hortons stock options (with tandem stock appreciations rights) that are not exercised or surrendered prior to or contingent upon the consummation of the arrangement will be converted in connection with the transactions into options to purchase Holdings common shares which, pursuant to the employment or change-in-control agreements with the executive officers, would vest upon a qualifying termination;
- Employment and change-in-control agreements with the executive officers of Tim Hortons provide for severance benefits in the event of certain qualifying terminations of employment following the consummation of the transactions; and
- The directors and executive officers of Tim Hortons are entitled to continued indemnification and insurance coverage under the arrangement agreement.

Interests of Certain Persons related to Burger King Worldwide in the Transactions (page [•])

Burger King Worldwide stockholders should be aware that the executive officers and directors of Burger King Worldwide have certain interests in the transactions that may be different from, or in addition to, the interests of Burger King Worldwide stockholders generally. The Burger King Worldwide board of directors was aware of these interests and considered them, among other matters, in approving the arrangement agreement and the transactions contemplated thereby.

Special Meeting of Tim Hortons Shareholders (page [•])

The Tim Hortons special meeting will be held at the [•] in Toronto, Ontario, Canada, [•] on [•], 2014 at [•] a.m. (Toronto time) for the purpose of considering, and, if thought fit, approving with or without variation, the arrangement resolution, the full text of which is set forth in Annex C to this joint information statement/circular. The arrangement resolution requires the affirmative vote of at least 66 ²/₃ % of the votes cast on the arrangement resolution by Tim Hortons shareholders present in person or represented by proxy at the Tim Hortons special meeting.

All Tim Hortons shareholders are invited to attend the Tim Hortons special meeting, including registered and beneficial shareholders of Tim Hortons. Tim Hortons has fixed November 3, 2014 as the record date. Only Tim Hortons shareholders of record as of the record date are entitled to vote at the Tim Hortons special meeting.

Dissent Rights (page [•]))

Registered Tim Hortons shareholders are expected to be entitled to exercise dissent rights under the *Canada Business Corporations Act* (the “CBCA”) in connection with the arrangement. If a registered Tim Hortons shareholder wishes to dissent and does so in compliance with section 190 of the CBCA, as expected to be modified by the order (the “interim order”) of the Ontario Superior Court of Justice (Commercial List) (the “Ontario Court”) and the plan of arrangement, such shareholder will be entitled to be paid the fair value of the Tim Hortons common shares held by such shareholder. Fair value is determined as of the close of business on the day before the arrangement is approved by holders of Tim Hortons common shares. If a Tim Hortons shareholder votes in favor of the arrangement, such holder will lose his or her rights to dissent. If a Tim Hortons shareholder withholds his or her vote or votes against the arrangement, such holder preserves his or her dissent rights to the extent such holder complies with section 190 of the CBCA, as expected to be modified by the interim order and the plan of arrangement.

However, for a Tim Hortons registered shareholder to exercise dissent rights, it must also provide a separate written objection to the arrangement resolution to Tim Hortons by not later than 5:00 p.m., Toronto time, on [•], 2014, being two business days preceding the Tim Hortons special meeting (or, if the Tim Hortons special meeting is postponed or adjourned, two business days preceding the date of the postponed or adjourned special meeting) and otherwise comply strictly with the relevant provisions of section 190 of the CBCA, as expected to be modified by the interim order and the plan of arrangement. If a Tim Hortons shareholder grants a proxy and intends to dissent, the proxy must instruct the proxy holder to vote against the arrangement resolution in order to prevent the proxy holder from voting such shares in favor of the arrangement and thereby voiding the Tim Hortons shareholder’s right to dissent. A Tim Hortons shareholder has no right of partial dissent. Accordingly, a holder of Tim Hortons common shares may only dissent as to all of the Tim Hortons common shares held by such shareholder. Section 190 of the CBCA is reprinted in its entirety as Annex K to this joint information statement/circular.

Anyone who is a holder of Tim Hortons common shares registered in the name of an intermediary and who wishes to dissent should be aware that only registered Tim Hortons shareholders are entitled to exercise dissent rights. A registered Tim Hortons shareholder who holds Tim Hortons common shares as an intermediary for one or more beneficial owners, one or more of whom wish to exercise dissent rights, must exercise such dissent rights on behalf of such holder(s).

Failure to comply strictly with the dissent procedures described in this joint information statement/circular may result in the loss of any right of dissent.

The arrangement agreement is subject to the condition in favor of Burger King Worldwide that the number of Tim Hortons common shares held by Tim Hortons shareholders that have validly exercised dissent rights will not exceed nine percent of the number of Tim Hortons common shares outstanding as of August 26, 2014. If such condition is not satisfied, the arrangement and other transactions may not occur.

Appraisal rights are statutory rights under Delaware law that enable stockholders who object to certain extraordinary transactions to demand that the corporation pay such stockholders the fair value of their shares instead of receiving the consideration offered to stockholders in connection with the extraordinary transaction. However, appraisal rights are not available in all circumstances. Burger King Worldwide stockholders do not have appraisal rights under the DGCL with respect to the merger.

Regulatory Approvals Required (page [•])

HSR Clearance

Under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, which we refer to as the “HSR Act,” and the rules and regulations promulgated thereunder by the Federal Trade Commission, which we refer to as the “FTC,” the transactions cannot be consummated until (i) all required notices and filings under the HSR Act are submitted to the FTC and the Antitrust Division of the U.S. Department of Justice, which we refer to as the “Antitrust Division,” and (2) the HSR waiting period expires or is otherwise terminated.

Burger King Worldwide and Tim Hortons filed pre-merger notification and report forms pursuant to the HSR Act with the Antitrust Division and the FTC on September 17, 2014. Early termination of the waiting period under the HSR Act with respect to the transactions was granted on September 26, 2014.

Competition Act (Canada)

Part IX of the *Competition Act* (Canada), as amended, including the regulations promulgated thereunder, which we refer to as the “Competition Act (Canada),” requires that the parties to certain transactions that exceed the thresholds set out in sections 109 and 110 of the Competition Act (Canada), which are referred to as “notifiable transactions,” provide the Commissioner of Competition, which person we referred to as the “commissioner,” with pre-closing notice of the transactions. Subject to certain limited exceptions, the parties to a notifiable transaction cannot complete the transaction until an applicable waiting period has expired or been terminated or an appropriate waiver has been provided by the commissioner.

In addition or as an alternative to filing the prescribed information with the commissioner, a party to a notifiable transaction may comply with Part IX by applying to the commissioner for: (i) an advance ruling certificate issued by the commissioner pursuant to section 102 of the Competition Act (Canada), which we refer to as an “advance ruling certificate;” or (ii) a no-action letter from the commissioner advising that he does not have grounds, at the time, on which to initiate proceedings before the Competition Tribunal under section 92 of the Competition Act (Canada) to challenge the transactions and seek an order in respect of the transactions which we refer to as a “no-action letter,” and an exemption from the pre-merger notification obligation under paragraph 113(c) of the Competition Act (Canada).

The transactions contemplated by the arrangement agreement (including the arrangement and the merger) are a notifiable transaction under the Competition Act (Canada), and as such, the parties to the arrangement agreement must comply with the Part IX merger notification provisions.

On September 19, 2014, the parties to the arrangement agreement filed with the commissioner a request for an advance ruling certificate or no-action letter and their notifications. The statutory waiting period under Part IX of the Competition Act (Canada) expired on October 20, 2014, and the commissioner issued a no-action letter in respect of the transactions contemplated by the arrangement agreement on October 27, 2014.

Canada Transportation Act

Under the *Canada Transportation Act* (the “Canada Transportation Act”), a transaction subject to pre-merger notification under the Competition Act (Canada) that involves a transportation undertaking cannot be completed until certain information has been provided to the Minister of Transport of Canada, who we refer to as the “Minister of Transport,” and either the Minister of Transport notifies the parties that she is of the opinion that the transaction does not raise issues with respect to the public interest or the transaction is approved by the Governor in Council of Canada.

On September 19, 2014, the parties to the arrangement agreement filed an application with the Minister of Transport for a notice confirming that the transactions contemplated by the arrangement agreement do not raise issues with respect to the public interest as relates to national transportation, and the Minister of Transport provided the parties with such notice on October 24, 2014.

Investment Canada Act

Under the *Investment Canada Act*, as amended, including the regulations promulgated thereunder, which we refer to as the “Investment Canada Act”, certain transactions involving the “acquisition of control” of a Canadian business by a non-Canadian are subject to review and cannot be implemented unless the Minister of Industry is satisfied that the transaction is likely to be of “net benefit” to Canada. Such a transaction is referred to herein as a “reviewable transaction.” The transactions contemplated by the arrangement agreement constitute a reviewable transaction under the Investment Canada Act.

Pursuant to the arrangement agreement, Investment Canada Act approval will be obtained if the responsible minister under the Investment Canada Act is satisfied or deemed to be satisfied that the transactions contemplated by the arrangement agreement are likely to be of “net benefit” to Canada pursuant to the Investment Canada Act and such approval has not been modified or withdrawn.

An application for review was filed with the Investment Review Division of Industry Canada on September 11, 2014. As of the date of this joint information statement/circular, the review of the transactions contemplated by the arrangement agreement under the Investment Canada Act is ongoing with an extension notice provided on October 27, 2014, and the Investment Canada Act approval required pursuant to the arrangement agreement has not been obtained.

Listing of Holdings Common Shares and Partnership Exchangeable Units (page [•])

It is a mutual condition to the completion of the arrangement that the Holdings common shares be approved for listing on the NYSE and conditionally approved for listing on the TSX. Holdings has or will apply to list the Holdings shares to be issued or made issuable pursuant to the arrangement and the merger on the NYSE and the TSX. Listing on each exchange will be subject to Holdings fulfilling all the listing requirements of the NYSE and the TSX, as applicable.

It is also a mutual condition to the completion of the arrangement that the Partnership exchangeable units be conditionally approved for listing on the TSX. Partnership has applied to list the Partnership exchangeable units to be issued or made issuable pursuant to the merger on the TSX. Listing will be subject to Partnership fulfilling all the listing requirements of the TSX.

Burger King Worldwide common stock and Tim Hortons common shares will be delisted from the NYSE and the TSX, as applicable, following the completion of the transactions.

Conditions to the Completion of the Transactions (page [•])

The completion of the transactions depends upon the satisfaction or waiver of a number of conditions, all of which, to the extent permitted by applicable laws, may be waived by Burger King Worldwide and/or Tim Hortons, as applicable.

The following conditions must be satisfied or mutually waived before Burger King Worldwide or Tim Hortons is obligated to complete the arrangement:

- Tim Hortons shareholders will have approved the arrangement at the Tim Hortons special meeting;
- each of the interim order and the order of the Ontario court approving the arrangement (the “final order”) shall have been obtained from the Ontario court on terms consistent with the arrangement agreement and the final order will not have been set aside or modified in a manner unacceptable to either Tim Hortons or Burger King Worldwide, each acting reasonably, on appeal or otherwise;
- the registration statement of which this joint information statement/circular is a part shall be effective, and no stop order suspending the effectiveness of such registration statement will be in effect and no similar action in respect of the management proxy circular shall have been initiated or threatened by the SEC and not concluded or withdrawn;
- the Holdings common shares will have been approved for listing on the NYSE, subject only to official notice of issuance, and conditionally approved for listing on the TSX, subject only to the satisfaction of customary listing conditions of the TSX;
- the Partnership exchangeable units will have been conditionally approved for listing on the TSX, subject only to the satisfaction of customary listing conditions of the TSX;
- approvals under the HSR Act, the Competition Act (Canada), the Canada Transportation Act and the Investment Canada Act will have been obtained and any waiting or suspensory periods related to such approvals shall have expired or been terminated, in each case, without the imposition of any law or order which has the effect of enjoining, restraining, prohibiting or otherwise preventing the consummation of the transactions;
- no governmental authority of competent jurisdiction shall have enacted any law or order (whether temporary, preliminary or permanent) that prevents the consummation of the transactions contemplated by the arrangement agreement; and
- the information statement that is a part of this joint information statement/circular will have been mailed to Burger King Worldwide stockholders at least 20 business days prior to the closing date of the arrangement.

The obligations of Tim Hortons to complete the arrangement are also conditioned on the satisfaction or waiver of the following conditions:

- Burger King Worldwide and the other parties to the arrangement agreement (other than Tim Hortons) shall have complied in all material respects with their respective obligations, covenants and agreements in the arrangement agreement to be performed and complied with on or before the closing date of the arrangement;
- as of the date of the arrangement agreement and as of the closing date of the arrangement, certain representations and warranties made by Burger King Worldwide and Holdings in the arrangement agreement relating to capitalization shall be true and correct in all but de minimis respects;
- as of the date of the arrangement agreement and as of the closing date of the arrangement, certain representations and warranties made by Burger King Worldwide and Holdings in the arrangement agreement relating to authority, takeover statutes, voting requirements and prior operations shall be true and correct in all material respects;

- as of the date of the arrangement agreement and as of the closing date of the arrangement, the representation and warranty made by Burger King Worldwide in the arrangement agreement relating to the absence of certain changes shall be true and correct in all respects;
- the remaining representations and warranties made by Burger King Worldwide and Holdings in the arrangement agreement shall be true and correct in all respects (without giving effect to any materiality or material adverse effect qualifications) as of the closing date of the arrangement (other than representations and warranties which by their terms are made as of a specific date, which will be accurate as of such date), except for breaches of representations and warranties which have not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Burger King Worldwide;
- Tim Hortons shall have received (i) a certificate dated the closing date of the arrangement and validly executed by a senior officer of Burger King Worldwide to the effect that the foregoing conditions have been satisfied and (ii) a certificate dated the closing date of the arrangement and validly executed by a senior officer of Holdings to the effect that the foregoing conditions in the first five bullet points have been satisfied;
- the written consent of the shareholders of Burger King Worldwide will have been delivered to Burger King Worldwide and Tim Hortons in accordance with the Burger King Worldwide voting agreement; and
- since the date of the arrangement agreement, no fact, circumstance, change, effect, event or occurrence has occurred that has had or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Burger King Worldwide.

The obligations of Burger King Worldwide and the other parties to the arrangement agreement (other than Tim Hortons) to complete the arrangement are also conditioned on the satisfaction or waiver of the following conditions:

- Tim Hortons shall have complied in all material respects with its obligations, covenants and agreements in the arrangement agreement to be performed and complied with on or before the closing date of the arrangement, other than its covenant to provide financing cooperation to Burger King Worldwide and assist in commencing any debt tender offers and redemptions;
- as of the date of the arrangement agreement and as of the closing date of the arrangement, certain representations and warranties made by Tim Hortons in the arrangement agreement relating to capitalization shall be true and correct in all but de minimis respects;
- as of the date of the arrangement agreement and as of the closing date of the arrangement, certain representations and warranties made by Tim Hortons in the arrangement agreement relating to the Tim Hortons Shareholder Rights Plan Agreement, dated August 6, 2009, between Tim Hortons and Computershare Trust Company of Canada, authority, takeover statutes, voting requirements, brokers and opinions of financial advisors shall be true and correct in all material respects;
- as of the date of the arrangement agreement and as of the closing date of the arrangement, the representation and warranty made by Tim Hortons in the arrangement agreement relating to the absence of certain changes shall be true and correct in all respects;
- the remaining representations and warranties made by Tim Hortons in the arrangement agreement shall be true and correct in all respects (without giving effect to any materiality or material adverse effect qualifications) as of the closing date of the arrangement (other than representations and warranties which by their terms are made as of a specific date, which will be accurate as of such date), except for breaches of representations and warranties which have not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Tim Hortons;

- since the date of the arrangement agreement, no fact, circumstance, change, effect, event or occurrence has occurred that has had or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Tim Hortons;
- Burger King Worldwide will have received a certificate dated the closing date of the arrangement and validly executed by a senior officer of Tim Hortons to the effect that the foregoing conditions have been satisfied;
- the number of Tim Hortons common shares held by Tim Hortons shareholders that have validly exercised dissent rights shall not exceed 9% of the number of Tim Hortons common shares outstanding as of the date of the arrangement agreement; and
- if requested by Burger King Worldwide in accordance with the arrangement agreement, Tim Hortons shall have undertaken the distribution by Tim Hortons US LLC (“Tim Hortons US”) of its common shares of The TDL Group Co. to Tim Hortons Delaware Limited Partnership in liquidation of Tim Hortons US.

Financing (page [•])

Burger King Worldwide estimates that the total amount of funds necessary to complete the transactions and pay related fees and expenses will be approximately \$16,072.4 million. On October 27, 2014, certain subsidiaries of Holdings entered into a credit agreement, which we refer to as the “credit agreement”, pursuant to which JPMorgan Chase Bank, N.A., Wells Fargo Bank, National Association and other lenders have, among other things, agreed to provide:

- a senior secured term loan facility in an aggregate principal amount of \$6,750 million;
 - a senior secured revolving credit facility in an aggregate principal amount of \$500 million;
- (collectively, the “debt financing”).

The proceeds of the term loans have been deposited into escrow and the release of the funds from escrow is contingent on the closing of the transactions and certain other conditions set forth in the credit agreement.

On October 8, 2014, certain newly formed subsidiaries of Holdings entered into an indenture (as may be amended, supplemented or otherwise modified from time to time, the “Indenture”), by and among such subsidiaries and Wilmington Trust, National Association, as trustee and as collateral agent, in connection with the issuance and sale by such subsidiaries to Wells Fargo Securities, LLC, J.P. Morgan Securities LLC and certain other initial purchasers of \$2.25 billion aggregate principal amount of 6.00% Second Lien Senior Secured Notes due 2022 (the “Notes”). Proceeds from the issuance of the Notes were deposited into escrow and upon their release in connection with the closing of the transactions will be used to finance a portion of the transactions and to pay related fees and expenses.

Burger King Worldwide also expects to finance the transactions through an equity issuance by Holdings to Berkshire Hathaway Inc. (“Berkshire”). In connection with the transactions, Berkshire and Holdings entered into a securities purchase agreement (the “securities purchase agreement”) pursuant to which Berkshire agreed to purchase from Holdings, upon the terms and subject to the conditions set forth therein for an aggregate purchase price of \$3 billion the following equity interests in Holdings:

- the preferred shares; and
- the warrant to purchase Holdings common shares representing 1.75% of the fully-diluted common shares of Holdings as of the closing of the transactions, including after taking into account the common shares of Holdings underlying the warrant. The warrant may be exercised until the fifth anniversary of the closing of the transactions. Berkshire has informed Holdings that it intends to exercise the warrant promptly following the closing of the transactions.

Burger King Worldwide is a third party beneficiary under the securities purchase agreement for purposes of specifically enforcing the terms and provisions thereunder under certain circumstances.

Material Income Tax Consequences of the Transactions (page [•]))

For a summary of the material U.S. federal income tax considerations applicable to Burger King Worldwide stockholders in connection with the merger and the material U.S. federal income tax considerations applicable to Tim Hortons shareholders in connection with the arrangement, see “ *The Transactions—Material U.S. Federal Income Tax Considerations* ”. Such summary is not intended to be legal or tax advice to any particular Burger King Worldwide stockholder or Tim Hortons shareholder. Burger King Worldwide stockholders and Tim Hortons shareholders should consult their own tax and legal advisors with respect to their particular circumstances.

For a summary of the material Canadian federal income tax considerations applicable to Burger King Worldwide stockholders in connection with the merger and the material Canadian federal income tax considerations applicable to Tim Hortons shareholders in connection with the arrangement, see “ *The Transactions Material Canadian Federal Income Tax Consequences of the Transactions* ”. Such summary is not intended to be legal or tax advice to any particular Burger King Worldwide stockholder or Tim Hortons shareholder. Burger King Worldwide stockholders and Tim Hortons shareholders should consult their own tax and legal advisors with respect to their particular circumstances.

Accounting Treatment (page [•]))

The holding company acquisition will be accounted for as a business combination of Tim Hortons using the acquisition method of accounting in accordance with ASC 805, Business Combinations, and, accordingly, will generally result in the recognition of Tim Hortons assets acquired and liabilities assumed at fair value. However, as of the date of this joint information statement/circular, we have not performed the valuation studies necessary to estimate the fair values of the assets we will acquire and the liabilities we will assume necessary to reflect the allocation of purchase price to the fair value of such amounts. The excess of the consideration transferred over the net assets acquired reflected in the unaudited pro forma condensed consolidated financial statements has been allocated to intangible assets (i.e., indefinite-lived trade names and definite-lived franchise agreements) and goodwill. A final determination of these fair values will reflect appraisals prepared by independent third-parties and will be based on the actual tangible and intangible assets and liabilities that existed as of the acquisition date. The actual allocation of the consideration transferred will differ from the allocation assumed in these unaudited pro forma condensed consolidated financial statements and may result in adjustments to the unaudited pro forma condensed consolidated financial information.

Burger King Worldwide agreed to acquire Tim Hortons pursuant to the arrangement agreement in a transaction that will result in Burger King Worldwide and Tim Hortons being indirect subsidiaries of Holdings and Partnership. Holdings and Partnership are newly formed entities without significant pre-combination activities, and Burger King Worldwide will be the acquirer for accounting purposes in the transactions. The Partnership exchangeable units are designed to have distribution and voting rights that are substantially equivalent to those of the Holdings common shares. Accordingly, the Partnership exchangeable units are reflected in the pro forma financial information in the same manner as the Holdings common shares. See “ *The Transactions—Accounting Treatment of the Transactions* ” for further information.

Termination of the Arrangement Agreement (page [•]))

The arrangement agreement may be terminated at any time prior to the closing of the arrangement in the following ways:

- by mutual written consent of Burger King Worldwide and Tim Hortons;
- by either Burger King Worldwide or Tim Hortons if the closing of the arrangement shall not have occurred by March 31, 2015 (or April 30, 2015, if so extended by either Burger King Worldwide or Tim Hortons if all conditions except for the receipt of all required approvals from governmental authorities have been satisfied) (the “outside date”), except that the right to so terminate the arrangement agreement will not be available to Burger King Worldwide or Tim Hortons if its failure to fulfill any obligation under the arrangement agreement has been a principal cause of or resulted in the failure of the closing of the arrangement to occur by such date;
- by either Burger King Worldwide or Tim Hortons if the requisite vote for approval of the arrangement resolution by the Tim Hortons shareholders shall not have been obtained at the Tim Hortons special meeting;
- by either Burger King Worldwide or Tim Hortons if any governmental authority of competent jurisdiction shall have issued a law or order or taken any other action restraining, enjoining or otherwise prohibiting the arrangement or the merger and such order or other action shall have become final and nonappealable;
- by Burger King Worldwide, (i) if prior to the time approval by Tim Hortons shareholders is obtained, the Tim Hortons board of directors changes its recommendation to approve the arrangement, (ii) if Tim Hortons breaches any of its representations, warranties, covenants or other agreements contained in the arrangement agreement, which breach or failure would render the conditions precedent to Burger King Worldwide’s obligations under the arrangement agreement not to be satisfied by the outside date or by its nature cannot be cured within that time, and Burger King Worldwide is not in breach of any of the conditions precedent to Tim Hortons obligations to close under the arrangement agreement, or (iii) if the Burger King Worldwide voting agreement is not duly executed and delivered to Tim Hortons and Burger King Worldwide within 24 hours after the execution of the arrangement agreement; or
- by Tim Hortons, (i) if prior to the time approval by Tim Hortons shareholders is obtained, to permit Tim Hortons to enter into an agreement providing for a “superior proposal” and Tim Hortons immediately prior to or simultaneously with such termination pays to Burger King Worldwide any fees required to be paid to Burger King Worldwide as described below, (ii) if the written consent of the Burger King Worldwide stockholders is not duly executed and delivered to Tim Hortons and Burger King Worldwide in accordance with the Burger King Worldwide voting agreement within five business days after the effectiveness of this joint information statement/circular, or (iii) if Burger King Worldwide or any of its affiliates party to the arrangement agreement breaches any of its representations, warranties, covenants or other agreements contained in the arrangement agreement, which breach or failure would render the conditions precedent to Tim Hortons obligations under the arrangement agreement not to be satisfied by the outside date or by its nature cannot be cured within that time, and Tim Hortons is not in breach of any of the conditions precedent to Burger King Worldwide’s obligations to close under the arrangement agreement.

Termination Fees; Effect of Termination (page [•]))

The arrangement agreement further provides that Burger King Worldwide must pay a termination fee of C\$500 million to Tim Hortons if the arrangement agreement is terminated:

- by Tim Hortons or Burger King Worldwide because the transactions are not completed by the outside date due to the failure to obtain the approval required by the Investment Canada Act, or there is a permanent injunction or final, non-appealable governmental order or action, in each case related to the Investment Canada Act, prohibiting completion of the transactions if, at the time of such termination, all other closing conditions have been satisfied or waived or are capable of being satisfied; or
- by Burger King Worldwide due to a permanent injunction or final, non-appealable governmental order or action, in each case related to the Investment Canada Act, prohibiting completion of the transactions.

Tim Hortons must pay a termination fee of C\$345 million to Burger King Worldwide if the Arrangement Agreement is terminated:

- by Tim Hortons to enter into an alternative acquisition agreement for a “company superior proposal” (as described in this joint information statement/circular);
- by Burger King Worldwide because the board of directors of Tim Hortons has changed its recommendation regarding the arrangement; or
- by either Burger King Worldwide or Tim Hortons because the transactions are not completed by the outside date or the approval of Tim Hortons shareholders is not obtained, or by Burger King Worldwide due to a breach by Tim Hortons of its representations, warranties or covenants as described above, in each case, if (1) prior to such termination, an acquisition proposal was publicly made for Tim Hortons and not withdrawn and (2) prior to the 12-month anniversary of the termination of the arrangement agreement, Tim Hortons consummates an alternative transaction.

Additionally, in the event that either Tim Hortons or Burger King Worldwide terminates the arrangement agreement as a result of the failure by the shareholders of Tim Hortons to approve the arrangement, Tim Hortons must make an expense reimbursement payment of C\$40 million to Burger King Worldwide.

Comparative Per Share Market Price Data and Dividend Information (page [•]))

The following table sets forth, for the calendar quarters indicated, the high and low sales prices per share of shares of Burger King Worldwide common stock, as reported on the NYSE, and of Tim Hortons common shares, as reported on the NYSE and the TSX.

	NYSE Burger King Worldwide		NYSE Tim Hortons		TSX Tim Hortons	
	High (U.S. \$)	Low (U.S. \$)	High (U.S. \$)	Low (U.S. \$)	High (C \$)	Low (C \$)
<i>For the quarterly period:</i>						
2012						
First Quarter	N/A	N/A	\$55.31	\$46.55	\$54.92	\$47.36
Second Quarter	\$ 15.85	\$ 14.97	\$58.47	\$50.43	\$57.91	\$56.90
Third Quarter	\$ 15.88	\$ 13.03	\$55.02	\$49.59	\$55.73	\$49.62
Fourth Quarter	\$ 17.74	\$ 14.10	\$53.91	\$45.41	\$52.60	\$45.11
2013						
First Quarter	\$ 19.95	\$ 16.26	\$54.62	\$47.76	\$55.50	\$47.83
Second Quarter	\$ 21.00	\$ 17.90	\$58.01	\$51.86	\$58.85	\$53.25
Third Quarter	\$ 20.42	\$ 18.97	\$59.72	\$53.74	\$61.52	\$56.06
Fourth Quarter	\$ 22.86	\$ 18.91	\$61.46	\$56.77	\$64.18	\$58.67
2014						
First Quarter	\$ 27.52	\$ 22.03	\$58.47	\$50.67	\$62.80	\$56.11
Second Quarter	\$ 27.18	\$ 24.92	\$56.67	\$53.76	\$62.38	\$57.76
Third Quarter	\$ 33.82	\$ 26.05	\$82.16	\$54.23	\$89.51	\$57.89
Fourth Quarter (through October 30, 2014)	\$ 32.13	\$ 28.48	\$80.65	\$75.75	\$90.20	\$85.75

The following table sets forth, for the months indicated, the high and low sales prices per share of shares of Burger King Worldwide common stock, as reported on the NYSE, and of Tim Hortons common shares, as reported on the NYSE and the TSX. In addition, the table also sets forth the average daily trading volume of the relevant security on such exchange.

	NYSE Burger King Worldwide			NYSE Tim Hortons			TSX Tim Hortons		
	High (U.S. \$)	Low (U.S. \$)	Average Volume	High (U.S. \$)	Low (U.S. \$)	Average Volume	High (C\$)	Low (C\$)	Average Volume
<i>For the monthly period:</i>									
2013									
July	19.85	18.75	529,014	58.19	53.74	325,391	59.79	56.03	651,430
August	20.06	19.09	265,723	59.72	54.64	341,882	61.52	57.39	733,076
September	20.18	18.99	662,745	58.34	54.74	246,340	60.18	57.54	637,900
October	20.93	18.75	564,978	61.46	56.77	165,848	64.18	58.67	604,907
November	21.12	20.10	1,325,825	60.51	57.93	256,775	63.48	61.11	618,502
December	22.67	20.61	658,729	59.48	57.06	224,105	63.25	60.63	712,595
2014									
January	24.13	22.03	781,114	58.47	51.19	271,424	62.05	57.20	712,893
February	26.45	24.01	857,963	54.75	50.67	412,437	60.50	56.11	793,408
March	27.52	25.78	930,438	56.83	53.41	256,681	62.80	59.00	960,807
April	26.74	24.94	655,495	56.67	54.20	214,419	62.38	59.43	666,997
May	26.28	24.92	456,438	55.30	53.76	199,257	60.40	58.35	945,953
June	27.18	25.39	382,948	55.68	53.88	128,367	59.97	57.76	651,283
July	27.34	26.05	376,536	56.32	54.38	136,200	61.24	57.89	540,560
August	32.40	26.05	3,355,605	82.16	54.23	2,065,714	92.73	59.47	2,852,360
September	33.82	29.66	1,934,414	82.15	78.64	1,321,914	89.45	86.47	1,853,703

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The table below sets forth, for the calendar quarters indicated, quarterly dividends paid per Tim Hortons common share, in Canadian dollars per share and in U.S. dollars per share (calculated using the Bank of Canada nominal noon exchange rate on the date Tim Hortons paid the applicable dividend). On November 3, 2014, the Tim Hortons record date, there were [•] Tim Hortons common shares outstanding. Tim Hortons pays quarterly dividends with respect to its common shares.

			C\$ / \$ Exchange	
	<u>Date Paid</u>	<u>C\$ Per Share</u>	<u>Rate on Date Paid ⁽¹⁾</u>	<u>\$ Per Share</u>
2012				
Quarter ended April 4	03/20/12	\$ 0.21	\$ 1.0067	\$0.21
Quarter ended July 4	06/08/12	\$ 0.21	\$ 0.9679	\$0.20
Quarter ended September 30	09/05/12	\$ 0.21	\$ 1.0099	\$0.21
Quarter ended December 30	12/12/12	\$ 0.21	\$ 1.0148	\$0.21
2013				
Quarter ended March 31	03/19/13	\$ 0.26	\$ 0.9733	\$0.25
Quarter ended June 30	06/07/13	\$ 0.26	\$ 0.9794	\$0.25
Quarter ended September 29	09/04/13	\$ 0.26	\$ 0.9540	\$0.25
Quarter ended December 29	12/10/13	\$ 0.26	\$ 0.9414	\$0.24
2014				
Quarter ended March 30, 2014	03/18/14	\$ 0.32	\$ 0.9020	\$0.29
Quarter ended June 30, 2014	06/05/14	\$ 0.32	\$ 0.9146	\$0.29
Quarter ended September 28, 2014	09/03/14	\$ 0.32	\$ 0.9197	\$0.29
Quarter ended December 28, 2014 (through [•], 2014)		\$ [•]	\$ [•]	[•]

Tim Hortons declares and pays dividends in Canadian dollars, eliminating the foreign exchange exposure for its shareholders ultimately receiving Canadian dollars. For U.S. beneficial shareholders, however, CDS Clearing and Depository Services Inc. ("CDS") converts, and for U.S. registered shareholders, Tim Hortons converts, the Canadian dividend amounts into U.S. dollars based on exchange rates prevailing at the time of conversion and pay such dividends in U.S. dollars. Shareholders ultimately receiving U.S. dollars are exposed to foreign exchange risk from the date the dividend is declared until the date CDS or Tim Hortons, as applicable, convert the dividend payment to U.S. dollars.

On August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, the closing sale price per Tim Hortons common share was \$62.84 on the NYSE and C\$68.78 on the TSX. On September 12, 2014, the latest practicable date before the date of this joint information statement/circular, the closing sale price per Tim Hortons common share was \$79.67 on the NYSE and C\$88.36 on the TSX.

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The table below sets forth, for the calendar quarters indicated, quarterly dividends paid per share of Burger King Worldwide common stock. On [•], the latest practicable date prior to the mailing of this joint information statement/circular, there were [•] shares of Burger King Worldwide common stock outstanding. Burger King Worldwide pays quarterly dividends with respect to its common stock.

	<u>Date Paid</u>	<u>\$ Per Share</u>
2012		
Quarter ended December 31	11/29/12	\$ 0.04
2013		
Quarter ended March 31	03/15/13	\$ 0.05
Quarter ended June 30	05/15/13	\$ 0.06
Quarter ended September 30	08/30/13	\$ 0.06
Quarter ended December 31	11/26/13	\$ 0.07
2014		
Quarter ended March 31, 2014	03/12/14	\$ 0.07
Quarter ended June 30, 2014	05/27/14	\$ 0.07
Quarter ended September 30, 2014	08/26/14	\$ 0.08
Quarter ended December 31, 2014 (through [•], 2014)		\$ [•]

On August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, the closing sale price per share of Burger King Worldwide common stock was \$27.11 on the NYSE. On September 12, 2014, the latest practicable date before the date of this joint information statement/circular, the closing sale price per share of Burger King Worldwide common stock was \$30.67 on the NYSE.

For further information, see “*Financial Information*.”

Summary of Financial Information (page [•])

Certain historical consolidated financial information of Tim Hortons is presented in this joint information statement/circular to assist Tim Hortons shareholders in their analysis of the financial aspects of the transactions. The selected historical consolidated financial data has been derived from the Tim Hortons audited consolidated financial statements for the years ended December 29, 2013, December 30, 2012, which are incorporated herein by reference, and for the years ended January 1, 2012, January 2, 2011 and January 3, 2010. The selected condensed consolidated statement of operations data for the six months ended June 30, 2013 and June 29, 2014, and the selected condensed consolidated balance sheet data as of June 29, 2014 have been derived from the Tim Hortons unaudited condensed consolidated financial statements incorporated herein by reference.

Certain selected consolidated financial information of Burger King Worldwide are presented in this joint information statement/circular. The selected historical financial data as of December 31, 2013 and December 31, 2012 and for 2013, 2012, 2011 and 2010 and for the period from October 19, 2010 to December 31, 2010 have been derived from Burger King Worldwide’s audited consolidated financial statements and notes thereto. The selected historical financial data as of June 30, 2010 and June 30, 2009 and for the period July 1, 2010 to October 18, 2010 and for fiscal 2010 and 2009 have been derived from the audited consolidated financial statements and the notes thereto. The selected financial information for the six months ended June 30, 2014 and 2013 has been derived from Burger King Worldwide’s unaudited consolidated financial statements.

Pro forma financial information of Holdings is presented in this joint information statement/circular. The pro forma financial information has been derived from (i) the audited consolidated financial statements of Burger

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King Worldwide as of and for the fiscal year ended December 31, 2013, which have been prepared in accordance with U.S. generally accepted accounting principles (“GAAP”) and included elsewhere in this joint information statement/circular, (ii) the audited consolidated financial statements of Tim Hortons as of and for the fiscal year ended December 29, 2013, which have been prepared in accordance with GAAP and are included elsewhere in this joint information statement/circular and (iii) the unaudited consolidated financial statements of Burger King Worldwide and Tim Hortons for the six month periods ended June 30, 2014 and June 29, 2014, respectively, which have been prepared in accordance with GAAP and are included elsewhere in this joint information statement/circular.

RISK FACTORS

Shareholders of Tim Hortons and stockholders of Burger King Worldwide should carefully consider the following risk factors in connection with their consideration of the arrangement and the merger. Such risks may not be the only risks arising in connection with the transactions or facing Tim Hortons, Burger King Worldwide and each of their respective subsidiaries. Additional risks and uncertainties not presently known may also materially and adversely affect the business, operations, financial condition or prospects of Tim Hortons, Burger King Worldwide and each of their respective subsidiaries.

Factors Relating to the Transactions

The arrangement agreement may be terminated in accordance with its terms and the transactions may not be completed.

The arrangement agreement contains a number of conditions that must be fulfilled to complete the transactions. Those conditions include, among other customary conditions, the approval of the arrangement resolution by Tim Hortons shareholders, the approval of the arrangement by the Ontario court, receipt of requisite regulatory approvals, absence of orders prohibiting consummation of the transactions, effectiveness of the registration statement of which this document is a part, approval of the Holdings common shares for listing on the NYSE and conditional approval for listing on the TSX and conditional approval of the Partnership exchangeable units for listing on the TSX. These conditions to the closing of the transactions may not be fulfilled and, accordingly, the transactions may not be completed. In addition, if the transactions are not completed by March 31, 2015 (subject to extension to April 30, 2015, if the only conditions not satisfied or waived (other than those conditions that by their nature are to be satisfied at the closing, which conditions shall be capable of being satisfied) are conditions relating to regulatory approvals and the absence of any orders relating to regulatory approvals), either Tim Hortons or Burger King Worldwide may choose to terminate the arrangement agreement. In addition, Tim Hortons or Burger King Worldwide may elect to terminate the arrangement agreement in certain other circumstances, and the parties can mutually decide to terminate the arrangement agreement at any time prior to the closing, before or after shareholder or stockholder approval, as applicable. See “*The Arrangement Agreement—Termination of the Arrangement Agreement*” and “*—Termination Fees*” for a more detailed description of these circumstances.

Failure to complete the transactions could negatively impact the share prices and the future business and financial results of either or both of Tim Hortons and Burger King Worldwide.

If the transactions are not completed, the ongoing businesses of either or both of Tim Hortons and Burger King Worldwide may be adversely affected. Additionally, if the transactions are not completed and the arrangement agreement is terminated, in certain circumstances, either Tim Hortons may be required to pay to Burger King Worldwide a termination fee of C\$345 million or Burger King Worldwide may be required to pay to Tim Hortons a termination fee of C\$500 million. In addition, Tim Hortons and Burger King Worldwide may incur significant transaction expenses in connection with the transactions regardless of whether the transactions are completed. The foregoing risks, or other risks arising in connection with the failure of the transactions, including the diversion of management attention from conducting the business of the respective company and pursuing other opportunities during the pendency of the transactions, may have a material adverse effect on the businesses, operations, financial results and share and stock prices of Tim Hortons and Burger King Worldwide. In addition, either of Tim Hortons or Burger King Worldwide could be subject to litigation related to any failure to consummate the transactions or any related action that could be brought to enforce a party’s obligation under the arrangement agreement.

Tim Hortons shareholders may receive a portion of their consideration in a different form from what they elect.

As a result of the arrangement, each issued and outstanding common share of Tim Hortons (including shares issued in settlement of outstanding options, restricted stock units and performance stock units), other than

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dissenting shares, will be converted into the right to receive the arrangement mixed consideration of 0.8025 Holdings common shares and C\$65.50 in cash. Alternatively, Tim Hortons shareholders will have the right to make a cash election to receive the cash consideration of C\$88.50 in cash, or a shares election to receive the arrangement shares consideration of 3.0879 Holdings common shares, for each of their Tim Hortons common shares.

Although each Tim Hortons shareholder may elect to receive all cash or all Holdings common shares in the arrangement, both the cash election and the shares election are subject to a proration procedure as set forth in the plan of arrangement. The pool of cash and the number of Holdings common shares available for all Tim Hortons shareholders will be fixed at the aggregate amount of cash that would have been paid, and the aggregate number of Holdings common shares that would have been issued, to all of the holders of Tim Hortons common shares had the election to receive the arrangement mixed consideration been made with respect to each Tim Hortons common share (i.e., the aggregate number of Holdings common shares required to provide each Tim Hortons shareholder with 0.8025 Holdings common shares and the aggregate amount of cash required to provide each Tim Hortons shareholder with C\$65.50 in cash). As a result, if the aggregate number of shares with respect to which either cash elections or shares elections have been made would otherwise result in payments of cash or shares in excess of the maximum amount of cash or number of shares available, and a Tim Hortons shareholder has chosen the consideration election that exceeds the maximum available, such Tim Hortons shareholder will receive consideration in part in a form that such shareholder did not elect.

The mix of consideration payable to Tim Hortons shareholders who make cash elections or shares elections, giving effect to the proration procedure, will not be known until Holdings tallies the results of the elections made by Tim Hortons shareholders, which will not occur until shortly prior to the closing of the arrangement. As a result, Tim Hortons shareholders who make cash elections or shares elections cannot determine the exact amount of cash and the exact number of Holdings common shares that they will receive in the arrangement prior to making an election. This could result in, among other things, tax consequences that differ from those that would have resulted if such Tim Hortons shareholder had received the form of consideration that the shareholder elected.

For illustrative examples of how the proration procedures would work in the event there is an oversubscription of the cash election or shares election in the arrangement, see “*The Transactions—Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration ; Dissenters Rights; Withholding Rights*”.

Because the value of each Holdings common share that Holdings will issue to Tim Hortons shareholders in connection with the arrangement could be different from the implied value of Holdings common shares at the time Tim Hortons shareholders vote to approve the arrangement, Tim Hortons shareholders cannot be sure of the market price of the Holdings common shares they will receive.

Upon completion of the transactions, holders of Tim Hortons common shares, other than those who make cash elections or shares elections, will receive 0.8025 Holdings common shares and C\$65.50 in cash. Holders of Tim Hortons common shares who make cash elections will receive C\$88.50 in cash, and holders of Tim Hortons common shares who make shares elections will receive 3.0879 Holdings common shares, in each case subject to the proration procedure. The number of Holdings common shares that Holdings will issue to Tim Hortons shareholders as a result of the arrangement will not be adjusted in the event of any increase or decrease in the share price of either Burger King Worldwide common stock or Tim Hortons common shares between the time Tim Hortons shareholders vote to approve the arrangement and the completion of the transactions.

The market value of each Holdings common share that Holdings will issue to Tim Hortons shareholders as a result of the arrangement could vary significantly from the implied value of Holdings common shares on the date of this joint information statement/circular or the date of the Tim Hortons special meeting. Because the number

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of Holdings common shares that will be issued to Tim Hortons shareholders as a result of the arrangement will not be adjusted to reflect any changes in the market value of Burger King Worldwide common stock or Tim Hortons common shares, such market price fluctuations may affect the value that Tim Hortons shareholders will receive upon completion of the transactions. Share price changes may result from a variety of factors, including changes in the business, operations or prospects of Burger King Worldwide or Tim Hortons, market assessments of the likelihood that the transactions will be completed, the timing of the transactions, regulatory considerations, general market and economic conditions and other factors. Shareholders are urged to obtain current market quotations for Burger King Worldwide common stock and Tim Hortons common shares. See “ *Financial Information—Comparative Per Share Data* ” and “ *Financial Information—Comparative Per Share Market Price Data and Dividend Information* ” for additional information on the market value of Burger King Worldwide common stock and Tim Hortons common shares.

Burger King Worldwide stockholders may receive a portion of their consideration in a different form from what they elect.

As a result of the merger, stockholders of Burger King Worldwide will receive, for each share of Burger King Worldwide common stock held, 0.99 Holdings common shares and 0.01 Partnership exchangeable units. Alternatively, Burger King Worldwide stockholders will have the right to make an election to receive one Partnership exchangeable unit, but no Holdings common shares, for each share of their Burger King Worldwide common stock.

Although each Burger King Worldwide stockholder may elect to receive only Partnership exchangeable units in the merger, such election is subject to a proration procedure as set forth in the arrangement agreement. The maximum number of Partnership exchangeable units available for all Burger King Worldwide stockholders will be fixed at the number of exchangeable units that would cause the fair market value of Holdings’ interest in Partnership to be less than 50.1% of the fair market value of all equity interests in Partnership as of the date on which the transactions are completed. As a result, if the aggregate number of Partnership exchangeable units that would otherwise have been issued to Burger King Worldwide stockholders who elected to receive only Partnership exchangeable units exceeds this maximum number, each such stockholder will receive fewer exchangeable units, and correspondingly more Holdings common shares, than such stockholder elected. Accordingly, Burger King Worldwide stockholders who elect to receive only Partnership exchangeable units will not know the consideration they will receive in the merger at the time they make the election with respect to their Burger King Worldwide common stock. This could result in, among other things, tax consequences that differ from those that would have resulted if such Burger King Worldwide stockholder had received the form of consideration that the stockholder elected.

For illustrative examples of how the proration procedure would work in the event there is an oversubscription of exchangeable units in the merger, see “ *The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock* ”.

Because the value of each Holdings common share that Holdings will issue to Burger King Worldwide stockholders in connection with the merger could be different from the implied value of Holdings common shares at the date of execution of the arrangement agreement, Burger King Worldwide stockholders cannot be sure of the market price of the Holdings common shares they will receive.

The number of Holdings common shares (or Partnership exchangeable units) that Holdings (or Partnership) will issue to Burger King Worldwide stockholders as a result of the merger will not be adjusted in the event of any increase or decrease in the share price of either Burger King Worldwide common stock or Tim Hortons common shares between the date of execution of the arrangement agreement (August 26, 2014) and the completion of the transactions.

The market value of each Holdings common share (or Partnership exchangeable unit) that Holdings (or Partnership) will issue to Burger King Worldwide stockholders as a result of the merger could vary significantly

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from the implied value of Holdings common shares on the date of execution of the arrangement agreement. Because the number of Holdings common shares (and Partnership exchangeable units) that will be issued to Burger King Worldwide stockholders as a result of the merger will not be adjusted to reflect any changes in the market value of Burger King Worldwide common stock or Tim Hortons common shares, such market price fluctuations may affect the value that Burger King Worldwide stockholders will receive upon completion of the transactions. Share price changes may result from a variety of factors, including changes in the business, operations or prospects of Burger King Worldwide or Tim Hortons, market assessments of the likelihood that the transactions will be completed, the timing of the transactions, regulatory considerations, general market and economic conditions and other factors. Stockholders are urged to obtain current market quotations for Burger King Worldwide common stock and Tim Hortons common shares. See “ *Financial Information—Comparative Per Share Data* ” and “ *Financial Information—Comparative Per Share Market Price Data and Dividend Information* ” for additional information on the market value of Burger King Worldwide common stock and Tim Hortons common shares.

Obtaining required approvals necessary to satisfy the conditions to the completion of the transactions may delay or prevent completion of the transactions, result in additional expenditures of money and resources and/or reduce the anticipated benefits of the transactions.

The transactions are subject to customary closing conditions. These closing conditions include, among others, the receipt of required approval of Tim Hortons shareholders, approval of the arrangement by the Ontario court, the effectiveness of the registration statement of which this joint information statement/circular is a part, expiration or termination of the waiting period under the HSR Act in the United States and receipt of Competition Act, Investment Canada Act and Transportation Act approvals in Canada. The governmental agencies from which the parties will seek certain of these approvals have broad discretion in administering the governing regulations. As a condition to their approval, these agencies may impose requirements, limitations or costs, require divestitures, require undertakings or place restrictions on the conduct of the Holdings business after the closing. These requirements, limitations, costs, divestitures or restrictions could jeopardize or delay the consummation of the transactions or may reduce the anticipated benefits of the transactions. Further, no assurance can be given as to the terms, conditions and timing of the required approvals. If Burger King Worldwide and Tim Hortons agree to any material requirements, limitations, costs or restrictions in order to obtain any approvals required to consummate the arrangement and the merger, these requirements, limitations, costs or restrictions could materially and adversely affect the anticipated benefits of the transactions. This could result in a failure to consummate these transactions or have a material adverse effect on Holdings’ and Partnership’s business and results of operations. In addition, failure to obtain approval from any of the governmental agencies may result in the termination of the transactions. If the transactions are terminated because Burger King Worldwide is unable to obtain Investment Canada Act approval, Burger King Worldwide may be required to pay to Tim Hortons a termination fee of C\$500 million. See “ *The Arrangement Agreement—Conditions to the Completion of the Arrangement and the Merger* ” for a discussion of the conditions to the completion of the transactions and “ *The Transactions—Regulatory Approvals Required* ”. Early termination of the waiting period under the HSR Act with respect to the transactions was granted on September 26, 2014.

Tim Hortons and Burger King Worldwide’s respective business relationships, including relationships with franchisees and customer relationships, may be subject to disruption due to uncertainty associated with the transactions.

Parties with which Tim Hortons and Burger King Worldwide currently do business or may do business in the future, including franchisees, customers and suppliers, may experience uncertainty associated with the transactions, including with respect to current or future business relationships with Tim Hortons, Burger King Worldwide, Partnership or Holdings. As a result, Tim Hortons and Burger King Worldwide’s business relationships may be subject to disruptions if franchisees, customers, suppliers and others attempt to negotiate changes in existing business relationships or consider entering into business relationships with parties other than Tim Hortons or Burger King Worldwide as a result of the transactions. These disruptions could have a material

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and adverse effect on the businesses, financial condition, results of operations or prospects of Holdings and Partnership following the closing. The effect of such disruptions could be exacerbated by a delay in the consummation of the transactions or termination of the arrangement agreement.

While the transactions are pending, Tim Hortons and Burger King Worldwide are restricted from taking certain actions. In addition to affecting their respective business operations, this may also affect relationships with their respective employees.

The arrangement agreement restricts Tim Hortons and, to a lesser extent, Burger King Worldwide, from taking specified actions until the transactions occur without the consent of the other party. These restrictions may prevent Tim Hortons or Burger King Worldwide from pursuing attractive business opportunities that may arise prior to the completion of the transactions. In addition, employee retention may be challenging during the pendency of the transactions, as certain employees may experience uncertainty about their future roles. If key employees depart because of issues related to the uncertainty and difficulty of integration or a desire not to remain with the businesses, the business of the combined company following the transactions could be seriously harmed.

Until the completion of the transactions or the termination of the arrangement agreement in accordance with its terms, Tim Hortons and Burger King Worldwide are each prohibited from entering into certain transactions and taking certain actions that might otherwise be beneficial to Tim Hortons or Burger King Worldwide and their respective shareholders and stockholders.

Until the transactions are completed, the arrangement agreement restricts Tim Hortons and, to a lesser extent, Burger King Worldwide, from taking specified actions without the consent of the other party, and requires each of Tim Hortons and Burger King Worldwide to operate in the ordinary course of business consistent with past practices. These restrictions may prevent Tim Hortons and/or Burger King Worldwide from making appropriate changes to their respective businesses or pursuing attractive business opportunities that may arise prior to the completion of the transactions. See “*The Arrangement Agreement—Covenants*” for a description of the restrictive covenants applicable to Tim Hortons and Burger King Worldwide.

The arrangement agreement contains provisions that restrict Tim Hortons ability to pursue alternatives to the transactions and, in specified circumstances, could require Tim Hortons to pay Burger King Worldwide a termination fee.

Under the arrangement agreement, Tim Hortons is restricted, subject to certain exceptions, from soliciting any offer or proposal for specified alternative transactions involving Tim Hortons, or, subject to certain exceptions relating to the receipt of unsolicited offers that may be deemed to be superior proposals, from participating in discussions or engaging in negotiations regarding such an offer or proposal with, or furnishing any non-public information in connection with such an offer or proposal to, any person that has made such an offer or proposal. If the arrangement agreement is terminated by Tim Hortons to enter into an agreement with respect to a superior proposal, or by Burger King Worldwide after the Tim Hortons board of directors has changed its recommendation regarding the arrangement, then Tim Hortons will be required to pay a termination fee of C\$345 million to Burger King Worldwide. Tim Hortons will also be required to pay a termination fee of C\$345 million to Burger King Worldwide if either party terminates the arrangement agreement after Tim Hortons shareholders have failed to approve the arrangement, if prior to such termination an acquisition proposal was publicly made for Tim Hortons and not withdrawn, and prior to the 12-month anniversary of the termination Tim Hortons consummates an alternative transaction.

These provisions may have the effect of increasing the cost to Tim Hortons if Tim Hortons enters into an agreement with respect to a superior proposal or if the Tim Hortons board of directors changes its recommendation that Tim Hortons shareholders approve the arrangement. These provisions could also discourage a third party that may have an interest in acquiring all or a significant part of Tim Hortons from considering or proposing that acquisition, even if such third party were willing to pay consideration with a higher value than the consideration to be paid in the arrangement.

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Tim Hortons and Burger King Worldwide directors and officers may have interests in the transactions different from the interests of Tim Hortons shareholders and Burger King Worldwide stockholders.

Certain of the directors and executive officers of Tim Hortons and Burger King Worldwide negotiated the terms of the arrangement agreement, the boards of directors of each of Tim Hortons and Burger King Worldwide each unanimously approved the arrangement agreement and the transactions contemplated thereby, and the Tim Hortons board of directors recommended that the shareholders of Tim Hortons vote in favor of the arrangement. These directors and executive officers may have interests in the transactions that are different from, or in addition to, those of Tim Hortons shareholders and Burger King Worldwide stockholders. These interests include, but are not limited to, the continued employment of certain executive officers of Tim Hortons and Burger King Worldwide by Holdings, the continued service of certain directors of Tim Hortons and Burger King Worldwide as directors of Holdings and the treatment in the arrangement of stock options, restricted stock units, performance stock units, deferred stock units, change of control–employment agreements and other rights held by Tim Hortons and Burger King Worldwide directors and executive officers. Tim Hortons shareholders should be aware of these interests when they consider the recommendation of the Tim Hortons board of directors that they vote in favor of the arrangement. The Tim Hortons board of directors was aware of these interests when it determined that the consideration to be received by Tim Hortons shareholders pursuant to the arrangement is fair from a financial point of view, and that the arrangement is in the best interests of Tim Hortons, and recommended that Tim Hortons shareholders vote in favor of the arrangement. The Burger King Worldwide board of directors was also aware of these interests when it determined that the transactions are in the best interests of Burger King Worldwide and approved the arrangement agreement and the transactions contemplated thereby. The interests of Tim Hortons and Burger King Worldwide directors and executive officers are described in more detail in the section of this document entitled “*The Transactions—Interests of Certain Persons related to Tim Hortons in the Transactions*” and “*The Transactions—Interests of Certain Persons related to Burger King Worldwide in the Transaction*”.

Tim Hortons shareholders and Burger King Worldwide stockholders will have a reduced ownership and voting interest in the combined company after the transactions and will exercise less influence over management.

Tim Hortons shareholders currently have the right to vote in the election of the board of directors of Tim Hortons and on other matters affecting Tim Hortons. Upon the completion of the transactions, each Tim Hortons shareholder who receives Holdings common shares will become a shareholder of Holdings with a percentage ownership of Holdings that is smaller than the shareholder’s previous percentage ownership of Tim Hortons. It is currently expected that the former shareholders of Tim Hortons as a group will receive shares in the arrangement constituting approximately 21% of the voting power of Holdings immediately after the transactions. Because of this, the former Tim Hortons shareholders as a group will have less influence on the management and policies of Holdings than they now have on the management and policies of Tim Hortons.

Similarly, Burger King Worldwide stockholders currently have the right to vote in the election of the board of directors of Burger King Worldwide and on other matters affecting Burger King Worldwide. Upon the completion of the transactions, each Burger King Worldwide stockholder who receives Holdings common shares (or Partnership exchangeable units) will become a shareholder of Holdings (and/or a unitholder of Partnership) with a percentage ownership of Holdings (including on a fully exchanged basis) that is smaller than the shareholder’s previous percentage ownership of Burger King Worldwide. It is currently expected that the former stockholders of Burger King Worldwide as a group will receive common shares (or Partnership exchangeable units) in the merger constituting approximately 68% of the voting power of Holdings (on a fully exchanged basis) immediately after the transactions. Because of this, Burger King Worldwide stockholders will have less influence on the management and policies of Holdings as a group than they now have on the management and policies of Burger King Worldwide.

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3G will own a significant amount of the voting power of Holdings after the transactions, and its interests may conflict with or differ from the interests of the Tim Hortons shareholders and the other Burger King Worldwide stockholders.

3G, which is controlled by 3G Capital, currently owns approximately 69.22% of the Burger King Worldwide common stock, and, after the completion of the transactions, will control approximately 48% of the voting power of Holdings. The interests of 3G Capital may not always be aligned with the interests of Tim Hortons shareholders and the other Burger King Worldwide stockholders. Following the transactions, it is expected that 3G Capital will beneficially own 51% of the common equity of the combined company on a fully diluted basis, representing an aggregate of 48% of the voting power of Holdings. So long as 3G Capital continues to directly or indirectly own a significant amount of the voting power of Holdings, it will continue to be able to strongly influence or effectively control the business decisions of Holdings. 3G Capital may have interests that are different from those of Tim Hortons shareholders and the other Burger King Worldwide stockholders, and it may exercise its voting and other rights in a manner that may be adverse to the interests of such shareholders.

In addition, this concentration of ownership could have the effect of delaying or preventing a change in control or otherwise discouraging a potential acquiror from attempting to obtain control of Holdings, which could cause the market price of Holdings common shares to decline or prevent Holdings shareholders from realizing a premium over the market price for their common shares or exchangeable units.

3G Capital is in the business of making investments in companies and may from time to time in the future acquire or develop controlling interests in businesses engaged in the QSR industry that complement or directly or indirectly compete with certain portions of the Holdings business. In addition, 3G Capital may pursue acquisitions or opportunities that may be complementary to the Holdings business and, as a result, those acquisition opportunities may not be available to Holdings.

Upon completion of the transactions Holdings expects not to be in compliance with certain “best practices” established by Canadian securities regulators in respect of corporate governance.

It is anticipated that the chairman of Holdings will not be “independent” for purposes of Canadian securities laws, and Holdings’ nominating and corporate governance and compensation committees will not be composed solely of independent directors. Accordingly, Holdings will not be in compliance with certain governance best practices set forth in National Policy 58-201 – *Corporate Governance Guidelines* (referred to herein as “NP 58-201”) and National Instrument 58-101 – *Disclosure of Corporate Governance Practices* (referred to herein as “NI 58-101”) with respect to standards of director independence. Accordingly, you will not have the same protections afforded to shareholders of companies that are in compliance with the corporate governance best practices established by the Canadian Securities Administrators.

The Tim Hortons shareholders are expected to receive dissent rights in connection with the Arrangement, which if exercised in substantial numbers could impact the arrangement consideration mix or the completion of the arrangement.

Registered holders of Tim Hortons common shares are expected to be entitled to dissent from the arrangement resolution in the manner provided in section 190 of the CBCA, as expected to be modified by the interim order and the plan of arrangement. If the statutory procedures governing dissent rights are complied with, this right could lead to judicial determination of the fair value required to be paid to such dissenting shareholders for their Tim Hortons common shares that is different in amount and form from the consideration offered under the arrangement. There is no assurance that the arrangement can be completed without Tim Hortons shareholders exercising dissent rights in respect of a substantial number of Tim Hortons common shares, which would reduce the amount of cash available to the Tim Hortons shareholders as consideration under the arrangement.

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In addition, the arrangement agreement is subject to a condition in favor of Burger King Worldwide that the number of Tim Hortons common shares held by Tim Hortons shareholders that have validly exercised dissent rights will not exceed nine percent of the number of Tim Hortons common shares outstanding as of August 26, 2014. If such condition is not satisfied, the transactions may not occur.

Burger King Worldwide and Tim Hortons may be named in legal proceedings in connection with the transactions, the outcomes of which are uncertain, could delay or prevent the completion of the transactions.

Burger King Worldwide, Tim Hortons and their respective directors may be named as defendants in putative shareholder class action challenging the proposed transactions. Among other remedies, the plaintiffs in such actions, if they do arise, may seek to enjoin the transactions. Such legal proceedings could delay or prevent the transactions from becoming effective within the agreed upon timeframe.

Burger King Worldwide's inability to satisfy and comply with conditions under its existing financing commitments or, if necessary, obtain additional or replacement financing could delay or prevent the completion of the transactions.

The obligations of Burger King Worldwide and Holdings under the arrangement agreement are not subject to any conditions regarding their ability to finance, or obtain financing for, the transactions contemplated by the arrangement agreement.

Holdings must obtain a substantial amount of capital from third-party sources to finance the transactions contemplated by the arrangement agreement. This financing is expected to take several forms, including a senior secured term loan facility in an aggregate principal amount of \$6,750 million, a senior secured revolving credit facility in an aggregate principal amount of \$500 million, senior secured second lien notes in an aggregate principal amount of up to \$2,250 million and the proceeds of the sale of the preferred shares to Berkshire pursuant to the securities purchase agreement. See “*The Transactions—Financing for the Transactions*” for more information.

The funding of the debt financing commitment obtained by Burger King Worldwide in connection with the arrangement agreement and the sale of the preferred shares are subject to a number of conditions, as described under “*The Transactions—Financing for the Transactions*”, and there is a risk that one or more of these conditions will not be satisfied. If these conditions are not satisfied, then the funds under these financing arrangements may not be available to Holdings for purposes of consummating the transactions.

Holdings' substantial leverage and debt service obligations could adversely affect Holdings' business.

After giving effect to the transactions, Holdings expects to have total external debt of approximately \$9.2563 billion. The degree to which Holdings will be leveraged following the transaction could have important consequences to Holdings shareholders, including, but not limited to, potentially:

- increasing Holdings' vulnerability to, and reducing its flexibility to respond to, general adverse economic and industry conditions;
- requiring the dedication of a substantial portion of Holdings' cash flow from operations to the payment of principal of, and interest on, indebtedness, thereby reducing the availability of such cash flow to fund working capital, capital expenditures, acquisitions, joint ventures, product research, dividend share repurchases and development or other corporate purposes;
- increasing Holdings' vulnerability to and limiting its flexibility in planning for, or reacting to, changes in Holdings' business and the competitive environment and the industry in which it operates;
- placing Holdings at a competitive disadvantage as compared to its competitors, to the extent that they are not as highly leveraged;
- restricting Holdings from making strategic acquisitions or causing Holdings to make non-strategic divestitures;

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- exposing Holdings to the risk of increased interest rates as borrowings under Holdings' credit facilities are expected to be subject to variable rates of interest;
- making it more difficult for Holdings to repay, refinance, or satisfy its obligations with respect to its debt;
- causing the long-term and short-term debt ratings of Holdings and its subsidiaries to be lower than the long-term and short-term debt ratings currently applicable to Tim Hortons and Burger King Worldwide; and
- limiting Holdings' ability to borrow additional funds in the future and increasing the cost of any such borrowing.

Holdings expects the terms of its indebtedness to restrict its current and future operations, particularly its ability to incur additional debt that it may need to fund initiatives in response to changes in its business, the industries in which it operates, the economy and government regulations.

The terms of Holdings' indebtedness are expected to include a number of restrictive covenants that impose significant operating and financial restrictions on Holdings and its subsidiaries and limit the ability to engage in actions that may be in Holdings' long-term best interests, including but not limited to restrictions on Holdings' and its subsidiaries' ability to:

- incur additional indebtedness;
- pay dividends on, repurchase or make distributions in respect of capital stock;
- make investments or acquisitions;
- sell, transfer, or otherwise convey certain assets;
- create liens;
- consolidate, merge, sell or otherwise dispose of substantially all of Holdings' or its subsidiaries' assets;
- enter into agreements restricting the ability to pay dividends or make other intercompany transactions;
- enter into transactions with affiliates; and
- prepay certain kinds of indebtedness.

A breach of the covenants under Holdings' indebtedness could result in an event of default under the applicable agreement. Such a default could allow the holders of such indebtedness to accelerate the repayment of such debt and may result in the acceleration of the repayment of any other debt to which a cross-acceleration or cross-default provision applies. In addition, an event of default under the senior secured credit facilities would also permit the lenders thereunder to terminate all other commitments to extend additional credit under the senior secured credit facilities.

Furthermore, if Holdings were unable to repay the amounts due under its secured indebtedness, the holders of such indebtedness could proceed against the collateral that secures such indebtedness. In the event Holdings' creditors accelerate the repayment of its indebtedness, Holdings and its subsidiaries may not have sufficient assets to repay that indebtedness.

Despite its expected substantial indebtedness level, Holdings may be able to incur substantially more indebtedness. This could further exacerbate the risks to Holdings' financial condition described above.

Holdings and its subsidiaries expect to be able to incur substantial additional indebtedness in the future. Although the terms of Holdings' indebtedness are expected to contain restrictions on the incurrence of additional indebtedness and additional liens, these restrictions are subject to a number of qualifications and exceptions, and the additional indebtedness incurred in compliance with these restrictions could be substantial.

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Servicing debt and funding other obligations requires a significant amount of cash, and Holdings' and Partnership's ability to generate sufficient cash depends on many factors, some of which are beyond their control.

Holdings' and Partnership's ability to make payments on and refinance their indebtedness and make required payments to holders of preferred shares and Tim Hortons and Burger King Worldwide's ability to make payments on and refinance the indebtedness of Burger King Worldwide and Tim Hortons and to fund each of their operations and capital expenditures depends upon their ability to generate cash flow and secure financing in the future. Their ability to generate future cash flow depends, among other things, upon:

- future operating performance;
- general economic conditions;
- competition; and
- legislative and regulatory factors affecting our operations and business.

Some of these factors are beyond their control. There is no assurance that the businesses of Burger King Worldwide or Tim Hortons will generate cash flow from operations or that future debt or equity financings will be available to them to enable them to pay their indebtedness or to fund other needs. As a result, any of them may need to refinance all or a portion of their indebtedness on or before maturity. There is no assurance that they will be able to refinance any of their indebtedness on favorable terms, or at all. Any inability to generate sufficient cash flow or refinance their indebtedness on favorable terms could have a material adverse effect on the financial condition of Holdings and Partnership.

Holdings expects the terms of its indebtedness and preferred shares to be subject to mandatory redemption or repayment upon a change of control, and such terms could have the effect of delaying or preventing a future change of control.

Holdings intends to obtain capital from third-party sources to finance the transactions contemplated by the arrangement agreement. This financing is expected to take several forms, including a senior secured term loan facility in an aggregate principal amount of \$6,750 million, a senior secured revolving credit facility in an aggregate principal amount of \$500 million, senior secured second lien notes in an aggregate principal amount of up to \$2,250 million and \$3 billion in preferred shares and a warrant to purchase Holdings common shares issued to Berkshire pursuant to the securities purchase agreement.

In connection with any future change of control of Holdings, subject to important exceptions contained therein, (i) the terms of the credit agreement governing the senior secured term loan facility and the senior secured revolving credit facility will require repayment by Holdings in the event of a change of control; (ii) the indenture governing the senior secured second lien notes will require the issuer thereof to make an offer to repurchase the notes in connection with a change of control; and (iii) the terms of the preferred shares will require, if requested by the holders of not less than a majority of the outstanding preferred shares, the preferred shares to be redeemed in full by Holdings as a result of a change of control. In addition, other existing or future indebtedness of Holdings may also be subject to mandatory repurchase or repayment upon a future change of control. Accordingly, a future change of control of Holdings would require these and possibly other obligations to become subject to repurchase, repayment and/or redemption. In any such event, Holdings may not have sufficient resources to repurchase, repay and redeem these obligations, as applicable. Moreover, if such financing is required to be repurchased, repaid or redeemed, other third-party financing may be required in order to provide the funds necessary for Holdings to satisfy such obligations, and Holdings may not be able to obtain such additional financing on terms favorable to it or at all.

Any of these provisions may also discourage a potential acquirer from proposing or completing a transaction that may otherwise have presented a premium to Holdings shareholders.

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The proposed transactions could have an adverse effect on the Tim Hortons and the Burger King Worldwide brands.

The success of Tim Hortons and Burger King Worldwide is largely dependent upon the ability of Tim Hortons and Burger King Worldwide to maintain and enhance the value of their respective brands, their guests' connection to and perception of the brands, and a positive relationship with restaurant owners. Brand value could be severely damaged if the proposed transactions receive considerable negative publicity or if guests or restaurant owners otherwise come to have a diminished view of the brands as a result of the transactions or the common ownership of the existing businesses.

The common ownership of the businesses currently conducted by Burger King Worldwide and Tim Hortons will create numerous risks and uncertainties, which could adversely affect operating results of Holdings or prevent Holdings from realizing the expected benefits of the merger and the arrangement.

Strategic transactions like the merger and the arrangement create numerous uncertainties and risks and require significant efforts and expenditures. Each of Burger King Worldwide and Tim Hortons will transition from being a standalone public corporation to being part of one holding company incorporated in Canada. The success of the arrangement will depend, in part, on Holdings' ability to realize the anticipated synergies and cost savings, which is subject to integration challenges and other unforeseen difficulties. The ability of Holdings to realize synergies will be constrained by undertakings which will be required to be given to the Government of Canada in connection with obtaining approval under the Investment Canada Act. The transaction involves the integration of companies that have previously operated independently. The integration process may be complex, costly and time-consuming. The difficulties of integration include, among others:

- the diversion of Holdings' management's attention to integration of operations and the establishment of corporate and administrative infrastructures;
- difficulties in achieving anticipated business opportunities and growth prospects from the respective businesses of Burger King Worldwide and Tim Hortons;
- unanticipated issues in integrating logistics, information, communications and other systems;
- difficulties in the assimilation of employees and corporate cultures, to the extent necessary;
- challenges in keeping existing customers and obtaining new customers;
- unanticipated changes in applicable laws and regulations;
- unanticipated issues, expenses and liabilities; and
- challenges in attracting and retaining key personnel.

If any of these factors impairs Holdings' ability to integrate the operations of Tim Hortons with those of Burger King Worldwide successfully or on a timely basis, Holdings may not be able to realize the anticipated synergies, business opportunities and growth prospects from ownership of businesses. Holdings may not be able to accomplish any or all of these integrations smoothly, successfully or within the anticipated costs or time frame. In addition, Holdings may be required to spend additional time or money on integration that otherwise would be spent on the development and expansion of its business.

In addition, the market price of Holdings common shares and/or Partnership exchangeable units may decline following the transaction if, among other things, the integration of Burger King Worldwide and Tim Hortons is unsuccessful, takes longer than expected or fails to achieve financial benefits to the extent anticipated by financial analysts or investors, or the effect of the transaction on the financial results of the combined company is otherwise not consistent with the expectations of financial analysts or investors. These integration matters and our significant amount of indebtedness may hinder our ability to make further acquisitions and could have an adverse effect on us for an undetermined period after consummation of the arrangement.

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Common ownership of Burger King Worldwide and Tim Hortons may be more difficult, costly or time-consuming than expected, which may adversely affect Holdings' results and negatively affect the value of Holdings common shares following the transactions.

Burger King Worldwide and Tim Hortons have entered into the arrangement agreement because each believes that the transactions will be beneficial to it and its respective stockholders and shareholders and that common ownership of the businesses of Burger King Worldwide and Tim Hortons will produce benefits and cost savings. If Holdings is not able to successfully manage the businesses of Burger King Worldwide and Tim Hortons in an efficient and effective manner, the anticipated benefits and cost savings of the transactions may not be realized fully, or at all, or may take longer to realize than expected, and the value of Holdings common shares may be affected adversely. The ability of Holdings to realize cost savings will also be constrained by undertakings which will be required to be given to the Government of Canada in connection with obtaining approval under the Investment Canada Act.

In addition, the actual integration may result in additional and unforeseen expenses, and the anticipated benefits of the integration plan may not be realized. Actual synergies, if achieved, may be lower than and may take longer to achieve than anticipated. If Holdings is not able to adequately address integration challenges, Holdings may be unable to successfully integrate Burger King Worldwide's and Tim Hortons operations or to realize the anticipated benefits of the integration of the two companies.

Holdings' actual financial positions and results of operations may differ materially from the unaudited pro forma financial data included in this joint information statement/circular.

The pro forma financial information contained in this joint information statement/circular may not necessarily be an indication of what Holdings' financial position or results of operations would have been had the transactions been completed on the dates indicated. The pro forma financial information has been derived from (i) the audited consolidated financial statements of Burger King Worldwide as of and for the fiscal year ended December 31, 2013, which have been prepared in accordance with U.S. generally accepted accounting principles ("GAAP") and incorporated by reference in this joint information statement/circular, (ii) the audited consolidated financial statements of Tim Hortons as of and for the fiscal year ended December 29, 2013, which have been prepared in accordance with GAAP and are incorporated by reference in this joint information statement/circular and (iii) the unaudited consolidated financial statements of Burger King Worldwide and Tim Hortons for the six month periods ended June 30, 2014 and June 29, 2014, respectively, which have been prepared in accordance with GAAP and are incorporated by reference in this joint information statement/circular. Differences between assumptions in the pro forma financial information and the final acquisition accounting will occur and could have a material impact on the pro forma financial information and the combined company's financial position and future results of operations.

Moreover, the pro forma financial information does not reflect all costs that are expected to be incurred by Holdings in connection with the transactions. As a result, the actual financial condition and results of operations of Holdings following the transactions may not be consistent with, or evident from, the pro forma financial information.

In addition, the assumptions used in preparing the pro forma financial information may not necessarily prove to be accurate, and other factors may affect Holdings' financial condition or results of operations following the closing. Any potential decline in Holdings' financial condition or results of operations may cause significant variations in the share price of Holdings and/or the market price of Partnership exchangeable units. See "*Financial Information—Unaudited Pro Forma Condensed Consolidated Financial Information*".

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Burger King Worldwide and Tim Hortons will incur substantial, direct and indirect transaction-related costs in connection with the arrangement and the merger and other transactions contemplated by the arrangement agreement.

Burger King Worldwide and Tim Hortons expect to incur a number of non-recurring transaction-related costs associated with completing the transactions. These fees and costs will be substantial. Non-recurring transaction costs include, but are not limited to, fees paid to legal, financial and accounting advisors, filings fees and printing costs.

Holdings expects to incur substantial expenses in connection with coordinating the businesses, operations, policies and procedures of Burger King Worldwide and Tim Hortons. While Holdings has assumed that a certain level of transaction and coordination expenses will be incurred, there are a number of factors beyond Holdings' control that could affect the total amount or the timing of these transaction and coordination expenses. Many of the expenses that will be incurred, by their nature, are difficult to estimate accurately. These expenses may exceed the costs historically borne by Burger King Worldwide and Tim Hortons.

Additional Factors Relating to Holdings Common Shares

An active trading market for Holdings common shares may not develop.

Prior to the completion of the transactions, there will have been no public market for Holdings common shares. We cannot predict the extent to which investor interest in Holdings will lead to the development of an active trading market on the NYSE or the TSX or how liquid that market might become. An active public market for Holdings common shares may not develop or be sustained after the completion of the transactions. If an active public market does not develop or is not sustained, it may be difficult for you to sell your Holdings common shares at a price that is attractive to you, or at all.

The market price of Holdings common shares may be volatile, and the value of your investment could materially decline.

Investors who hold Holdings common shares may not be able to sell their shares at or above the price at which they purchased the Burger King Worldwide common stock or Tim Hortons common shares. The prices of Burger King Worldwide common stock and Tim Hortons common shares have fluctuated materially from time to time, and Holdings cannot predict the price of its common shares. In addition, the stock market in general has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. These broad market and industry factors may materially harm the market price of Holdings common shares, regardless of Holdings' operating performance. In addition, the Holdings share price may be dependent upon the valuations and recommendations of the analysts who cover the Holdings business, and if its results do not meet the analysts' forecasts and expectations, Holdings' share price could decline as a result of analysts lowering their valuations and recommendations or otherwise. In the past, following periods of volatility in the market, securities class-action litigation has often been instituted against companies. Such litigation, if instituted against Holdings, could result in substantial costs and diversion of management's attention and resources, which could materially and adversely affect Holdings' business, financial condition, results of operations and growth prospects.

Future sales of Holdings common shares in the public market could cause volatility in the price of Holdings common shares or cause the share price to fall.

Sales of a substantial number of Holdings common shares in the public market, or the perception that these sales might occur, could depress the market price of Holdings common shares, and could impair Holdings' ability to raise capital through the sale of additional equity securities.

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The Holdings common shares to be received by Burger King Worldwide stockholders and Tim Hortons shareholders in connection with the transactions will have different rights from the Burger King Worldwide common stock and Tim Hortons common shares, respectively.

Upon consummation of the transactions, Burger King Worldwide stockholders and Tim Hortons shareholders may become Holdings shareholders and their rights as shareholders will be governed by Holdings' articles of amendment and by-laws and Canadian law. The existing rights associated with Burger King Worldwide common stock and Tim Hortons common shares are different from the rights associated with Holdings common shares. See "Comparison of Rights of Holders of Burger King Worldwide Common Stock, Holdings Common Shares and Partnership Exchangeable Units" and see "Comparison of the Rights of Tim Hortons Shareholders and Holdings Shareholders".

Holdings cannot assure you that it will pay any cash dividends for the foreseeable future or that you will realize gains on Holdings common shares.

Any determination to pay dividends in the future will be at the discretion of the Holdings board of directors and will depend upon results of operations, financial condition, contractual restrictions, including agreements governing its debt and equity financing and any future indebtedness it may incur, restrictions imposed by applicable law and other factors the Holdings board of directors deems relevant. Realization of a gain on your Holdings common shares will depend on the appreciation of the price of your Holdings common shares, which may never occur.

Additional Factors Relating to Partnership Exchangeable Units

An active trading market for Partnership exchangeable units may not develop.

Prior to the completion of the transactions, there will have been no public market for Partnership exchangeable units. We cannot predict the extent to which investor interest in Partnership will lead to the development of an active trading market on the TSX or how liquid that market might become. Additionally, Partnership exchangeable units are not expected to be listed on a national exchange in the United States. An active public market for Partnership exchangeable units may not develop or be sustained after the completion of the transactions, and such market is not expected to be as liquid as for the Holdings common shares. If an active public market does not develop or is not sustained, it may be difficult for you to sell your Partnership exchangeable units at a price that is attractive to you, or at all.

The market price of Partnership exchangeable units may be volatile, and the value of your investment could materially decline.

Investors who hold Partnership exchangeable units may not be able to sell their exchangeable units at or above the price at which they purchased the Burger King Worldwide common stock. It is also expected that the market for exchangeable units will be less liquid than for the Holdings common shares. The prices of Burger King Worldwide common stock and Tim Hortons common shares have fluctuated materially from time to time, and Partnership cannot predict the price of its exchangeable units. In addition, the stock market in general has experienced extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of those companies. These broad market and industry factors may materially harm the market price of Partnership exchangeable units, regardless of Partnership's operating performance. In addition, the price of Partnership exchangeable units may be dependent upon the valuations and recommendations of the analysts who cover the business of Holdings and Partnership, and if its results do not meet the analysts' forecasts and expectations, the price of Partnership exchangeable units could decline as a result of analysts lowering their valuations and recommendations or otherwise. In the past, following periods of volatility in the market, securities class-action litigation has often been instituted against companies. Such litigation, if instituted against Partnership, could result in substantial costs and diversion of management's attention and resources, which could materially and adversely affect Partnership's business, financial condition, results of operations and growth prospects.

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Future sales of Partnership exchangeable units or Holdings common shares in the public market could cause volatility in the price of Partnership exchangeable units or cause the unit price to fall.

Sales of a substantial number of Partnership exchangeable units or Holdings common shares in the public market, or the perception that these sales might occur, could depress the market price of Partnership exchangeable units, and could impair Partnership's ability to raise capital through the sale of additional exchangeable units.

Partnership Exchangeable units may not trade equally with the Holdings common shares.

The Partnership exchangeable units and the Holdings common shares are distinct securities, and the Partnership exchangeable units will not be exchangeable for Holdings common shares for a period of one year following the closing of the transactions. The Partnership exchangeable units and Holdings common shares will at all times trade separately, and the public market for Partnership exchangeable units is not expected to be as liquid as for the Holdings common shares. In addition, if a holder of Partnership exchangeable units exercises its exchange right, Partnership has the right to repurchase each Partnership exchangeable unit submitted for exchange in consideration for a cash amount equal to the exchangeable units cash amount (as defined on page [•] of this joint information statement/circular) (rather than one Holdings common share), at the sole discretion of the general partner of Partnership. As such, Partnership exchangeable units may not trade equally with the Holdings common shares, and could trade at a discount to the market price of the Holdings common shares, which discount could possibly be material.

Burger King Worldwide stockholders may not receive Partnership exchangeable units in accordance with their elections.

If you make an election to receive Partnership exchangeable units in connection with the merger, the actual mix of consideration you will receive will not be known until after all elections have been made. An election to receive the exchangeable unit consideration will be subject to allocation procedures designed to ensure that the fair market value of Holdings' interest in Partnership is no less than 50.1% of the fair market value of all equity interests in Partnership as of the date on which the transactions are completed. If exchangeable elections are made by a number of Burger King Worldwide stockholders that would result in such former Burger King Worldwide stockholders owning Partnership exchangeable units that represent more than 49.9% of the fair market value of Partnership, then each Burger King Worldwide stockholder will be entitled to receive exchangeable units subject to the proration procedures described below. At this time there is not a way to calculate the potential outcomes of the proration as it is unknown how many Burger King Worldwide stockholders will elect to receive solely Partnership exchangeable units.

As a result of the allocation and proration procedures outlined in the preceding paragraph, holders of Burger King Worldwide common stock may receive the Holdings consideration for some or all of their shares despite the holders' exchangeable election. Any consideration in the form of Holdings common shares received by these holders in the merger, unlike the exchangeable unit consideration, generally will be immediately taxable to those holders for U.S. federal income tax purposes.

After submitting an election form to receive Partnership exchangeable units, a Burger King Worldwide stockholder will not, subsequent to delivery of stock certificates to the merger exchange agent in connection with a unit election, be able to sell or otherwise transfer his or her shares of Burger King Worldwide for which an exchangeable election has been made, unless and until the Burger King Worldwide stockholder properly revokes his or her unit election by the election deadline.

Under the terms of the arrangement agreement, in the event that a Burger King Worldwide stockholder makes a valid election to receive Partnership exchangeable units, he or she will be required to deliver his or her stock certificates (or an agent's message or other evidence of transfer with respect to Burger King Worldwide stock held in book-entry form satisfactory to the merger exchange agent) evidencing his or her shares to be

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converted into Partnership exchangeable units, in each case together with a properly completed and executed election form, to the merger exchange agent. In order to make a valid exchangeable election, a Burger King Worldwide stockholder must deliver the stock certificates (or an agent's message or other evidence of transfer with respect to Burger King Worldwide stock held in book-entry form satisfactory to the merger exchange agent) and duly completed and executed election form on or before the election deadline, and there may be a period of up to three business days between that date and the date the merger is completed.

During the period from the date upon which a Burger King Worldwide stockholder submits an election form until the closing of the merger, he or she will not be able to sell or otherwise transfer any shares of Burger King Worldwide common stock subject to the unit election. However, if a Burger King Worldwide stockholder revokes his or her unit election with respect to any of his or her shares of Burger King Worldwide common stock prior to the election deadline, he or she will be able to sell those shares following the return to him or her of the stock certificates evidencing those shares as long as there is sufficient time for such a sale to be completed prior to the closing of the merger.

If the arrangement agreement is terminated, any stock certificates evidencing shares of Burger King Worldwide common stock delivered to the merger exchange agent will be promptly returned and Burger King Worldwide stockholders will again be able to sell or otherwise transfer their shares, although the market price for shares of Burger King Worldwide common stock could be significantly lower at the time the shares are returned than was the case when initial delivery was made.

The Burger King Worldwide board of directors has not made any recommendation with respect to whether a Burger King Worldwide stockholder should make a unit election.

The Burger King Worldwide board of directors makes no recommendation as to whether any Burger King Worldwide stockholder should make an exchangeable election. A stockholder's determination to make a unit election is a purely voluntary decision. In making this decision, Burger King Worldwide stockholders will not have the benefit of any recommendation of Burger King Worldwide's board of directors.

The exchange of Partnership exchangeable units into Holdings common shares is subject to certain restrictions and the value of the Holdings common shares received in any exchange may fluctuate.

Under the terms of the partnership agreement, Partnership exchangeable units will not be exchangeable for Holdings common shares for a period of one year following the closing of the transactions.

Beginning one year following the closing of the transactions, holders of Partnership exchangeable units will be entitled to require Partnership to exchange all or any portion of such holder's Partnership exchangeable units for Holdings common shares at a ratio of one Holdings common share for each Partnership exchangeable unit, subject to the right of Holdings, in its capacity as the general partner of Partnership and in its sole discretion, to cause Partnership to repurchase the Partnership exchangeable units for cash (in an amount determined in accordance with the terms of the partnership agreement of Partnership) in lieu of exchanging for Holdings common shares.

The Holdings common shares into which Partnership exchangeable units may be exchanged may be subject to significant fluctuations in value for many reasons, including:

- Holdings' operating and financial performance and prospects;
- general market conditions;
- the risks described in this joint information statement/circular;
- changes to the competitive landscape in the industries or markets in which Holdings and its subsidiaries operate;
- the arrival or departure of key personnel; and
- speculation in the press or the investment community.

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Consequently, due to the potential fluctuations in value, at the time that the exchange right of holders of Partnership exchangeable units becomes exercisable, the Holdings common shares into which Partnership exchangeable units may be exchanged may have a value that differs from the value of Holdings common shares as of the merger effective time. If a holder of Partnership exchangeable units elects to exchange his or her Partnership exchangeable units for Holdings common shares, the exchange generally will be taxable for U.S. and Canadian federal income tax purposes.

In certain circumstances, a Limited Partner may lose its limited liability status.

The *Limited Partnerships Act* (Ontario) (the “Ontario Limited Partnerships Act”) provides that a limited partner benefits from limited liability unless, in addition to exercising rights and powers as a limited partner, such limited partner takes part in the control of the business of a limited partnership of which such limited partner is a partner. Subject to the provisions of the Ontario Limited Partnerships Act and of similar legislation in other jurisdictions of Canada, the liability of each limited partner for the debts, liabilities and obligations of Partnership will be limited to the limited partner’s capital contribution, plus the limited partner’s share of any undistributed income of Partnership. However, pursuant to the Ontario Limited Partnerships Act, where a limited partner has received the return of all or part of that limited partner’s capital contribution, the limited partner would be liable to Partnership or, where Partnership is dissolved, to its creditors, for any amount, not in excess of the amount of capital contribution returned with interest, necessary to discharge the liabilities of Partnership to all creditors who extended credit or whose claims otherwise arose before the return of the capital contribution. A limited partner holds as trustee for the limited partnership any money or other property that is paid or conveyed to the limited partner as a return of the limited partner’s contribution that is made contrary to the Ontario Limited Partnerships Act.

The limitation of liability conferred under the Ontario Limited Partnerships Act may be ineffective outside Ontario except to the extent it is given extra-territorial recognition or effect by the laws of other jurisdictions. There may also be requirements to be satisfied in each jurisdiction to maintain limited liability. If limited liability is lost, limited partners may be considered to be general partners (and therefore be subject to unlimited liability) in such jurisdiction by creditors and others having claims against Partnership.

U.S. Federal Income Tax Risks Related to the Holdings Common Shares and Partnership Exchangeable Units

You should read the discussion under the caption “*The Transactions—Material U.S. Federal Income Tax Considerations*” below for a more complete discussion of the material U.S. federal income tax considerations relating to the transactions and the acquisition, ownership and disposition of Holdings common shares and Partnership exchangeable units.

Holdings and/or Partnership may be treated as a U.S. corporation for U.S. federal income tax purposes.

Holdings, a corporation continued under the laws of Canada, and Partnership, an Ontario limited partnership, generally would be classified as non-U.S. entities (and, therefore, non-U.S. tax residents) under general rules of U.S. federal income taxation. Section 7874 of the Internal Revenue Code of 1986, as amended (the “Code”), however, contains rules that result in a non-U.S. corporation being taxed as a U.S. corporation for U.S. federal income tax purposes, unless certain tests regarding ownership of such entity (as relevant here, ownership by former Burger King Worldwide stockholders) or level of business activities (as relevant here, business activities in Canada by Holdings and its affiliates, including Partnership), are satisfied. The Treasury Regulations promulgated under the Code apply these same rules to non-U.S. publicly traded partnerships, such as Partnership. These statutory and regulatory rules are relatively new, their application is complex and there is little guidance regarding their application.

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Based on the terms of the transactions and the anticipated level of business activities of Holdings and its affiliates, including Partnership, it is expected that one or both such tests will be satisfied. Satisfaction of these tests, however, will not be finally determined until after the time of the closing. If it were determined that Holdings and/or Partnership should be taxed as U.S. corporations for U.S. federal income tax purposes, Holdings and/or Partnership could be liable for substantial additional U.S. federal income tax. For Canadian tax purposes, Holdings and Partnership are expected, regardless of any application of section 7874 of the Code, to be treated as a Canadian resident company and a SIFT partnership (as defined in the Tax Act), respectively. Consequently, if Holdings and/or Partnership did not satisfy either of the applicable tests, one or both might be liable for both Canadian and U.S. taxes, which could have a material adverse effect on its financial condition and results of operations.

Future changes to U.S. and non-U.S. tax laws could materially affect Holdings and/or Partnership, including their status as foreign entities for U.S. federal income tax purposes, and adversely affect their anticipated financial positions and results :

Although Holdings and Partnership are expected to satisfy the tests described above and therefore not to be treated as U.S. corporations for U.S. federal tax purposes, changes to the rules in section 7874 of the Code or the Treasury Regulations promulgated thereunder, or other changes in law, could adversely affect Holdings' and/or Partnership's status as a non-U.S. entity for U.S. federal income tax purposes, their effective tax rate or future planning for the combined company that is based on current law, and any such changes could have prospective or retroactive application to Holdings and/or Partnership, Burger King Worldwide, their respective stockholders, shareholders and affiliates, and/or the transactions. For example, recent legislative proposals have aimed to expand the scope of section 7874 of the Code, or otherwise address certain perceived issues arising in connection with so-called inversion transactions. It is presently uncertain whether any of such legislative proposals will be enacted into law and, if so, what impact such legislation would have on Holdings. In addition, the U.S. Treasury has indicated that it is considering possible regulatory action in connection with so-called inversion transactions, including, most recently, in Notice 2014-52 (the "Notice"). The timing and substance of any such action is presently uncertain. Any such change of law or regulatory action could adversely impact Holdings' tax position as well as its financial position and results in a material manner. It is not expected that the promulgation of any of the Treasury Regulations described in the Notice will have any such material adverse impact, nor are they expected to change the U.S. federal income tax consequences of the transactions as described herein. However, the precise scope and application of the regulatory proposals will not be clear until proposed Treasury Regulations are actually issued, and, accordingly, until such regulations are promulgated and fully understood, we cannot be certain that there will be no such impact. In any case, no such change of law or regulatory action would be grounds for terminating the transactions contemplated by the arrangement agreement.

Moreover, the U.S. Congress, the Organization for Economic Co-operation and Development and other government agencies in jurisdictions where Holdings and its affiliates do business have had an extended focus on issues related to the taxation of multinational corporations. In particular, specific attention has been paid to "base erosion and profit shifting", where payments are made between affiliates from a jurisdiction with high tax rates to a jurisdiction with lower tax rates. As a result, the tax laws in the U.S. and other countries in which Holdings and its affiliates do business could change on a prospective or retroactive basis, and any such change could adversely affect Holdings, including by reducing the economic benefits expected to be generated by common ownership of Burger King Worldwide and Tim Hortons.

If the arrangement, taken together with the merger, does not qualify as a transaction described in section 351 of the Code, certain U.S. holders of Tim Hortons common shares may be required to pay additional U.S. federal income taxes.

It is intended that, for U.S. federal income tax purposes, the arrangement, taken together with the merger, qualify as a transaction described in section 351 of the Code. However, there is some uncertainty regarding whether the arrangement, taken together with the merger, will qualify for such treatment because there is no authority directly on point with respect to a transaction involving the same facts as the arrangement and the merger. In addition, the closing of the transactions is not conditioned upon the receipt of an opinion of counsel

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that the arrangement, taken together with the merger, will qualify as a transaction described in section 351 of the Code, and no assurance can be given that the IRS will not challenge such treatment or that a court would not sustain such challenge. Moreover, none of Holdings, Partnership, Burger King Worldwide or Tim Hortons intends to request a ruling from the Internal Revenue Service (“IRS”) regarding the U.S. federal income tax treatment of the arrangement, taken together with the merger. If the arrangement, taken together with the merger, does not qualify as a transaction described in section 351 of the Code, certain U.S. holders of Tim Hortons common shares receiving Holdings common shares in the arrangement (in particular, such U.S. holders who elect to receive and receive solely Holdings common shares in the arrangement) will be required to pay additional U.S. federal income taxes.

Partnership may be treated as a publicly traded partnership taxed as a non-U.S. corporation for U.S. federal income tax purposes.

While Partnership is organized as an Ontario limited partnership and intends to operate so that it will qualify to be treated for U.S. federal income tax purposes as a partnership, and not as an association or a publicly traded partnership taxable as a corporation, given the highly complex nature of the rules governing partnerships, the ongoing importance of factual determinations, and the possibility of future changes in circumstances, no assurance can be given that Partnership will so qualify for any particular year. Partnership’s taxation as a partnership that is not a publicly traded partnership taxable as a corporation will depend on its ability to meet, on a continuing basis, through actual operating results, the qualifying income exception (as described in “*The Transactions—Material U.S. Federal Income Tax Considerations for U.S. Holders of Holdings Common Shares or Partnership Units—Taxation of Holders of Partnership Units*”). Accordingly, no assurance can be given that the actual results of Partnership’s operations for any taxable year will satisfy the qualifying income exception.

If Partnership fails to satisfy the qualifying income exception (other than a failure which is determined by the IRS to be inadvertent and which is cured within a reasonable period of time after the discovery of such failure as described below), it will be treated as if it had transferred all of its assets, subject to its liabilities, to a newly formed foreign corporation, on the first day of the year in which it failed to satisfy the qualifying income exception, in return for stock of the corporation, and then distributed such stock to the holders of Partnership units in liquidation of their interests in Partnership. This contribution and liquidation would be taxable to U.S. holders of Partnership units, in whole or in part, in an amount not to exceed the excess of the fair market value of Partnership units over their adjusted basis in the hands of the U.S. holder. If Partnership is not treated as a Partnership for U.S. federal income tax purposes, the consequences of the exchange of Burger King Worldwide stock for Partnership exchangeable units would generally be the same as described below under “*The Transactions—Material U.S. Federal Income Tax Consequences of the Merger for U.S. Holders—Burger King Worldwide Stockholders Receiving Holdings Common Shares*”.

You may be subject to U.S. federal income tax on your share of Partnership’s taxable income, regardless of whether you receive any cash distributions from Partnership.

As long as Partnership meets the qualifying income exception for each year (as described in “*The Transactions—Material U.S. Federal Income Tax Considerations for U.S. Holders of Holdings Common Shares or Partnership Units—Taxation of Holders of Partnership Units*”), Partnership generally should be treated, for U.S. federal income tax purposes, as a partnership. As a partnership for U.S. federal income tax purposes, Partnership is not a taxable entity. Instead, each U.S. holder in computing such holder’s U.S. federal income tax liability for a taxable year will be required to take into account its allocable share of items of Partnership’s income, gain, loss, deduction and credit for each of Partnership’s taxable years ending with or within the taxable year of such U.S. holder, regardless whether the holder has received any distributions. The characterization of an item of Partnership’s income, gain, loss, deduction or credit generally will be determined at Partnership’s (rather than at the holder’s) level. In addition, as a result of such allocation method, a holder may be allocated taxable income even if such holder does not receive any cash distributions.

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Tax gain or loss on disposition of Partnership units could be more or less than expected.

A sale or other taxable disposition of all or a portion of a U.S. holder's interest in its Partnership units will result in the recognition of gain or loss in an amount equal to the difference, if any, between the amount realized on the disposition (including any amount realized in connection with the deemed assumption of partnership liabilities allocated to such U.S. holder) and the U.S. holder's adjusted tax basis in its Partnership units sold. Prior distributions to you in excess of the total net taxable income allocated to you, which decrease the tax basis in your Partnership units, will in effect become taxable income to you if the Partnership units are sold at a price greater than your tax basis in those Partnership units, even if the price is less than the original cost.

Tax-exempt entities face unique tax issues from owning Partnership units that may result in adverse tax consequences to them.

In light of the intended financing structure, Partnership may derive income that constitutes "unrelated business taxable income," or "UBTI." Consequently, a holder of Partnership units that is a tax-exempt organization may be subject to "unrelated business income tax" to the extent that its allocable share of income consists of UBTI. A tax-exempt partner of a partnership could be treated as earning UBTI if the partnership regularly engages in a trade or business that is unrelated to the exempt function of the tax-exempt partner, if the partnership derives income from debt-financed property or if the partnership interest itself is debt-financed. Tax-exempt entities face unique tax issues from owning Partnership units that may result in adverse tax consequences to them.

Partnership cannot match transferors and transferees of Partnership units, and Partnership will therefore adopt certain income tax accounting positions that may not conform with all aspects of applicable tax requirements. The IRS may challenge this treatment, which could adversely affect the value of Partnership units.

Because Partnership cannot match transferors and transferees of Partnership units, Partnership must maintain uniformity of the economic and tax characteristics of Partnership units to a purchaser of Partnership units. In the absence of uniformity, Partnership may be unable to comply fully with a number of U.S. federal income tax requirements. In order to maintain the fungibility of all Partnership units at all times, Partnership will seek to achieve the uniformity of U.S. tax treatment for all purchasers of Partnership units which are acquired at the same time and price (irrespective of the identity of the particular seller of Partnership units or the time when Partnership units are issued by Partnership), through the application of certain tax accounting principles that the general partner (i.e., Holdings) believes are reasonable for Partnership. However, the IRS may disagree with Partnership and may successfully challenge its application of such tax accounting principles. Any non-uniformity could have a negative impact on the value of Partnership units.

Partnership does not expect to be able to furnish to each holder of Partnership units specific tax information within 90 days after the close of each calendar year, which means that holders of Partnership units who are U.S. taxpayers should anticipate the need to file annually a request for an extension of the due date of their income tax return.

Partnership has agreed to use reasonable efforts to furnish Partnership unit holders tax information (including Schedule K-1) as promptly as possible, which describes a Partnership unit holder's allocable share of Partnership's income, gain, loss and deduction for Partnership's preceding taxable year. Delivery of this information by Partnership will be subject to delay in the event of, among other reasons, the late receipt of any necessary tax information from a subsidiary in which Partnership holds an interest. It is therefore possible that, in any taxable year, Partnership unit holders will need to apply for extensions of time to file their tax returns.

The tax treatment of publicly traded partnerships or an investment in Partnership units could be subject to potential legislative, judicial or administrative changes and differing interpretations, possibly on a retroactive basis.

The present U.S. federal income tax treatment of publicly traded partnerships, including the Partnership, or an investment in Partnership units, may be modified by administrative, legislative or judicial interpretation at any

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time. Any modification to the U.S. federal income tax laws and interpretations thereof may or may not be applied retroactively. Moreover, any such modification could make it more difficult or impossible for Partnership to meet the qualifying income exception (as described in “*The Transactions—Material U.S. Federal Income Tax Considerations for U.S. Holders of Common Shares or Partnership Units—Taxation of Holders of Partnership Units*”) which allows publicly traded partnerships that generate qualifying income to be treated as partnerships (rather than corporations), affect or cause Partnership to change its business activities, or affect the tax consequences of an investment in Partnership units. For example, members of Congress have considered substantive changes to the definition of qualifying income and the treatment of certain types of income earned from partnerships. While these specific proposals would not appear to affect Partnership’s treatment as a partnership, we are unable to predict whether any of these changes, or other proposals, will ultimately be enacted. Any such changes could negatively impact the value of an investment in Partnership units.

The IRS may view the receipt of Partnership exchangeable units as a taxable event for U.S. Holders.

It is possible that the IRS may not accept our view that Partnership will generally be treated as a partnership, and not as a corporation, for U.S. federal income tax purposes and that the receipt of Partnership units (except with respect to the interest in the Holdings Voting Trust as described in more detail under “*The Transactions—Material U.S. Federal Income Tax Considerations for U.S. Holders of Holdings Common Shares or Partnership Units*” and “*The Transactions—Material U.S. Federal Income Tax Consequences of the Merger to U.S. Holders – Burger King Worldwide Stockholders Receiving Partnership Units*”) pursuant to the merger should qualify as a tax-free exchange within the meaning of section 721 of the Code. It is also possible that the IRS may not accept our view that Partnership units represent interests in Partnership and may attempt to recharacterize Partnership units as shares in Holdings. If Partnership or Partnership units were not so treated, the consequences of the exchange of Burger King Worldwide stock for Partnership units would generally be the same as described below under *The Transactions—Material U.S. Federal Income Tax Consequences of the Merger to U.S. Holders—Burger King Worldwide Stockholders Receiving Holdings Common Shares*”.

Additional Factors Relating to Burger King Worldwide and Tim Hortons

Burger King Worldwide and Tim Hortons are subject to the risks described in (i) Item 1A – Risk Factors, in Burger King Worldwide’s Annual Report on Form 10-K for the year ended December 31, 2013 as filed with the SEC on February 21, 2014 and is incorporated by reference in this joint information statement/circular and all Quarterly Reports on Form 10-Q filed thereafter, all of which are filed with the SEC and incorporated by reference into this joint information statement/circular, and (ii) Item 1A—Risk Factors, in Tim Hortons Annual Report on Form 10-K for the year ended December 29, 2013 as filed with the SEC on February 25, 2014 and is incorporated by reference in this joint information statement/circular and all Quarterly Reports on Form 10-Q filed thereafter, all of which are filed with the SEC and incorporated by reference into this joint information statement/circular. See “*Where You Can Find More Information*” beginning on page [•] for the location of information incorporated by reference into this joint information statement/circular.

Additional Factors Relating to the Businesses of Tim Hortons and Burger King Worldwide

Whether or not the transactions are completed, Tim Hortons and Burger King Worldwide will continue to face many of the risks that they currently face with respect to their businesses and affairs. A description of the risk factors applicable to Tim Hortons is found under Item 1A in Tim Hortons Annual Report on Form 10-K for the fiscal year ended December 29, 2013 and in Tim Hortons Quarterly Report on Form 10-Q for the quarter ended June 29, 2014, and a description of the risk factors applicable to Burger King Worldwide is found under Item 1A in Burger King Worldwide’s Annual Report on Form 10-K for the fiscal year ended December 31, 2013, each of which is incorporated by reference into this joint information statement/circular.

CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

This joint information statement/circular and the documents incorporated by reference herein include forward-looking statements which constitute forward-looking information within the meaning of Canadian securities laws. These forward-looking statements are often identified by the words “may,” “might,” “could,” “would,” “will,” “can,” “should,” “believes,” “anticipates,” “plans,” “expects,” “intends,” “continue,” “potential,” “guidance,” “foresee,” “goal,” “pro forma,” “target,” “appear,” and the negative of these terms or other comparable or similar terminology or expressions and include statements regarding (i) expectations regarding whether the transactions will be consummated, including whether conditions to the consummation of the transactions will be satisfied, or the timing for completing the transactions, (ii) expectations for the effects of the transactions or the ability of the combined company to successfully achieve its business objectives, including common ownership of the companies or the effects of unexpected costs, liabilities or delays, and (iii) expectations for other economic, business, and/or competitive factors. Such forward-looking information reflects current beliefs of management and the boards of directors of Tim Hortons and Burger King Worldwide and is based on information currently available to management and the boards of directors of Tim Hortons and Burger King Worldwide. Other unknown or unpredictable factors could also have material adverse effects on future results, performance or achievements of the combined company. Forward-looking information involves significant risks and uncertainties, should not be read as a guarantee of future performance or results, and will not necessarily be an accurate indication of whether or not or the times at which, or by which, such performance or results will be achieved, and readers are cautioned not to place undue reliance on such forward-looking statements.

The forward-looking statements contained in this joint information statement/circular are subject to inherent risks and uncertainties and are based on numerous assumptions which may prove incorrect and which could cause actual results or events to differ materially from the forward-looking statements. Although these forward-looking statements are based upon what management and the boards of directors of each of Burger King Worldwide and Tim Hortons believe are reasonable assumptions, neither Burger King Worldwide nor Tim Hortons can assure investors that actual results will be consistent with this forward-looking information. Such assumptions include, but are not limited to, the assumptions set forth in this joint information statement/circular, as well as (a) that the transactions will be completed in accordance with the terms and conditions of the arrangement agreement and other transaction documents and on the timelines contemplated by the parties thereto, (b) that court, shareholder, stock exchange and other regulatory approvals will be obtained on the basis and timelines anticipated by the parties, (c) that the securities of Holdings and Partnership will be approved for listing on the NYSE and/or the TSX, as applicable (d) that the other conditions to the closing of the transactions will be satisfied, (e) that the combined company will successfully realize the operational and financial benefits described, including the realization of significant synergies, acceleration of international growth and generation of attractive cash flow, and (f) that the board of directors and management of the combined company will include the elements described under “*Post-Transactions Organizational Structure – Corporate Governance and Management of Holdings*”, including as a result of the continued willingness of the relevant individuals to serve in the roles and positions in question.

These forward-looking statements may be affected by risks and uncertainties in the business of Burger King Worldwide and Tim Hortons and market conditions, including that the assumptions upon which the forward-looking statements in this joint information statement/circular and the documents incorporated by reference herein are based may be incorrect in whole or in part. These forward-looking statements are qualified in their entirety by cautionary statements and risk factor disclosure contained in this joint information statement/circular under the sections captioned “*Risk Factors*” as well as in filings made by Burger King Worldwide and Tim Hortons with the SEC, including Burger King Worldwide’s annual report on Form 10-K for the year ended December 31, 2013 and Tim Hortons annual report on Form 10-K for the year ended December 29, 2013. Both Burger King Worldwide and Tim Hortons wish to caution readers that certain important factors may have affected and could in the future affect their actual results and could cause their actual results for subsequent

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periods to differ materially from those expressed in or implied by any forward-looking statement made by or on behalf of Burger King Worldwide or Tim Hortons, including that the transactions may not be consummated on the timelines anticipated by Burger King Worldwide and Tim Hortons or at all. The forward-looking information is made as of the date hereof and, except as required by law, neither Burger King Worldwide nor Tim Hortons undertakes any obligation to update forward-looking statements to reflect events or circumstances after the date hereof.

THE COMPANIES

Burger King Worldwide Parties

Burger King Worldwide and Tim Hortons have agreed to a transaction under the terms of the Arrangement Agreement and Plan of Merger dated August 26, 2014 by and among Tim Hortons, Burger King Worldwide, 9060669 Canada Inc., a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), a limited partnership organized under the laws of Ontario whose partnership interests are held either directly or indirectly by Holdings, Blue Merger Sub, Inc., a corporation incorporated under the laws of Delaware and a wholly owned subsidiary of Partnership, and 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly owned subsidiary of Partnership.

To effect the transactions, Amalgamation Sub will acquire Tim Hortons pursuant to a plan of arrangement under Canadian law, which will result in Tim Hortons becoming an indirect subsidiary of both Holdings and Partnership. Merger Sub will then merge with and into Burger King Worldwide, with Burger King Worldwide as the surviving corporation in the merger, which will result in Burger King Worldwide becoming an indirect subsidiary of both Holdings and Partnership. Holdings, which will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons, will be the general partner of Partnership and will own a majority interest in Partnership (based on vote and value) as described below, with the balance of the partnership units of Partnership initially being held by the holders of Burger King Worldwide common stock prior to the effective time of the merger.

9060669 Canada Inc.

Holdings was initially formed as an unlimited liability company organized under the laws of British Columbia on August 25, 2014 and continued as a corporation under the laws of Canada on October 23, 2014 for the purpose of indirectly holding Tim Hortons and Burger King Worldwide following completion of the transactions. To date, Holdings has not conducted any activities other than those incident to its formation, the execution of the arrangement agreement, the entering into of arrangements in respect of Berkshire's equity financing, and the taking of certain steps in connection with the transactions, including the preparation of applicable filings under the U.S. securities laws and regulatory filings made in connection with the transactions.

Holdings, which will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons, will be the general partner of Partnership and will own a majority interest in Partnership (based on vote and value) as described below, with the balance of the partnership units of Partnership initially being held by the holders of Burger King Worldwide common stock prior to the effective time of the merger.

Following the consummation of the transactions, Burger King Worldwide and Tim Hortons will be indirect subsidiaries of Holdings and direct or indirect wholly owned subsidiaries of Partnership. Upon consummation of the transactions, the former stockholders and equity award holders of Burger King Worldwide are expected to own approximately 76% of the outstanding common equity of Holdings on a fully-diluted and fully exchanged basis, and the former shareholders of Tim Hortons and holders of Tim Hortons stock options, restricted stock units and performance stock units are expected to own approximately 22% of the outstanding common shares of Holdings on a fully-diluted and fully exchanged basis.

It is a mutual condition of the arrangement that as of the effective time of the transactions the Holdings common shares will be conditionally approved for listing on each of the NYSE and the TSX. Holdings' principal executive offices are located at 1600-925 West Georgia Street, Vancouver, British Columbia, Canada V6C 3L2.

New Red Canada Limited Partnership

Partnership is a limited partnership organized under the laws of Ontario whose partnership interests are held either directly or indirectly by Holdings, formed for the purpose of indirectly holding Tim Hortons and Burger

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King Worldwide following completion of the transactions. Partnership was formed on August 25, 2014 as a general partnership and, in accordance with the arrangement agreement, Partnership was registered on October 27, 2014 as a limited partnership in accordance with the laws of the Province of Ontario generally, and the Ontario Limited Partnerships Act specifically. To date, Partnership has not conducted any activities other than those incident to its formation, the execution of the arrangement agreement and the taking of certain steps in connection thereto, including the preparation of applicable filings under the U.S. securities laws and regulatory filings made in connection with the transactions.

Following the consummation of the transactions, Burger King Worldwide and Tim Hortons will be direct or indirect wholly owned subsidiaries of Partnership. Holdings will be the initial general partner of Partnership.

It is a mutual condition of the arrangement that as of the effective time of the transactions the Partnership exchangeable units will be conditionally approved for listing on the TSX. Partnership's principal executive offices are located at 155 Wellington Street West, Toronto, Ontario, Canada M5V 3J7.

8997900 Canada Inc.

Amalgamation Sub is a corporation organized under the laws of Canada and a wholly owned subsidiary of Partnership, formed on August 25, 2014. To date, Amalgamation Sub has not conducted any activities other than those incident to its formation, the execution of the arrangement agreement and the preparation of applicable filings under the U.S. securities laws and regulatory filings made in connection with the transactions.

Amalgamation Sub's principal executive offices are located at 1600-925 West Georgia Street, Vancouver, British Columbia, Canada V6C 3L2.

Blue Merger Sub, Inc.

Merger Sub is a corporation incorporated under the laws of Delaware and a wholly owned subsidiary of Partnership, formed on August 25, 2014. To date, Merger Sub has not conducted any activities other than those incident to its formation, the execution of the arrangement agreement and the preparation of applicable filings under the U.S. securities laws and regulatory filings made in connection with the transactions.

Merger Sub's principal executive offices are located at c/o Burger King Worldwide, Inc., 5505 Blue Lagoon Drive, Miami, FL 33126.

Burger King Worldwide

Burger King Worldwide, Inc. is a Delaware corporation formed on April 2, 2012. Burger King Worldwide common stock is traded on the NYSE under the symbol BKW. Burger King Worldwide's principal executive offices are located at 5505 Blue Lagoon Drive, Miami, FL 33126, and its telephone number is (305) 378-3000.

Burger King Worldwide is the indirect parent of Burger King Corporation, a Florida corporation that franchises and operates fast food hamburger restaurants, principally under the *Burger King*® brand. Burger King Worldwide is the world's second largest fast food hamburger restaurant, or FFHR, chain as measured by the total number of restaurants. As of June 30, 2014, Burger King Worldwide owned or franchised a total of 13,808 restaurants in 98 countries and U.S. territories worldwide, of which approximately 100% were franchised. Burger King Worldwide's restaurants are limited service restaurants that feature flame-grilled hamburgers, chicken and other specialty sandwiches, French fries, soft drinks and other affordably-priced food items. Burger King Worldwide believes its restaurants appeal to a broad spectrum of consumers, with multiple day parts and product platforms appealing to different customer groups. During Burger King Worldwide's nearly 60 years of operating history, Burger King Worldwide has developed a scalable and cost-efficient quick service hamburger restaurant model that offers guests fast and delicious food.

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Burger King Worldwide generates revenue from three sources: (1) franchise revenues, consisting primarily of royalties based on a percentage of sales reported by franchise restaurants and initial and renewal fees paid by franchisees, (2) property income from properties that we lease or sublease to franchisees, and (3) retail sales at Burger King Worldwide restaurants.

Burger King Worldwide believes that it can deliver value to its shareholders and enhance the *Burger King*® brand by focusing its efforts on the stewardship of its brand. During 2013, Burger King Worldwide completed its global refranchising initiative to sell its Burger King Worldwide restaurants to franchisees, and Burger King Worldwide believes it is one of the few pure franchise and real estate companies in its QSR peer group. Burger King Worldwide believes that its fully franchised business model will permit it to focus on narrowing the average restaurant sales gap with its peers, through menu innovation, franchisee operational support and brand development while yielding additional benefits, such as accelerating international expansion, helping to drive restaurant remodeling, maximizing capital efficiency and increasing its profitability and cash flow.

Additional information regarding Burger King Worldwide and its subsidiaries is included in documents incorporated by reference into this document. See “*Where you can find more information*”.

Tim Hortons

Tim Hortons Inc. is a Canadian corporation. Tim Hortons common shares trade on the TSX under the symbol THI, and on the NYSE also under the symbol THI. Tim Hortons principal executive offices are located at 874 Sinclair Road, Oakville, Ontario, Canada L6K 2Y1 and its telephone number is (905) 845-6511.

Tim Hortons Inc., a Canadian corporation headquartered in Oakville, Ontario, is one of the largest publicly-traded QSR chains in North America based on market capitalization and the largest in Canada based on systemwide sales and number of locations. Tim Hortons restaurants appeal to a broad range of consumer tastes, with a menu that includes Tim Hortons premium blend coffee, espresso-based hot and cold specialty drinks (including lattes, cappuccinos and espresso shots), iced cappuccinos, specialty and steeped teas, cold beverages, fruit smoothies, home-style soups, chili, grilled panini and classic sandwiches, wraps, yogurt and berries, oatmeal, breakfast sandwiches and wraps, and fresh baked goods, including donuts, Timbits®, bagels, muffins, cookies, croissants, Danishes, pastries and more.

The first Tim Hortons® restaurant was opened in 1964 by Tim Horton, a National Hockey League All-Star defenseman. In 1967, Tim Horton and Ron Joyce, then the operator of three Tim Hortons restaurants, became partners and together they opened 37 restaurants over the next seven years until Mr. Horton’s death in 1974. Mr. Joyce became the sole owner in 1975. In the early 1990s, Tim Hortons and Wendy’s®, now owned by The Wendy’s Company, which we refer to as “Wendy’s”, entered into a partnership to develop real estate and combination restaurant sites with Wendy’s and Tim Hortons restaurants under the same roof. In 1995, Wendy’s purchased Mr. Joyce’s interest in the Tim Hortons system and incorporated the company known as Tim Hortons Inc., a Delaware corporation, which we refer to as THI USA, as a wholly owned subsidiary. In 2006, Tim Hortons became a standalone public company pursuant to an initial public offering and a subsequent spin-off of Tim Hortons common shares to Wendy’s stockholders through a stock dividend in September 2006.

In September 2009, THI USA was reorganized such that Tim Hortons Inc., a corporation incorporated under the CBCA, became the publicly held parent company of the group of companies previously controlled by THI USA, and each outstanding share of THI USA’s common stock automatically converted into one common share of the Canadian public company.

Tim Hortons primary business model is to identify potential restaurant locations, develop suitable sites, and make these new restaurants available to approved restaurant owners. Selectively, where it may complement Tim Hortons growth strategies, Tim Hortons will also seek to enter into strategic relationships with restaurant owners that will complement Tim Hortons development with their own capital deployment, site selection, and development. These relationships permit the development of Tim Hortons restaurants without Tim Hortons capital being deployed, as the restaurant owner controls the real estate.

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As at the date of this document, restaurant owners operated substantially all of Tim Hortons systemwide restaurants. Tim Hortons directly owns and operates (without restaurant owners) only a small number of company restaurants in Canada and the United States. Tim Hortons also has significant supply chain operations, including procurement, warehousing and distribution, to supply paper and dry goods to a substantial majority of Tim Hortons Canadian restaurants, and procure and supply frozen baked goods and some refrigerated products to most of Tim Hortons Ontario and Quebec restaurants. In the United States, Tim Hortons supplies similar products to system restaurants through third-party distributors. Tim Hortons operations also include coffee roasting plants in Rochester, New York, and Hamilton, Ontario, and a fondant and fills manufacturing facility in Oakville, Ontario. These vertically integrated manufacturing, warehouse, and distribution capabilities benefit Tim Hortons restaurant owners and are important elements of Tim Hortons business model which allow Tim Hortons to improve product quality and consistency; protect proprietary interests; facilitate the expansion of Tim Hortons product offerings; control availability and timely delivery of products; provide economies of scale and labor efficiencies; and generate additional sources of income and financial returns.

Additional information regarding Tim Hortons and its subsidiaries is included in documents incorporated by reference into this document. See *“Where You Can Find More Information”* .

FINANCIAL INFORMATION**Selected Historical Consolidated Financial Data of Burger King Worldwide**

On October 19, 2010 (the “Acquisition Date”), Burger King Holdings was acquired by 3G Capital in a transaction accounted for as a business combination (the “3G Acquisition”). Unless the context otherwise requires, all references to Burger King Worldwide and “Successor” refer to Burger King Worldwide and its subsidiaries, collectively, for all periods subsequent to the 3G Acquisition. All references in this section to “Predecessor” refer to Burger King Holdings, Inc. (“Holdings”) and its subsidiaries for all periods prior to the 3G Acquisition, which operated under a different ownership and capital structure. In addition, the 3G Acquisition was accounted for under the acquisition method of accounting, which resulted in purchase price allocations that affect the comparability of results of operations for periods before and after the 3G Acquisition.

The following tables present Burger King Worldwide’s selected historical consolidated financial and other data for Burger King Worldwide and its predecessor as of the dates and for each of the periods indicated.

All references to 2013, 2012 and 2011 in this section are to the years ended December 31, 2013, December 31, 2012 and December 31, 2011, respectively. The selected historical financial data as of December 31, 2013, December 31, 2012 and for 2013, 2012 and 2011 have been derived from Burger King Worldwide’s audited consolidated financial statements and notes thereto incorporated herein by reference. All references to the Transition Period are to December 31, 2010 and to the six months ended December 31, 2010, derived by adding the results of operations of the Burger King Worldwide Predecessor from July 1, 2010 through October 18, 2010 to the results of operations of Burger King Worldwide from October 19, 2010 through December 31, 2010. The selected historical financial data for the Transition Period have been derived from audited consolidated financial statements and the notes thereto not incorporated herein by reference. All references to Fiscal 2010 and 2009 refer to the Burger King Worldwide Predecessor’s fiscal years ended June 30, 2010 and June 30, 2009. The selected historical financial data as of December 31, 2011, June 30, 2010 and June 30, 2009 and for Fiscal 2010 and 2009 have been derived from audited consolidated financial statements and the notes thereto not incorporated herein by reference. All references to June 30, 2014 and the six months ended June 30, 2014 and 2013 have been derived from unaudited condensed consolidated Financial Statements and the notes thereto which are incorporated herein by reference.

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The selected historical consolidated financial and other operating data included below and elsewhere in this report are not necessarily indicative of future results. The information presented below should be read in conjunction with “*Management’s Discussion and Analysis of Financial Condition and Results of Operations of Burger King Worldwide*” included in this joint information statement/circular. This information should also be read in conjunction with the unaudited pro forma consolidated combined financial statements.

	Successor					Predecessor			
						Transition Period			
						October 19, 2010 to December 31, 2010	July 1, 2010 to October 18, 2010	Fiscal	
	Six Months Ended June 30, 2014	2013	2013	2012	2011	2010	2010	2010	2009
(In millions, except per share data)									
Statement of Operations Data:									
Revenues:									
Company restaurant revenues	\$ 36.8	\$173.8	\$ 222.70	\$1,169.00	\$1,638.70	\$ 331.70	\$ 514.50	\$1,839.30	\$1,880.50
Franchise and property revenues	465.3	432.2	923.60	801.90	701.20	135.10	203.20	662.90	656.90
Total revenues	502.1	606.0	1,146.30	1,970.90	2,339.90	466.80	717.70	2,502.20	2,537.40
Income (loss) from operations (1)	282.8	235.6	522.20	417.70	362.50	(85.80)	101.50	332.90	339.40
Net income (loss) (1)	\$135.5	\$ 98.7	\$ 233.70	\$ 117.70	\$ 88.10	\$ (115.70)	\$ 71.10	\$ 186.80	\$ 200.10
Earnings (loss) per common share:									
Basic	\$ 0.38	\$ 0.28	\$ 0.67	\$ 0.34	\$ 0.25	\$ (0.33)	\$ 0.52	\$ 1.38	\$ 1.48
Diluted	\$ 0.38	\$ 0.28	\$ 0.65	\$ 0.33	\$ 0.25	\$ (0.33)	\$ 0.52	\$ 1.36	\$ 1.46
Dividends per common share	\$ 0.14	\$ 0.11	\$ 0.24	\$ 0.04	\$ 1.13	\$ —	\$ 0.06	\$ 0.25	\$ 0.25
Other Financial Data:									
Net cash provided by (used for) operating activities	\$213.1	\$130.2	\$ 325.20	\$ 224.40	\$ 406.20	\$ (126.50)	\$ 121.30	\$ 310.40	\$ 310.80
Net cash provided by (used for) investing activities	(6.6)	36.2	43.00	33.60	(41.40)	(3,344.60)	(4.80)	(134.90)	(242.00)
Net cash provided by (used for) financing activities	(87.6)	(57.9)	(132.7)	(174.6)	(108.0)	3,396.4	(29.5)	(96.9)	(105.5)
Capital expenditures	7.2	8.6	25.5	70.2	82.1	28.4	18.2	150.3	204.0

	Successor					Predecessor			
						June 30,			
	As of June 30,		December 31,						
	2014	2013	2013	2012	2011	2010	2010	2010	2009
(In millions)									
Balance Sheet Data:									
Cash and cash Equivalents	\$ 904.7	\$ 654.1	\$ 786.9	\$ 546.7	\$ 459.0	\$ 207.0	\$ 187.6	\$ 121.7	
Total assets (2)	5,754.1	5,663.5	5,828.5	5,564.0	5,608.4	5,686.2	2,747.2	2,707.1	
Total debt and capital lease obligations (2)	3,024.1	3,044.6	3,037.0	3,049.3	3,139.2	2,792.1	826.3	888.9	
Total liabilities (2)	4,216.6	4,347.9	4,312.3	4,389.0	4,559.2	4,239.0	1,618.8	1,732.3	
Total stockholders’ equity (2)	1,537.5	1,315.6	1,516.2	1,175.0	1,049.2	1,447.2	1,128.4	974.8	

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	Successor			Transition Period Six Months Ended December 31, 2010	Predecessor	
	2013	2012	2011		Fiscal	
				(In millions)	2010	2009
Other Operating Data:						
System-wide sales growth (3)(4)	4.2%	5.7%	1.7%	2.2%	2.1%	4.2%
Comparable sales growth (3)(4)(5)	0.5%	3.2%	(0.5)%	(2.7)%	(2.3)%	1.2%
Franchise Sales (in millions) (4)	\$16,078.3	\$14,672.5	\$13,653.4	\$ 6,721.2	\$13,055.3	\$12,788.7
Company Restaurant Margin Percentage (6)	12.3%	11.3%	11.7%	12.9%	12.2%	12.6%
Franchise Restaurants	13,615	12,579	11,217	10,907	10,787	10,656
Company Restaurants	52	418	1,295	1,344	1,387	1,422

- (1) Amount includes \$26.2 million of global portfolio realignment project costs for 2013. Amount includes \$30.2 million of global portfolio realignment project costs and \$27.0 million of business combination agreement expenses for 2012. Amount includes \$3.7 million of 2010 transactions costs, \$46.5 million of global restructuring and related professional fees, \$10.6 million of field optimization project costs and \$7.6 million of global portfolio realignment project costs for 2011. Amount includes \$94.9 million of 2010 transactions costs and \$67.2 million of global restructuring and related professional fees for October 19, 2010 to December 31, 2010.
- (2) Amounts in the successor periods reflect the application of acquisition accounting as a result of the 3G Acquisition.
- (3) Comparable sales growth and system-wide sales growth are analyzed on a constant currency basis, which means they are calculated by translating prior year results at current year average exchange rates, to remove the effects of currency fluctuations from these trend analyses. We believe these constant currency measures provide a more meaningful analysis of our business by identifying the underlying business trends, without distortion from the effect of foreign currency movements.
- (4) Unless otherwise stated, comparable sales growth and system-wide sales growth are presented on a system-wide basis, which means they include Company restaurants and franchise restaurants. Franchise sales represent sales at all franchise restaurants and are revenues to our franchisees. We do not record franchise sales as revenues; however, our royalty revenues are calculated based on a percentage of franchise sales. See “ *Management’s Discussion and Analysis of Financial Condition and Results of Operations—Key Business Metrics* ” in Part II, Item 7 of Burger King Worldwide’s Annual Report on Form 10-K incorporated herein by reference.
- (5) Comparable sales growth refers to the change in restaurant sales in one period from the same prior year period for restaurants that have been opened for thirteen months or longer.
- (6) Company restaurant margin is derived by subtracting Company restaurant expenses from Company restaurant revenues, which we analyze as a percentage of Company restaurant revenues, a metric we refer to as Company Restaurant Margin Percentage.

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Selected Historical Consolidated Financial Data of Tim Hortons

The following table sets forth selected consolidated financial information for Tim Hortons. The selected historical consolidated financial data has been derived from the Tim Hortons audited consolidated financial statements for the years ended December 29, 2013, December 30, 2012, which are incorporated herein by reference, and for the years ended January 1, 2012, January 2, 2011 and January 3, 2010. The selected condensed consolidated statement of operations data for the six months ended June 30, 2013 and June 29, 2014, and the selected condensed consolidated balance sheet data as of June 29, 2014 have been derived from the Tim Hortons unaudited condensed consolidated financial statements incorporated herein by reference. The following information should be read together with Tim Hortons Annual Report on Form 10-K for the year ended December 29, 2013, Tim Hortons Quarterly Report on Form 10-Q for the quarter ended June 29, 2014 and other information that Tim Hortons has filed with the SEC and incorporated herein by reference. See “Where You Can Find More Information”.

	Fiscal Years (1)(2)		Year-to-date period ended			As of and for the Second Quarter Ended	
	2009	2010	2011	2012	2013	June 30, 2013	June 29, 2014
(in thousands of Canadian dollars, except per share data, number of restaurants, and otherwise where noted)							
Consolidated Statements of Operations Data							
Revenues							
Sales	\$1,704,065	\$1,755,244	\$2,012,170	\$2,225,659	\$2,265,884	\$1,092,449	\$1,154,859
Franchise revenues:							
Rents and royalties (3)	644,755	687,039	733,217	780,992	821,221	396,743	424,462
Franchise fees	90,033	94,212	107,579	113,853	168,428	42,484	61,428
	734,788	781,251	840,796	894,845	989,649	439,227	485,890
Total revenues	2,438,853	2,536,495	2,852,966	3,120,504	3,255,533	1,531,676	1,640,749
Corporate reorganization expenses	—	—	—	18,874	11,761	10,079	—
De-branding costs (4)	—	—	—	—	19,016	—	—
Asset impairment and closure costs, net (5)	—	28,298	372	(372)	2,889	—	—
Other costs and expenses	1,913,251	1,997,034	2,283,119	2,507,477	2,600,772	1,217,101	1,303,095
Total costs and expenses	1,913,251	2,025,332	2,283,491	2,525,979	2,634,438	1,227,180	1,303,095
Gain on sale of interest in Maidstone Bakeries (6)	—	361,075	—	—	—	—	—
Operating income	525,602	872,238	569,475	594,525	621,095	304,496	337,654
Interest expense, net	19,184	24,180	25,873	30,413	35,466	15,866	33,209
Income before income taxes	506,418	848,058	543,602	564,112	585,629	288,630	304,445
Income taxes	186,606	200,940	157,854	156,346	156,980	77,145	86,658
Net income	\$ 319,812	\$ 647,118	\$ 385,748	\$ 407,766	\$ 428,649	\$ 211,485	\$ 217,787
Net income attributable to non controlling interests	\$ 23,445	\$ 23,159	\$ 2,936	\$ 4,881	\$ 4,280	\$ 1,578	\$ 3,128
Net income attributable to Tim Hortons Inc.	\$ 296,367	\$ 623,959	\$ 382,812	\$ 402,885	\$ 424,369	\$ 209,907	\$ 214,659
Diluted earnings per common share attributable to Tim Hortons Inc.	\$ 1.64	\$ 3.58	\$ 2.35	\$ 2.59	\$ 2.82	\$ 1.37	\$ 1.57
Weighted average number of common shares outstanding—diluted	180,609	174,215	162,597	155,676	150,622	153,133	136,477
Dividends per common share	\$ 0.40	\$ 0.52	\$ 0.68	\$ 0.84	\$ 1.04	\$ 0.52	\$ 0.64
Consolidated Balance Sheets Data							
Cash and cash equivalents	\$ 121,653	\$ 574,354	\$ 126,497	\$ 120,139	\$ 50,414	\$ 86,603	\$ 25,087
Restricted cash and cash equivalents and Restricted investments	\$ 80,815	\$ 105,080	\$ 130,613	\$ 150,574	\$ 155,006	\$ 104,780	\$ 85,926
Total assets	\$2,094,291	\$2,481,516	\$2,203,950	\$2,284,179	\$2,433,823	\$2,264,886	\$2,356,753
Total debt and capital leases (7)	\$ 411,694	\$ 437,348	\$ 457,290	\$ 531,484	\$ 981,851	\$ 544,503	\$ 1,463,419
Total liabilities	\$ 838,605	\$1,039,074	\$1,049,517	\$1,094,088	\$1,672,304	\$1,029,025	\$1,972,351
Total equity	\$1,255,686	\$1,442,442	\$1,154,433	\$1,190,091	\$ 761,519	\$1,235,861	\$ 384,402

(1) Fiscal years include 52 weeks, except for fiscal 2009, which included 53 weeks.

(2) Tim Hortons selected historical consolidated financial data has been derived from its audited financial statements for the years ended December 29, 2013, December 30, 2012, January 1, 2012, January 2, 2011 and January 3, 2010.

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- (3) Rents and royalties revenues includes advertising levies primarily associated with the Canadian Advertising Fund's Expanded Menu Board Program. Franchised restaurant sales are reported to Tim Hortons by its restaurant owners and are not included in its Consolidated Financial Statements, other than Non-owned restaurants consolidated pursuant to applicable accounting rules. Franchised restaurant sales do, however, result in royalties and rental revenues, which are included in Tim Hortons franchise revenues, as well as distribution sales. The reported franchised restaurant sales for the last five years were:

	Fiscal Years (1)(2)					Year-to-date period ended	
	2009	2010	2011	2012	2013	June 30, 2013	June 29, 2014
	(in millions)						
Franchised restaurant sales:							
Canada (<i>Canadian dollars</i>)	\$4,881	\$5,182	\$5,564	\$5,907	\$6,152	\$ 2,979	\$ 3,134
U.S. (<i>U.S. dollars</i>)	\$ 410	\$ 439	\$ 473	\$ 532	\$ 587	\$ 283	\$ 312

- (4) In Canada, after evaluation of strategic considerations and the overall performance of the Cold Stone Creamery® business in Tim Hortons locations, Tim Hortons made the decision to remove the Cold Stone Creamery brand from Tim Hortons restaurants in Canada, and recognized a related charge in fiscal 2013 as a result of this initiative.
- (5) In fiscal 2010, Tim Hortons recognized an impairment in our Portland, Providence and Hartford markets, and closed 34 restaurants and 18 self-serve kiosks in our Hartford and Providence markets and two restaurants in Tim Hortons Portland market.
- (6) Tim Hortons sold its 50% joint-venture interest in Maidstone Bakeries in October 2010.
- (7) Long-term debt includes long-term debt associated with the Canadian Advertising Fund's Expanded Menu Board Program and capital leases, including their current portions.

Management's Discussion and Analysis of Financial Condition and Results of Operations of Burger King Worldwide

The Management's Discussion and Analysis of Financial Condition and Results of Operations of Burger King Worldwide is incorporated by reference to Burger King Worldwide's Annual Report on Form 10-K for the fiscal year ended December 31, 2013, filed with the SEC on February 21, 2014.

Management's Discussion and Analysis of Financial Condition and Results of Operations of Tim Hortons

The Management's Discussion and Analysis of Financial Condition and Results of Operations of Tim Hortons is incorporated by reference to Tim Hortons Annual Report on Form 10-K for the fiscal year ended December 29, 2013, filed with the SEC on February 25, 2014.

Selected Unaudited Pro Forma Financial Information

The following selected unaudited pro forma condensed consolidated financial information ("pro forma information") give effect to the acquisition of Tim Hortons. The selected pro forma information has been prepared using the acquisition method of accounting under U.S. GAAP, under which the assets and liabilities of Tim Hortons will be recorded by Burger King Worldwide at their respective fair values as of the date the acquisition is completed. The selected unaudited pro forma condensed consolidated balance sheet data as of June 30, 2014 gives effect to the transaction as if it had occurred on June 30, 2014. The selected unaudited pro forma condensed consolidated statements of operations for the six months ended June 30, 2014 and the year ended December 31, 2013 give effect to Holdings' results of operations as if the transaction had occurred on January 1, 2013.

The selected pro forma information have been derived from, and should be read in conjunction with, the more detailed unaudited pro forma condensed consolidated financial information ("pro forma statements") of the combined company appearing elsewhere in this joint information statement/circular and the accompanying notes to the pro forma statements. In addition, the pro forma statements were based on, and should be read in conjunction with, the historical consolidated financial statements and related notes of both Burger King Worldwide and Tim Hortons for the applicable periods, which have been incorporated by reference in this joint

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information statement/circular by reference. See “ *Unaudited Pro Forma Condensed Consolidated Financial Information* ” in this joint information statement/circular for additional information. The selected pro forma information is not necessarily indicative of what the combined company’s financial position or results of operations actually would have been had the acquisition been completed as of the dates indicated. In addition, the selected pro forma information do not purport to project the future financial position or operating results of the combined company. Also, as explained in more detail in the accompanying notes to the pro forma statements, the preliminary fair values of assets acquired and liabilities assumed reflected in the selected pro forma information are subject to adjustments and may vary significantly from the fair values that will be recorded upon completion of the acquisition.

Selected Unaudited Pro Forma Condensed Consolidated Statements of Operations

	Year Ended December 31, 2013 (in millions, except per share data)	Six Months Ended June 30, 2014 (in millions, except per share data)
Total revenues	\$ 4,307.6	\$ 1,998.3
Net earnings (loss) attributable to common shareholders	(376.9)	94.8
Earnings (loss) per common share—basic	(0.82)	0.21
Earnings (loss) per common share—diluted	(0.82)	0.20
Weighted average number of common shares outstanding—basic	458.2	459.5
Weighted average number of common shares outstanding—diluted	458.2	476.4

Selected Pro Forma Non-GAAP Financial Data

	Year Ended December 31, 2013 (in millions, except per share data)	Six Months Ended June 30, 2014 (in millions, except per share data)
EBITDA (1)	\$ 1,325.4	\$ 685.4
Adjusted EBITDA (1)	\$ 1,447.4	\$ 719.5
Adjusted Net Income attributable to common shareholders (2)	\$ 310.8	\$ 158.4
Adjusted diluted earnings per share (2)	\$ 0.68	\$ 0.33

Selected Unaudited Pro Forma Condensed Consolidated Balance Sheet Data

	As of June 30, 2014 (in millions)
Total assets	\$ 19,598.8
Total debt and capital lease obligations	9,252.7
Preferred shares	2,772.7
Total stockholder’s equity	4,836.6

- (1) Pro forma EBITDA is defined as pro forma net income before interest expense, net, income tax expense and depreciation and amortization. Pro forma adjusted EBITDA is defined as pro forma EBITDA excluding the impact of non-cash compensation expense, global portfolio realignment project costs, corporate reorganization expenses, de-branding costs, net impact of equity method investments and other operating expenses (income), net. Pro forma adjusted EBITDA is used by management to measure operating performance of the business, excluding specifically identified items that management believes do not directly reflect our core operations. Pro forma EBITDA and pro forma adjusted EBITDA are not calculated in accordance with the rules of Article 11 of Regulation S-X and may not be comparable to similarly titled

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measures of other companies. Management believes that the presentation of pro forma EBITDA and pro forma adjusted EBITDA and the ratios using pro forma EBITDA and pro forma adjusted EBITDA included in the joint information statement/circular are useful to investors, analysts and other external users of our consolidated financial statements because they are widely used by investors to measure operating performance without regard to items such as income taxes, net interest expense, depreciation and amortization, non-cash stock compensation expense and other infrequent or unusual items, which can vary substantially from company to company depending upon accounting methods and book value of assets, financing methods, capital structure and the method by which assets were acquired.

- (2) Pro forma adjusted net income is defined as pro forma net income excluding net income attributable to noncontrolling interest, income tax expense, franchise agreement amortization, amortization of deferred financing costs, share-based compensation and non-cash incentive compensation expense, global portfolio realignment project costs, corporate reorganization expenses, de-branding costs, equity method investment expense (income) and other operating expenses (income), net and including the adjusted income tax expense. Pro forma adjusted diluted earnings per share is calculated by dividing pro forma adjusted net income attributable to common shareholders by the number of pro forma diluted weighted average shares of the Company during the reporting period. Management has used pro forma adjusted net income and pro forma adjusted diluted earnings per share, referred to as EPS, to evaluate the potential core operating performance of the combined businesses and believes that the presentation of pro forma adjusted net income and pro forma adjusted diluted EPS included in the joint information statement/circular is useful to investors, analysts and other external users of our consolidated financial statements and the pro forma financial statements because these metrics are widely used by investors to measure operating performance without regard to items such as non-cash stock compensation expense, other infrequent or unusual items impacting financial results, and items that can vary substantially from company to company depending upon accounting methods and book value of assets, financing methods, capital structure and the method by which assets were acquired.

The following table is a reconciliation of our pro forma net income to pro forma EBITDA and pro forma adjusted EBITDA:

	Year Ended December 31, <u>2013</u>	Six Months Ended June 30, 2014 <u>(in millions)</u>
Pro forma EBITDA and pro forma adjusted EBITDA		
Pro forma net income	\$ 417.4	\$ 229.8
Net income attributable to noncontrolling interest	4.2	2.9
Pro forma interest expense, net	504.3	250.9
Pro forma income tax expense	185.3	102.4
Pro forma depreciation and amortization	232.0	109.5
Pro forma EBITDA including VIEs	1,343.2	695.5
Pro forma EBITDA attributable to VIEs (3)	17.8	10.1
Pro forma EBITDA	1,325.4	685.4
Adjustments:		
Non-cash compensation expense (4)	30.3	12.5
Global portfolio realignment project costs (5)	26.2	—
Corporate reorganization expenses (6)	11.4	—
De-branding costs (7)	18.5	—
Net impact of equity method investments (8)	12.4	9.9
Other operating expenses (income), net	23.2	11.7
Total adjustments	122.0	34.1
Pro forma adjusted EBITDA	1,447.4	719.5

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The following table is a reconciliation of our pro forma net income to pro forma adjusted net income and the calculation of pro forma diluted earnings per share:

	Year Ended December 31, 2013	Six Months Ended June 30, 2014
	(in millions, except per share data)	
Pro forma adjusted net income attributable to common shareholders		
Pro forma net income	\$ 417.4	\$ 229.8
Income tax expense	185.3	102.4
Income before income taxes	602.7	332.2
Adjustments:		
Amortization (9)	65.5	32.9
Non-cash compensation expense (4)	30.3	12.5
Global portfolio realignment project costs (5)	26.2	—
Corporate reorganization expenses (6)	11.4	—
De-branding costs (7)	18.5	—
Net impact of equity method investment (5)(8)	12.4	9.9
Other operating expenses (income), net	23.2	11.7
Total adjustments	187.5	67.0
Pro forma adjusted income before income taxes	790.2	399.2
Pro forma adjusted income tax expense (10)	209.4	105.8
Pro forma adjusted net income	580.8	293.4
Pro forma preferred shares dividends (11)	(270.0)	(135.0)
Pro forma adjusted net income attributable to common shareholders	\$ 310.8	\$ 158.4
Pro forma adjusted diluted earnings per share	\$ 0.68	\$ 0.33
Pro forma diluted weighted average shares outstanding (12)	458.2	476.4

- (3) Tim Hortons is the primary beneficiary of certain variable interest entities (“VIEs”) principally arising from certain arrangements in which an operator acquires the right to operate a restaurant, but Tim Hortons continues to own the restaurant’s assets and has the right to assume management upon a default of the operator. VIEs also include the results of the Tim Hortons Canadian Advertising Funds’ program to acquire LCD screens, media engines, drive-thru menu boards and ancillary equipment in Tim Hortons restaurants.
- (4) Represents the aggregate of (i) share-based compensation expense associated with employee stock options for the periods indicated and (ii) the portion of annual non-cash incentive compensation that eligible employees elected to receive, or are expected to elect to receive, as common equity in lieu of their 2013 and 2014 cash bonus, respectively.
- (5) Represents costs associated with the project to realign Burger King Worldwide global restaurant portfolio by refranchising Company-owned restaurants and establishing strategic partners and joint ventures to accelerate development. These costs primarily include severance related costs and fees for professional services. The project was completed in 2013.
- (6) Represents costs associated with the realignment of roles and responsibilities under Tim Hortons new organizational structure, which includes a Corporate Centre and Business Units. The project was completed in 2013.
- (7) After evaluation of strategic considerations and the overall performance of the Cold Stone Creamery business in Tim Hortons locations, Tim Hortons made the decision to remove the Cold Stone Creamery brand from Tim Hortons restaurants in Canada, and, subject to satisfactory conclusion of negotiations, intends to enter into a mutual termination agreement with Kahala Franchise Corp. with respect to the Cold Stone Creamery brand in Canada. As a result of this decision, the Company recognized charges in fiscal 2013, consisting of payments to restaurant owners to restore their locations, accelerated depreciation and amortization of related long-lived assets, and other related expenses.

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- (8) Represents the net impact of (i) exclusion of our proportionate share of the net (income) loss recognized by our equity method investments, \$(2.0) million and \$3.2 million for the year ended December 31, 2013 and the six months ended June 30, 2014, respectively, and (ii) inclusion of cash distributions received from our equity method investments of \$14.4 million and \$6.7 million for the year ended December 31, 2013 and the six months ended June 30, 2014, respectively.
- (9) Represents amortization of franchise agreement of \$30.4 million and \$15.2 million and amortization of deferred financing costs of \$35.1 million and \$17.7 million for the year ended December 31, 2013 and six months ended June 30, 2014, respectively.
- (10) The pro forma adjusted income tax expense reflects the tax effect of the pro forma adjusted income before income taxes using a statutory tax rate of approximately 26.5%.
- (11) Reflects preferred share dividends related to the \$3,000.0 million investment from Berkshire in exchange for the preferred shares and the warrant to purchase 8.3 million common shares equal to 1.75% of the issued and outstanding common shares of Holdings on a fully exchanged and fully diluted basis. Amount excludes adjustment to the initial carrying value of the preferred shares to record them at the redemption value.
- (12) See “Unaudited Pro Forma Condensed Consolidated Financial Information” for a calculation of pro forma diluted weighted average shares outstanding for the year ended December 31, 2013 and the six months ended June 30, 2014.

Comparative Per Share Data

The following tables set forth certain historical, pro forma and pro forma equivalent per share financial information for shares of Burger King Worldwide common stock and Tim Hortons common shares. The following information should be read in conjunction with the audited financial statements of Burger King Worldwide and Tim Hortons, which are included and incorporated by reference in this joint proxy statement/prospectus, and the financial information contained in the “*Unaudited Pro Forma Condensed Consolidated Financial Statements*”, “*Selected Historical Consolidated Financial Data of Burger King Worldwide*” and “*Selected Historical Consolidated Financial Data of Tim Hortons*” sections of this joint proxy statement/prospectus. The unaudited pro forma information below is presented for informational purposes only and is not necessarily indicative of the operating results or financial position that would have occurred if the transactions had been completed as of the periods presented, nor is it necessarily indicative of the future operating results or financial position of the combined company. In addition, the unaudited pro forma information does not purport to indicate balance sheet data or results of operations data as of any future date or for any future period.

	As of and for the six months ended June 30, 2014 (1)	As of and for the year ended December 31, 2013 (2)
BKW Historical Data Per Common Share (\$)		
Basic earnings per common share from continuing operations	\$ 0.38	\$ 0.67
Diluted earnings per common share from continuing operations	\$ 0.38	\$ 0.65
Dividends per common share	\$ 0.14	\$ 0.24
Book value per basic common share	\$ 4.36	\$ 4.32
Book value per diluted common share	\$ 4.28	\$ 4.24
THI Historical Data Per Common Share (C\$)		
Basic earnings per common share from continuing operations	\$ 1.58	\$ 2.83
Diluted earnings per common share attributable to THI	\$ 1.57	\$ 2.82
Dividends per common share	\$ 0.64	\$ 1.04
Book value per basic common share	\$ 2.83	\$ 5.07
Book value per diluted common share	\$ 2.82	\$ 5.06
Condensed Consolidated Pro Forma Data Per Common Share		
Basic earnings (loss) per common share from continuing operations	\$ 0.21	\$ (0.82)
Diluted earnings (loss) per common share from continuing operations	\$ 0.20	\$ (0.82)

(1) THI information provided as of June 29, 2014

(2) THI information provided as of December 29, 2013

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Book Value per Common Share Calculation

	BKW		THI	
	Basic	Diluted	Basic	Diluted
YTD June 30, 2014				
BV / Equity	\$1,537.50	\$1,537.50	\$ 384	\$ 384
Common Shares	352.3	359.3	136	136
BV Per Common Share	\$ 4.36	\$ 4.28	\$ 2.82	\$ 2.82
YE December 31, 2013				
BV / Equity	1,516.20	1,516.20	\$ 762	\$ 762
Common Shares	351	357.8	150	151
BV Per Common Share	\$ 4.32	\$ 4.24	\$ 5.08	\$ 5.05

Comparative Per Share Market Price Data and Dividend Information

Shares of Burger King Worldwide common stock are listed and traded on the NYSE under the symbol BKW. Tim Hortons common shares are listed and traded on the TSX and the NYSE under the symbol THI. The following table sets forth, for the calendar quarters indicated, the high and low sales prices per share of shares of Burger King Worldwide common stock, as reported on NYSE, and of Tim Hortons common shares, as reported on the NYSE and the TSX.

	NYSE Burger King Worldwide ⁽¹⁾		NYSE Tim Hortons ⁽¹⁾		TSX Tim Hortons ⁽¹⁾	
	High (U.S. \$)	Low (U.S. \$)	High (U.S. \$)	Low (U.S. \$)	High (C \$)	Low (C \$)
<i>For the quarterly period:</i>						
2012 ⁽¹⁾						
First Quarter	N/A	N/A	\$ 55.31	\$ 46.55	\$ 54.92	\$ 47.36
Second Quarter ⁽²⁾	\$ 15.85	\$ 14.97	\$ 58.47	\$ 50.43	\$ 57.91	\$ 56.90
Third Quarter	\$ 15.88	\$ 13.03	\$ 55.02	\$ 49.59	\$ 55.73	\$ 49.62
Fourth Quarter	\$ 17.74	\$ 14.10	\$ 53.91	\$ 45.41	\$ 52.60	\$ 45.11
2013 ⁽¹⁾						
First Quarter	\$ 19.95	\$ 16.26	\$ 54.62	\$ 47.76	\$ 55.50	\$ 47.83
Second Quarter	\$ 21.00	\$ 17.90	\$ 58.01	\$ 51.86	\$ 58.85	\$ 53.25
Third Quarter	\$ 20.42	\$ 18.97	\$ 59.72	\$ 53.74	\$ 61.52	\$ 56.06
Fourth Quarter	\$ 22.86	\$ 18.91	\$ 61.46	\$ 56.77	\$ 64.18	\$ 58.67
2014 ⁽³⁾						
First Quarter	\$ 27.52	\$ 22.03	\$ 58.47	\$ 50.67	\$ 62.80	\$ 56.11
Second Quarter	\$ 27.18	\$ 24.92	\$ 56.67	\$ 53.76	\$ 62.38	\$ 57.76
Third Quarter	\$ 33.82	\$ 26.05	\$ 82.16	\$ 54.23	\$ 92.73	\$ 57.89
Fourth Quarter (through October 30, 2014)	\$ 32.13	\$ 28.48	\$ 80.65	\$ 75.75	\$ 90.20	\$ 85.75

(1) 2012 and 2013 information sourced from each company's respective 2013 10K.

(2) Represents period from June 20, 2012 through the end of the quarter, as this was the date Burger King Worldwide common stock was first listed.

(3) 2014 NYSE information sourced from Yahoo! Finance and TSX information pulled from TMXMoney.com. Burger King Worldwide high and low sales prices per share information is based off of adjusted close amounts. Tim Hortons information is based on any point in time (unadjusted). Additionally, high and low sales prices per share information assumes strict calendar-based quarters for both Burger King Worldwide and Tim Hortons.

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The following table sets forth, for the months indicated, the high and low sales prices per share of shares of Burger King Worldwide common stock, as reported on the NYSE, and of Tim Hortons common shares, as reported on the NYSE and the TSX. In addition, the table also sets forth the average daily trading volume of the relevant security on such exchange.

	NYSE Burger King Worldwide ⁽¹⁾			NYSE Tim Hortons ⁽¹⁾			TSX Tim Hortons ⁽¹⁾		
	High (U.S. \$)	Low (U.S. \$)	Average Volume	High (U.S. \$)	Low (U.S. \$)	Average Volume	High (C\$)	Low (C\$)	Average Volume
<i>For the monthly period ⁽²⁾ :</i>									
2013									
July	20.09	18.97	529,014	58.19	53.74	325,391	59.79	56.03	651,430
August	20.30	19.32	265,723	59.72	54.64	341,882	61.52	57.39	733,076
September	20.42	19.22	662,745	58.34	54.74	246,340	60.18	57.54	637,900
October	21.11	18.91	564,978	61.46	56.77	165,848	64.18	58.67	604,907
November	21.30	20.27	1,325,825	60.51	57.93	256,775	63.48	61.11	618,502
December	22.86	20.79	658,729	59.48	57.06	224,105	63.25	60.63	712,595
2014									
January	24.13	22.03	781,114	58.47	51.19	271,424	62.05	57.20	712,893
February	26.45	24.01	857,963	54.75	50.67	412,437	60.50	56.11	793,408
March	27.52	25.78	930,438	56.83	53.41	256,681	62.80	59.00	960,807
April	26.74	24.94	655,495	56.67	54.20	214,419	62.38	59.43	666,997
May	26.28	24.92	456,438	55.30	53.76	199,257	60.40	58.35	945,953
June	27.18	25.39	382,948	55.68	53.88	128,367	59.97	57.76	651,283
July	27.34	26.05	376,536	56.32	54.38	136,200	61.24	57.89	540,560
August	32.40	26.05	3,355,605	82.16	54.23	2,065,714	92.73	59.47	2,852,360
September	33.82	29.66	1,934,414	82.15	78.64	1,321,914	89.45	86.47	1,853,703

- (1) Burger King Worldwide high and low sales prices per share information is based off of adjusted close amounts. Tim Hortons information is based on any point in time (unadjusted) consistent with methodologies used for quarterly information presented in each company's 2013 10K.
- (2) Assumes strict calendar months are used for both Burger King Worldwide and Tim Hortons.

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The table below sets forth, for the calendar quarters indicated, quarterly dividends paid per Tim Hortons common share, in Canadian dollars per share and in U.S. dollars per share (calculated using the Bank of Canada nominal noon exchange rate on the date Tim Hortons paid the applicable dividend). On [•], the Tim Hortons record date, there were [•] Tim Hortons common shares outstanding. Tim Hortons pays quarterly dividends with respect to its common shares.

	<u>Date Paid</u>	<u>C\$ Per Share</u>	<u>C\$ / \$ Exchange Rate on Date Paid (1)</u>	<u>\$ Per Share</u>
2012				
Quarter ended April 4	03/20/12	\$ 0.21	\$ 1.0067	\$ 0.21
Quarter ended July 4	06/08/12	\$ 0.21	\$ 0.9679	\$ 0.20
Quarter ended September 30	09/05/12	\$ 0.21	\$ 1.0099	\$ 0.21
Quarter ended December 30	12/12/12	\$ 0.21	\$ 1.0148	\$ 0.21
2013				
Quarter ended March 31	03/19/13	\$ 0.26	\$ 0.9733	\$ 0.25
Quarter ended June 30	06/07/13	\$ 0.26	\$ 0.9794	\$ 0.25
Quarter ended September 29	09/04/13	\$ 0.26	\$ 0.9540	\$ 0.25
Quarter ended December 29	12/10/13	\$ 0.26	\$ 0.9414	\$ 0.24
2014				
Quarter ended March 30, 2014	03/18/14	\$ 0.32	\$ 0.9020	\$ 0.29
Quarter ended June 30, 2014	06/05/14	\$ 0.32	\$ 0.9146	\$ 0.29
Quarter ended September 28, 2014	09/03/14	\$ 0.32	\$ 0.9197	\$ 0.29
Quarter ended December 28, 2014 (through [•], 2014)		\$ [•]	\$ [•]	\$ [•]

(1) Exchange rates are based on Bank of Canada nominal noon exchange rates.

On August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, the closing sale price per Tim Hortons common share was \$62.84 on the NYSE and C\$68.78 on the TSX. On September 12, 2014, the latest practicable date before the date of this joint information statement/circular, the closing sale price per Tim Hortons common share was \$79.67 on the NYSE and C\$88.36 on the TSX.

Tim Hortons declares and pays dividends in Canadian dollars, eliminating the foreign exchange exposure for our shareholders ultimately receiving Canadian dollars. For U.S. beneficial shareholders, however, CDS Clearing and Depository Services Inc. ("CDS") will convert, and for U.S. registered shareholders, Tim Hortons converts, the Canadian dividend amounts into U.S. dollars based on exchange rates prevailing at the time of conversion and pay such dividends in U.S. dollars. Shareholders ultimately receiving U.S. dollars are exposed to foreign exchange risk from the date the dividend is declared until the date CDS or Tim Hortons, as applicable, convert the dividend payment to U.S. dollars.

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The table below sets forth, for the calendar quarters indicated, quarterly dividends paid per share of Burger King Worldwide common stock. On [•], there were [•] shares of Burger King Worldwide common stock outstanding. Burger King Worldwide pays quarterly dividends with respect to its common stock.

	<u>Date Paid</u>	<u>\$ Per Share</u>
2012		
Quarter ended December 31	11/29/12	\$ 0.04
2013		
Quarter ended March 31	03/15/13	\$ 0.05
Quarter ended June 30	05/15/13	\$ 0.06
Quarter ended September 30	08/30/13	\$ 0.06
Quarter ended December 31	11/26/13	\$ 0.07
2014		
Quarter ended March 31, 2014	03/12/14	\$ 0.07
Quarter ended June 30, 2014	05/27/14	\$ 0.07
Quarter ended September 30, 2014	08/26/14	\$ 0.08
Quarter ended December 31, 2014 (through [•], 2014)		\$ [•]

On August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, the closing sale price per share of Burger King Worldwide common stock was \$27.11 on the NYSE. On September 12, 2014, the latest practicable date before the date of this joint information statement/circular, the closing sale price per share of Burger King Worldwide common stock was \$30.67 on the NYSE.

THE TIM HORTONS SPECIAL MEETING OF SHAREHOLDERS

The Arrangement Resolution

The Tim Hortons shareholders are being asked to consider, and if thought fit, approve with or without variation, a special resolution to approve the arrangement under section 192 of the CBCA. The full text of the arrangement resolution is set forth in Annex C to this joint information statement/circular.

Required Vote

The arrangement resolution requires the affirmative vote of at least $66\frac{2}{3}\%$ of the votes cast on the arrangement resolution by the Tim Hortons shareholders present in person or represented by proxy at the Tim Hortons special meeting.

Board Recommendation

The Tim Hortons board of directors has unanimously approved the arrangement agreement and the transactions contemplated thereby, and has determined that the arrangement is fair, from a financial point of view, to the Tim Hortons shareholders and is in the best interests of Tim Hortons. See “*The Transactions—Recommendation of Tim Hortons Board of Directors; Tim Hortons Reasons for the Arrangement*”.

Who Can Vote

If you held Tim Hortons common shares as of the close of business on the record date of November 3, 2014, you are entitled to receive notice of the Tim Hortons special meeting and vote your Tim Hortons common shares at the Tim Hortons special meeting. You can attend the Tim Hortons special meeting in person or vote by proxy. Each Tim Hortons common share that you own entitles you to one vote. Tim Hortons had [•] Tim Hortons common shares issued and outstanding at the close of business on the Tim Hortons record date. Of this total, [•] Tim Hortons common shares are entitled to vote at the Tim Hortons special meeting. The TDL RSU Employee Benefit Plan Trust holds the remaining [•] Tim Hortons common shares and these shares are not entitled to be voted at the Tim Hortons special meeting.

As of the record date, Tim Hortons directors and executive officers and their affiliates beneficially owned a total of approximately [•] Tim Hortons common shares, representing less than 1% of Tim Hortons outstanding Tim Hortons common shares as of that date. The table below under “Directors and Executives” sets out the holdings of Tim Hortons directors and executive officers in more detail.

Shareholders of Record

If your Tim Hortons common shares are registered directly in your name with Tim Hortons transfer agent, Computershare, you are considered a shareholder of record, or a registered shareholder, and Tim Hortons sent the proxy materials directly to you.

Beneficial Shareholders

If your Tim Hortons common shares are held in an account at a brokerage firm, bank or other intermediary, you are the beneficial owner of Tim Hortons common shares held in “street name”, or in the general account of your nominee. Tim Hortons does not send proxy materials directly to its beneficial shareholders, regardless of whether they are objecting beneficial owners (“OBOs”) or non-objecting beneficial owners (“NOBOs”). Intermediaries generally forward proxy materials to beneficial holders. They are accountable for complying with shareholder requests to receive materials for shareholder meetings and to vote their shares.

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Tim Hortons will have a list of Tim Hortons shareholders of record available at its Oakville office during regular business hours for review. If you are a beneficial shareholder of Tim Hortons and your Tim Hortons common shares are held in street name, your intermediary or its agent will appear on the list because it is the registered holder of your Tim Hortons common shares.

Principal Shareholders

The table below lists Tim Hortons shareholders who, to the knowledge of Tim Hortons, beneficially own, control or direct, directly or indirectly, 5% or more of the issued and outstanding Tim Hortons common shares. This information is based solely on Tim Hortons review of public filings as of the Tim Hortons record date.

<u>Share class</u>	<u>Name and address of beneficial holder</u>	<u>Amount and nature of beneficial ownership/control/direction</u>	<u>Percent of class</u>
Common Shares	FMR LLC and a joint filer (1) 82 Devonshire Street Boston, MA 02109	7,487,603(1)	5.48%(2)

- (1) Based solely on the Schedule 13G/A filed with the SEC on February 14, 2014 by FMR LLC (“FMR ”). Fidelity Management & Research Company (“Fidelity ”), 245 Summer Street, Boston, Massachusetts 02210, a wholly owned subsidiary of FMR and an investment adviser registered under section 203 of the Investment Advisers Act of 1940, is the beneficial owner of 7,437,332 common shares as a result of acting as investment adviser to various investment companies (the “FMR funds”).

Edward C. Johnson 3rd and FMR, through its control of Fidelity and the funds, each has sole power to dispose of the 7,437,332 common shares owned by the funds. Mr. Johnson is Chairman of FMR. He and members of his family are the predominant owners, directly or through trusts, of 49% of the voting power of FMR and, as a result of a shareholders’ voting agreement, may be deemed, under the Investment Company Act of 1940, to form a controlling group with respect to FMR.

Neither FMR nor Mr. Johnson has the sole power to vote or direct the voting of the shares owned directly by the funds, which power resides with the funds’ Boards of Trustees. Fidelity carries out the voting of the shares under written guidelines established by the funds’ Boards of Trustees.

Strategic Advisers, Inc., 245 Summer Street, Boston, MA 02210, a wholly owned subsidiary of FMR and an investment adviser registered under section 203 of the Investment Advisers Act of 1940, provides investment advisory services to individuals. As such, FMR’s beneficial ownership includes 1,171 common shares beneficially owned through Strategic Advisers, Inc.

Pyramis Global Advisors, LLC (“Pyramis ”), 900 Salem Street, Smithfield, Rhode Island, 02917, an indirect wholly owned subsidiary of FMR and an investment adviser registered under section 203 of the Investment Advisers Act of 1940, is the beneficial owner of 41,500 common shares as a result of its serving as investment adviser to institutional accounts, non-U.S. mutual funds, or investment companies registered under section 8 of the Investment Company Act of 1940 owning such shares. Mr. Johnson and FMR, through its control of Pyramis, each has sole power to dispose of over 41,500 common shares and sole power to vote or to direct the voting of 41,500 common shares owned by the institutional accounts or funds advised by Pyramis.

Pyramis Global Advisors Trust Company (“Pyramis Global Advisors Trust”), 900 Salem Street, Smithfield, Rhode Island, 02917, an indirect wholly owned subsidiary of FMR and a bank as defined in section 3(a)(6) of the Exchange Act, is the beneficial owner of 7,600 common shares as a result of its serving as investment manager of institutional accounts owning these shares. Mr. Johnson and FMR, through its control of Pyramis Global Advisors Trust, each has sole power to dispose of 7,600 common shares and to vote or direct the voting of 0 common shares owned by the institutional accounts managed by Pyramis Global Advisors Trust.

- (2) Based on [•] common shares outstanding as of the record date (including the [•] common shares held by The TDL RSU Employee Benefit Plan Trust).

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Delivery of Materials

These proxy materials have been sent to you, as a Tim Hortons shareholder, by mail, or electronically if you requested it. Tim Hortons pays the costs of soliciting proxies from its registered and beneficial shareholders, including the costs of:

- forwarding printed proxy materials by mail to Tim Hortons shareholders (including NOBOs and OBOs), and
- obtaining Tim Hortons beneficial owners' voting instructions from their intermediaries.

If you use the internet to vote or access proxy materials electronically, you may incur usage charges and other costs from internet access providers or telephone companies.

How to Vote

You can vote by proxy, or you can attend the Tim Hortons special meeting and vote your Tim Hortons common shares in person. The voting process is different for registered and beneficial shareholders of Tim Hortons. See below under “*Registered Shareholders of Tim Hortons*” and “*Beneficial Shareholders of Tim Hortons*”, respectively.

Voting by Proxy

Voting by proxy is the easiest way to vote, and Tim Hortons shareholders can do it by phone, mail or on the internet. Voting by proxy means that you, as a Tim Hortons shareholder, are giving someone else (i.e., your proxyholder) the authority to attend the Tim Hortons special meeting and vote your Tim Hortons common shares for you.

You, as a Tim Hortons shareholder, can appoint anyone to be your proxyholder and this person does not need to be a Tim Hortons shareholder. Your votes will only be counted if your proxyholder attends the Tim Hortons special meeting and votes your Tim Hortons common shares for you. Simply follow the instructions on the proxy form, and print the name of the person you would like to appoint as proxyholder in the space provided. If you vote by proxy but do not specify a proxyholder, the representatives of Tim Hortons appointed by Tim Hortons board of directors will act as your proxyholder.

Proxyholders must vote Tim Hortons common shares according to the instructions given to them by Tim Hortons shareholders. If you, as a Tim Hortons shareholder, do not specify your voting instructions, your proxyholder can vote as he/she see fit. If you do not specify your voting instructions and you have appointed Tim Hortons representatives to act as your proxyholder, they will vote **for** approving the Arrangement Resolution.

Proxyholders have the authority to vote as he/she see fit with respect to any other matters that properly come before the Tim Hortons special meeting and with respect to any amendments to the matters identified in the notice of meeting or any adjournment or postponement thereof, whether or not the amendment or other matter that comes before the Tim Hortons special meeting is or is not routine and whether or not the amendment or other matter that comes before the Tim Hortons special meeting is contested. As of the date of this joint information statement/circular, Tim Hortons is not aware of any items to be brought before the Tim Hortons special meeting that are not described in this joint information statement/circular.

Tim Hortons shareholders can revoke their previous voting instructions by submitting new voting instructions by phone or on the internet or by sending a new proxy form or voting instruction form with a later date. If you, as a Tim Hortons shareholder, want to submit your new vote by phone or on the internet, sign in to authenticate yourself in the manner set out below and then follow the instructions. The written notice of revocation may be executed by the registered shareholder or by an attorney who provides your written authorization. If the shareholder is a corporation, the written notice must be executed by its duly authorized officer or attorney.

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Registered Shareholders of Tim Hortons

If you are a registered shareholder of Tim Hortons, your package includes the notice of meeting, this joint information statement/circular and a proxy form to vote your Tim Hortons common shares.

Four ways for registered shareholders of Tim Hortons to vote

- *By phone* —Call toll free (866) 732-VOTE (8683) from a touchtone phone and follow the instructions
- *On the internet* —Go to www.investorvote.com and follow the instructions on the screen
- *By mail* —Complete the proxy form, sign and date it, and mail it in the postage-paid envelope provided
- *In person* —Check in with a Computershare representative when you arrive at the Tim Hortons special meeting and be sure to bring government-issued picture identification

If you vote by phone or on the internet, you can do it any time of the day, seven days a week. You will need your control number, which appears at the bottom of your proxy form. You must vote by mail or on the internet if you want to appoint someone other than Tim Hortons representatives (or yourself) as your proxyholder. If you are voting on behalf of a corporation or another person, you must vote by mail.

In order to effectively change your vote as a registered shareholder of Tim Hortons, Computershare must receive your new voting instructions before midnight (Toronto time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto time) on the business day before the Tim Hortons special meeting is reconvened. In addition, you can attend the Tim Hortons special meeting in person and cast a different vote if you specifically request the opportunity to do so at the Tim Hortons special meeting. Attendance at the Tim Hortons special meeting will not automatically revoke voting instructions given prior to the Tim Hortons special meeting.

Also, you can revoke your previous voting instructions without submitting new voting instructions at any time prior to the final vote at the Tim Hortons special meeting by delivering a written notice to the chairman of the Tim Hortons special meeting prior to the vote on the matter or by any other method permitted by law.

Beneficial Shareholders of Tim Hortons

If you are a beneficial shareholder of Tim Hortons, your package provided by your intermediary should include the notice of meeting, this joint information statement/circular, and a voting instruction form for you to provide your voting instructions to your intermediary, who will carry out your instructions and vote on your behalf, or withhold your votes if you have so indicated on your form.

Four ways for beneficial shareholders of Tim Hortons to vote

- *By phone* —Follow the instructions on the voting instruction form provided by your intermediary
- *On the internet* —Go to www.proxyvote.com and follow the instructions on the screen
- *By mail* —Complete the voting instruction form, sign and date it, and mail it in the return envelope provided as soon as possible, so your intermediary receives the form in time to carry out your instructions
- *In person* —The voting instruction form provided by your intermediary will provide instructions on how you may vote in person at the Tim Hortons special meeting. The following is a general summary of the most common alternatives provided by intermediaries:
 - The instructions provided by your intermediary may permit you to vote in person at the Tim Hortons special meeting by appointing yourself as proxyholder for your Tim Hortons common

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shares by printing your own name in the space provided, signing the form and NOT indicating your voting instructions. If you do so, send the form to your intermediary as soon as possible to give your intermediary enough time to act on your instructions. Computershare must receive instructions through your intermediary before midnight (Toronto time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto time) on the business day before the Tim Hortons special meeting is reconvened.

- Alternatively, the instructions provided by your intermediary may state that in order to vote in person at the Tim Hortons special meeting, you must indicate on the voting instruction form that you want to receive a proxy form, sign and date it, and send the completed voting instruction form to your intermediary as soon as possible. You should then receive a proxy form from your intermediary, which you will need to complete, appointing yourself as proxyholder. Sign and date the proxy form and send it as soon as possible to Computershare in the envelope provided. Computershare must receive the properly completed proxy form by midnight (Toronto time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto time) on the business day before the Tim Hortons special meeting is reconvened.

In either case, be sure to check in with a Computershare representative when you arrive at the Tim Hortons special meeting. Unless prohibited by law, the person named as proxyholder in the proxy form or voting instruction form will have full discretionary authority to vote on all matters at the Tim Hortons special meeting, including new items that are not set out in this joint information statement/circular, if Computershare receives the properly completed form by midnight (Toronto time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto time) on the business day before the Tim Hortons special meeting is reconvened.

Canadian securities laws require brokers and other intermediaries to seek voting instructions from beneficial shareholders in advance of shareholder meetings. The various brokers and other intermediaries have their own mailing procedures and provide their own return instructions to clients, which should be carefully followed by beneficial shareholders in order to ensure that their Tim Hortons common shares are voted at the Tim Hortons special meeting. The voting instruction form supplied to a beneficial shareholder by its broker (or the agent of the broker) is substantially similar to the instrument of proxy provided directly to registered shareholders by Tim Hortons. However, its purpose is limited to instructing the registered shareholder (i.e., the intermediary or agent of the intermediary). A beneficial shareholder who receives a voting instruction form from its broker or other intermediary cannot use that form to vote Tim Hortons common shares directly at the Tim Hortons special meeting. The voting instruction form must be returned to your broker or other intermediary (or instructions respecting the voting of Tim Hortons common shares must otherwise be communicated to your broker or other intermediary) well in advance of the Tim Hortons special meeting in order to have the Tim Hortons common shares voted. If you have any questions respecting the voting of Tim Hortons common shares held through a broker or other intermediary, please contact that broker or other intermediary for assistance.

In order to effectively change your vote as a beneficial shareholder of Tim Hortons, Computershare must receive your new voting instructions before midnight (Toronto time) on [•], 2014 (the second business day before the Tim Hortons special meeting), or if the Tim Hortons special meeting is postponed or adjourned, before midnight (Toronto time) on the business day before the Tim Hortons special meeting is reconvened. Be sure to allow enough time for your intermediary to receive your new instructions and act on them prior to that deadline.

You must contact your intermediary in order to revoke your previous voting instructions without submitting new voting instructions. You will need to allow for enough time for your intermediary to receive your new instructions and act on them prior to the vote on the matter.

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About Abstentions

When you, as a Tim Hortons shareholder, cast your vote, you want it to count. Be sure to carefully follow the voting instructions provided. If you are a Tim Hortons shareholder of record and do not complete a proxy form, or properly submit it, no votes will be cast on your behalf.

If you are a beneficial shareholder of Tim Hortons and your intermediary (a) does not have discretionary authority to vote your Tim Hortons common shares on a particular matter and has not received instructions from you on how to vote, or (b) does have discretionary authority but has not received proper instructions from you and cannot vote your Tim Hortons common shares as a result, then your votes will not be cast. In such cases, the intermediary simply declines to vote your Tim Hortons common shares. As a result of restrictions under the CBCA and rules governing members of the NYSE, your intermediary cannot vote your Tim Hortons common shares on a discretionary basis if you do not provide proper voting instructions, so it is very important to provide clear and proper instructions.

Abstentions are only counted for determining whether or not Tim Hortons has a quorum. Abstentions are not counted towards shareholder votes on any matter described in this joint information statement/circular.

Confidentiality

Tim Hortons transfer agent protects the privacy of voting instructions, ballots and voting tabulations. Votes of Tim Hortons shareholders will only be disclosed to Tim Hortons, or a third party, if it is:

- required by law,
- necessary for tabulating and certifying the votes, or
- needed to facilitate a successful proxy solicitation.

Tim Hortons shareholders may provide written comments on their proxy form, and these will be forwarded to management and/or the board of directors of Tim Hortons, as appropriate.

Voting results

The preliminary voting results will be announced at the Tim Hortons special meeting.

The scrutineer will tally the final voting results and report them to Tim Hortons after the Tim Hortons special meeting. Tim Hortons will report the final results promptly after they become available, in a current report on Form 8-K, available online at www.sec.gov and www.sedar.com.

BENEFICIAL STOCK OWNERSHIP OF TIM HORTONS SHAREHOLDERS

Voting Securities and their Principal Holders

The table below lists the shareholders who Tim Hortons knows to beneficially own 5% or more of Tim Hortons issued and outstanding common shares. This information is based solely on Tim Hortons review of public filings as of September 15, 2014.

Share class	Name and address of beneficial holder	Amount and nature of beneficial	
		ownership/control/direction	Percent of class
Common Shares	FMR LLC and a joint filer (1) 82 Devonshire Street Boston, MA 02109	7,487,603 (1)	5.48% (2)

- (1) Based solely on the Schedule 13G/A filed with the SEC on February 14, 2014 by FMR. Fidelity, 245 Summer Street, Boston, Massachusetts 02210, a wholly owned subsidiary of FMR and an investment adviser registered under section 203 of the Investment Advisers Act of 1940, is the beneficial owner of 7,437,332 Tim Hortons common shares as a result of acting as investment adviser to the FMR funds.

Edward C. Johnson 3rd and FMR, through its control of Fidelity, and the funds each has sole power to dispose of the 7,437,332 Tim Hortons common shares owned by the FMR funds. Mr. Johnson is Chairman of FMR. He and members of his family are the predominant owners, directly or through trusts, of 49% of the voting power of FMR and, as a result of a shareholders' voting agreement, may be deemed, under the Investment Company Act of 1940, to form a controlling group with respect to FMR.

Neither FMR nor Mr. Johnson has the sole power to vote or direct the voting of the shares owned directly by the FMR funds, which power resides with the FMR funds' boards of trustees. Fidelity carries out the voting of the shares under written guidelines established by the funds' Boards of Trustees.

Strategic Advisers, Inc., 245 Summer Street, Boston, MA 02210, a wholly owned subsidiary of FMR and an investment adviser registered under section 203 of the Investment Advisers Act of 1940, provides investment advisory services to individuals. As such, FMR's beneficial ownership includes 1,171 Tim Hortons common shares beneficially owned through Strategic Advisers, Inc.

Pyramis 900 Salem Street, Smithfield, Rhode Island, 02917, an indirect wholly owned subsidiary of FMR and an investment adviser registered under section 203 of the Investment Advisers Act of 1940, is the beneficial owner of 41,500 Tim Hortons common shares as a result of its serving as investment adviser to institutional accounts, non-U.S. mutual funds, or investment companies registered under section 8 of the Investment Company Act of 1940 owning such shares. Mr. Johnson and FMR, through its control of Pyramis, each has sole power to dispose of over 41,500 common shares and sole power to vote or to direct the voting of 41,500 Tim Hortons common shares owned by the institutional accounts or funds advised by Pyramis.

Pyramis Global Advisors Trust Company, which we refer to as Pyramis Global Advisors Trust, 900 Salem Street, Smithfield, Rhode Island, 02917, an indirect wholly owned subsidiary of FMR and a bank as defined in section 3(a)(6) of the Exchange Act, is the beneficial owner of 7,600 Tim Hortons common shares as a result of its serving as investment manager of institutional accounts owning these shares. Mr. Johnson and FMR, through its control of Pyramis Global Advisors Trust, each has sole power to dispose of 7,600 common shares and to vote or direct the voting of 0 common shares owned by the institutional accounts managed by Pyramis Global Advisors Trust.

- (2) Based on [•] Tim Hortons common shares outstanding as of the record date (including the [•] Tim Hortons common shares held by The TDL RSU Employee Benefit Plan Trust).

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Security Ownership of Management/Directors

The table below sets forth information on the Tim Hortons common shares beneficially owned by each of Tim Hortons directors, by Tim Hortons named executives and by Tim Hortons directors and executive officers as a group. Individually and collectively, they own less than 1% of Tim Hortons outstanding common shares. The percentage of ownership is calculated based on [•] Tim Hortons common shares outstanding as of [•], 2014 (including the [•] Tim Hortons common shares held by The TDL RSU Employee Benefit Plan Trust). Unless we note otherwise, each of the following people and their family members has sole voting and investment power with respect to the common shares beneficially owned by him or her.

For the purpose of this table, the term “executive officer” has the same meaning as under Rule 405 promulgated under the Securities Act and under NI 51-102. The information about beneficial ownership is based on data provided by each director, nominee or executive officer, and is included in insider reports that are publicly available on the System for Electronic Disclosure by Insiders.

Share class	Name of beneficial holder	Common shares currently held (1)	Common shares outstanding that can be acquired within 60 days (2)	Total beneficial ownership	Percent of class
Common shares	Paul D. House	134,219	—	134,219	*
	M. Shan Atkins	1,000	—	1,000	*
	Sherri A. Brillon	—	—	—	*
	Marc Caira	—	—	—	*
	Michael J. Endres	52,884 (3)	—	52,884	*
	Moya M. Greene	—	—	—	*
	The Hon. Frank Iacobucci	6,663	—	6,663	*
	John A. Lederer	15,120	—	15,120	*
	David H. Lees	6,680	—	6,680	*
	Thomas V. Milroy	—	—	—	*
	Christopher R. O'Neill	—	—	—	*
	Wayne C. Sales	12,067	—	12,067	*
	Cynthia J. Devine	92,374	—	92,374	*
	David F. Clanachan	57,789	—	57,789	*
	Peter J. Nowlan	—	—	—	*
	Roland M. Walton	73,389	—	73,389	*
	Stephen E. Wuthmann	1,453	—	1,453	*
	Jill E. Sutton	1,608	—	1,608	*
	Michel Meilleur	6,360	—	6,360	*
	Scott Bonikowsky	1,701	—	1,701	*
	All directors and executive officers as a group (20 persons)	463,307	—	463,307	*

* Represents beneficial ownership of less than 1% of Tim Hortons outstanding common shares.

- (1) Includes Tim Hortons common shares owned directly or indirectly. See “*Ownership of Deferred Stock Units by Directors*”, below for the number of deferred stock units owned by each director as of the record date, which are not included in the table above.
- (2) See *Incentive Plan Awards* on page 4 of, and notes 2 and 3 to the summary compensation table on page 37 of, Tim Hortons Annual Report on Form 10-K/A, filed with the SEC on March 21, 2014, and incorporated by reference into this joint information statement/ circular, for more information about the outstanding restricted share units and options with tandem SARs held by the named executives.

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- (3) Includes 49,000 Tim Hortons common shares held in two trusts where Mr. Endres has voting and investment power.

Ownership of Deferred Stock Units by Directors

The table below shows the deferred stock units held by Tim Hortons directors as of September 3, 2014. These deferred stock units are not included in the number of Tim Hortons common shares beneficially owned by directors in the above table.

Deferred stock units vest immediately and are paid out in cash when a director retires from the Tim Hortons board of directors.

<u>Director</u>	<u>DSUs (#)</u>
Paul D. House (1)	1,821
M. Shan Atkins	12,104
Sherri A. Brillon (2)	2,008
Marc Caira (3)	0
Michael J. Endres	21,595
Moya M. Greene	15,863
The Hon. Frank Iacobucci	29,684
John A. Lederer	24,133
David H. Lees	24,013
Thomas V. Milroy (2)	2,008
Christopher R. O'Neill (4)	1,034
Wayne C. Sales	24,410

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- (1) Mr. House had not been eligible to receive director compensation, including deferred stock units, until 2014, because he served as President and Chief Executive Officer until July 2, 2013, and provided transition services until December 31, 2013.
- (2) Ms. Brillon and Mr. Milroy were appointed to the Tim Hortons board of directors on August 8, 2013.
- (3) Mr. Caira, as current President and Chief Executive Officer, is not eligible to receive director compensation, including deferred stock units.
- (4) Mr. O'Neill was appointed to the Tim Hortons board of directors on March 11, 2014.

BENEFICIAL STOCK OWNERSHIP INFORMATION OF BURGER KING WORLDWIDE STOCKHOLDERS

Security Ownership of Certain Beneficial Owners, Directors and Management

This table shows ownership information for Burger King Worldwide stockholders known by its management to be the owners of 5% or more of our common stock, each of its directors, each of the named executive officers and all directors and executive officers as a group. This information is presented as of October 14, 2014. The percentage ownership is based upon 351,963,073 shares of common stock outstanding as of October 14, 2014.

Under SEC rules, “beneficial ownership” for purposes of this table takes into account stock as to which the individual has or shares voting and/or investment power as well as shares that may be acquired within 60 days (such as by exercising vested stock options) and is different from beneficial ownership for purposes of section 16 of the Exchange Act. Except as indicated in the footnotes to this table, to the best of Burger King Worldwide’s knowledge, the persons and entities named in the table have sole voting and investment power with respect to all shares of common stock shown as beneficially owned by them.

Shares of Common Stock Beneficially Owned

<u>Name of Beneficial Owner</u>	<u>Number of Shares</u>	<u>Percent of Class</u>
5% Stockholders:		
3G (1)	243,858,915	69.3
Pershing Square Funds (2)	41,949,413	11.9
Named Executive Officers and Directors:		
Alexandre Behring (3)	89,217	*
Martin E. Franklin (4)	1,416,746	*
Paul J. Fribourg (3)	43,258	*
Bernardo Hees	266,060	*
Alan Parker (5)	53,625	*
Carlos Alberto Sicupira (3)	44,608	*
Roberto Moses Thompson Motta (3)	2,175	*
Alexandre Van Damme (3)	11,175	*
Daniel S. Schwartz	137,996	*
Joshua Kobza	5,413	*
José E. Cil	105,758	*
Heitor Goncalves	107,478	*
All executive officers and directors as a group (16 persons) (7)	2,389,805	*

* Represents beneficial ownership of less than one percent (1%) of Burger King Worldwide’s outstanding common stock.

- (1) 3G Special Situations Partners, Ltd. serves as the general partner of 3G Special Situations Fund II, L.P. 3G Capital Partners II L.P. is the parent of, and wholly owns, 3G Special Situations Partners, Ltd. 3G Capital serves as the general partner of 3G Capital Partners II L.P. Each of 3G Special Situations Fund II, L.P., 3G Special Situations Partners, Ltd., 3G Capital Partners II L.P. and 3G Capital may be deemed to beneficially own, and to have shared voting and dispositive power with respect to, these shares of Common Stock. The address of each of the 3G entities is c/o 3G Capital, Inc., 600 Third Avenue, 37th Floor, New York, New York 10016. Mr. Behring is the managing partner of 3G Capital, and Messrs. Behring, Hees, Schwartz, Sicupira and Thompson Motta are partners of 3G Capital. A five member investment committee of 3G Capital is empowered to make decisions with respect to 3G Capital’s investments, including Burger King

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Worldwide, and therefore, no individual member of the committee is deemed to be the beneficial owner of the shares of Burger King Worldwide beneficially owned indirectly by 3G Capital. This investment committee has the power to vote, dispose of or sell all of the shares of Burger King Worldwide. Messrs. Behring, Sicupira and Thompson Motta are among the members of the investment committee and disclaim beneficial ownership of any shares beneficially owned by 3G Capital.

- (2) According to a Schedule 13G (Amendment No. 2) filed by Pershing Square Capital Management, L.P., Pershing Square Capital Management, L.P. is the investment manager of Pershing Square, L.P., Pershing Square II, L.P., Pershing Square Holdings, Ltd. and Pershing Square International, Ltd. (collectively referred to as the “Pershing Square Funds”). Pershing Square GP, LLC is the general partner of Pershing Square, L.P. and Pershing Square II, L.P. PS Management GP, LLC is the general partner of Pershing Square Capital Management, L.P. William Ackman is the Chief Executive Officer of Pershing Square Capital Management, L.P. and the managing member of PS Management GP, LLC. The address of each of the Pershing Square Funds, Pershing Square Capital Management, L.P., PS Management GP, LLC and Mr. Ackman is 888 Seventh Avenue, 42nd Floor, New York, New York 10019. Pershing Square Capital Management, L.P., as the investment adviser to the Pershing Square Funds, may be deemed to have the shared power to vote or direct the vote of (and the shared power to dispose or direct the disposition of) 38,387,865 shares of Common Stock. As the general partner of Pershing Square Capital Management, L.P., PS Management GP, LLC may be deemed to have the shared power to vote or to direct the vote of (and the shared power to dispose of or direct the disposition of) these shares of Common Stock. By virtue of Mr. Ackman’s position as managing member of PS Management GP, LLC, Mr. Ackman may be deemed to have the shared power to vote or direct the vote of (and the shared power to dispose or direct the disposition of) these shares of Common Stock and, therefore, Mr. Ackman may be deemed to be the beneficial owner of these shares of Common Stock. In addition, Mr. Ackman has sole power to vote or direct the vote of 3,561,548 shares of Common Stock.
- (3) Represents restricted stock units that settle upon termination of board service by Messrs. Behring, Fribourg, Sicupira, Thompson or Van Damme.
- (4) Represents 1,411,469 shares of common stock owned directly and 5,277 restricted stock units that settle upon termination of board service by Mr. Franklin.
- (5) Includes 8,625 restricted stock units that settle upon termination of board service, 30,000 shares held by Oyster Reach Limited and 15,000 owned directly by Mr. Parker. Mr. Parker is the sole shareholder and director of Oyster Reach Limited.
- (6) Based on Burger King Worldwide’s records of the stock ownership for Mr. Wiborg and Ms. Faugeres.
- (7) Includes in the aggregate 204,335 restricted stock units that settle upon the termination of board service by respective board members.

Section 16(a) beneficial ownership reporting compliance

Section 16(a) of the Exchange Act requires Burger King Worldwide’s directors, executive officers and persons who own more than 10% of the outstanding shares of Burger King Worldwide’s common stock to file with the SEC reports of their ownership and changes in their ownership of Burger King Worldwide’s common stock. Directors, executive officers and greater-than-ten percent stockholders are also required to furnish Burger King Worldwide with copies of all ownership reports they file with the SEC. To Burger King Worldwide’s knowledge, based solely on a review of the copies of such reports furnished to us and representations that no other reports were required, all of Burger King Worldwide’s directors and executive officers complied with all section 16(a) filing requirements during 2013.

THE TRANSACTIONS

Effect of the Transactions

Burger King Worldwide agreed to acquire Tim Hortons pursuant to the arrangement agreement in a transaction that will result in Burger King Worldwide and Tim Hortons being indirect subsidiaries of Holdings and Partnership. The transactions will be effectuated in two primary steps. In the first step, Amalgamation Sub will acquire Tim Hortons pursuant to a plan of arrangement under Canadian law, which will result in Tim Hortons becoming an indirect subsidiary of both Holdings and Partnership. In the second step, Merger Sub will merge with and into Burger King Worldwide, with Burger King Worldwide as the surviving corporation in the merger, which will result in Burger King Worldwide becoming an indirect subsidiary of both Holdings and Partnership. Holdings, which will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons, will be the general partner of Partnership and own a majority interest (by vote and value) in Partnership which will be represented by common units and preferred units of Partnership which will entitle Holdings to distributions from Partnership that generally correspond to dividends and distributions that are paid by Holdings in respect of common shares and preferred shares of Holdings that are issued and outstanding from time to time. The balance of the partnership units of Partnership will initially be held by former holders of Burger King Worldwide common stock in the form of newly issued Partnership exchangeable units.

The arrangement agreement and the plan of arrangement are attached as Annex A and Annex B, respectively, to this information statement/circular. We encourage you to read these documents in their entirety; they are the principal documents governing the transactions and the other related transactions.

If the arrangement is completed, each holder of a common share of Tim Hortons will be entitled to receive C\$65.50 in cash and 0.8025 newly issued Holdings common shares in exchange for each common share of Tim Hortons held by such shareholder, other than shareholders who:

- make an election to receive cash, who will be entitled to receive C\$88.50 in cash in exchange for each common share of the Tim Hortons held by such shareholder; or
- make an election to receive Holdings common shares, who will be entitled to receive 3.0879 newly issued Holdings common shares in exchange for each share of Tim Hortons held by such shareholder.

Any cash election or shares election is subject to adjustment in accordance with the plan of arrangement, as described in “*Arrangement Agreement—Arrangement Consideration to Tim Hortons shareholders*”.

If the merger is completed, each share of Burger King Worldwide common stock outstanding immediately prior to the effective time of the merger will be converted into the right to receive (a) if no exchangeable election (as described below) has been made, 0.99 newly issued Holdings common shares and 0.01 newly issued Partnership exchangeable units or (b) if the stockholder makes an election to receive consideration solely in the form of Partnership exchangeable units, one Partnership exchangeable unit in exchange for each share of Burger King Worldwide common stock, in each case subject to proration as set forth in the arrangement agreement, as described in “*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock*”.

Based on the number of Burger King Worldwide and Tim Hortons common shares estimated to be outstanding immediately prior to the closing of the transactions, we estimate that, upon the closing, former Tim Hortons shareholders will own approximately 22% of the common equity of the combined company through ownership of Holdings common shares and former Burger King Worldwide stockholders will own approximately 76% of the combined company through ownership of both Holdings common shares and Partnership exchangeable units, in each case, on a fully exchanged and fully-diluted basis. In connection with the transactions, Berkshire will purchase preferred shares of Holdings and a warrant to purchase common shares, which common shares will represent 1.75% of the fully exchanged and fully-diluted Holdings common shares. The warrant may be exercised until the fifth anniversary of the closing of the transactions. Berkshire has informed Holdings that it intends to exercise the warrant promptly following the closing of the transactions.

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For additional information on the consideration to be received in the transactions, see “*The Arrangement Agreement—Merger Consideration to Burger King Worldwide Stockholders*” and “*The Transactions—The Arrangement Agreement—Arrangement Consideration to Tim Hortons Shareholders*”.

Under the arrangement, equity awards previously granted by Tim Hortons will be treated as follows:

Tim Hortons Stock Options. Pursuant to the arrangement, each outstanding vested surrendered Tim Hortons stock option will be transferred to Tim Hortons in consideration for the issuance of the number of Tim Hortons common shares, rounded down to the nearest whole share, equal in value to the in-the-money value of such surrendered Tim Hortons stock option. The in-the-money value of the Tim Hortons stock option is the amount by which the fair market value of a Tim Hortons common share exceeds the exercise price of the Tim Hortons stock option. The surrendered Tim Hortons stock options will be terminated at the time of their surrender and Tim Hortons common shares issued in respect of such surrendered stock options will be treated as described below.

Pursuant to the arrangement, each outstanding Tim Hortons stock option (and its tandem stock appreciation right), whether vested or unvested, that is not a surrendered Tim Hortons stock option will be exchanged for a stock option (with a tandem stock appreciation right) to acquire from Holdings a number of Holdings common shares equal to the product of: (a) the number of Tim Hortons common shares subject to such Tim Hortons stock option multiplied by (b) the exchange ratio of 3.0879 (and rounded down to the nearest whole number of Holdings common shares). The exercise price per Holdings common share of such Holdings stock option shall be equal to the quotient of: (a) the exercise price per Tim Hortons common share subject to the exchanged Tim Hortons stock option divided by (b) the exchange ratio of 3.0879 (with the aggregate exercise price being rounded up to the nearest whole cent), provided that the in-the-money value of such Holdings stock options immediately after the issuance of such Holdings stock options may not exceed the in-the-money value of the Tim Hortons stock options immediately prior to such issuance. Subject to the foregoing, each Holdings stock option will have the same terms and conditions as were applicable to the exchanged Tim Hortons stock option.

Restricted Stock Units and Performance Stock Units. Pursuant to the arrangement, all outstanding Tim Hortons restricted stock units and performance stock units will vest, with the number of performance stock units vesting determined based on the maximum or highest level achievable, and Tim Hortons common shares will be issued in full settlement of such awards on the basis of one Tim Hortons common share for each restricted stock unit or performance stock unit.

Tim Hortons common shares issued in consideration for surrendered Tim Hortons stock options or in settlement of restricted stock unit awards and performance stock unit awards will be transferred to Amalgamation Sub pursuant to the arrangement and the holders of such Tim Hortons common shares will be entitled to make an election in respect of the arrangement consideration to be received in consideration for such transfer.

Deferred Stock Units. At the effective time of the arrangement, all outstanding Tim Hortons deferred stock units will ordinarily vest in accordance with the plan terms of the Tim Hortons deferred stock units, or DSUs, and require settlement as the director will cease to serve in such capacity for Tim Hortons. Each DSU will be settled for the value of C\$65.50 plus the value of 0.8025 newly issued common shares of Holdings (with the value determined based on the opening price of a common share of Holdings on the TSX on the first trading day following the effective time of the arrangement).

At the effective time of the merger, each outstanding Burger King Worldwide option will be converted into the right to receive, on the same terms and conditions as were applicable under the award agreements issued in connection with such Burger King Worldwide option (including with respect to vesting and exercise price), an option to acquire common shares from Holdings in respect of the same number of Holdings common shares as

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were subject to the underlying Burger King Worldwide option. At the effective time of the merger, each outstanding restricted stock unit will be converted into the right to receive, on the same terms and conditions as were applicable under such Burger King Worldwide restricted stock unit (including with respect to vesting), a restricted stock unit with respect to the same number of Holdings common shares as were subject to the underlying Burger King Worldwide restricted stock unit.

The following is an organizational chart showing the intercorporate relationships between Tim Hortons and its material subsidiaries immediately before the commencement of the transactions:

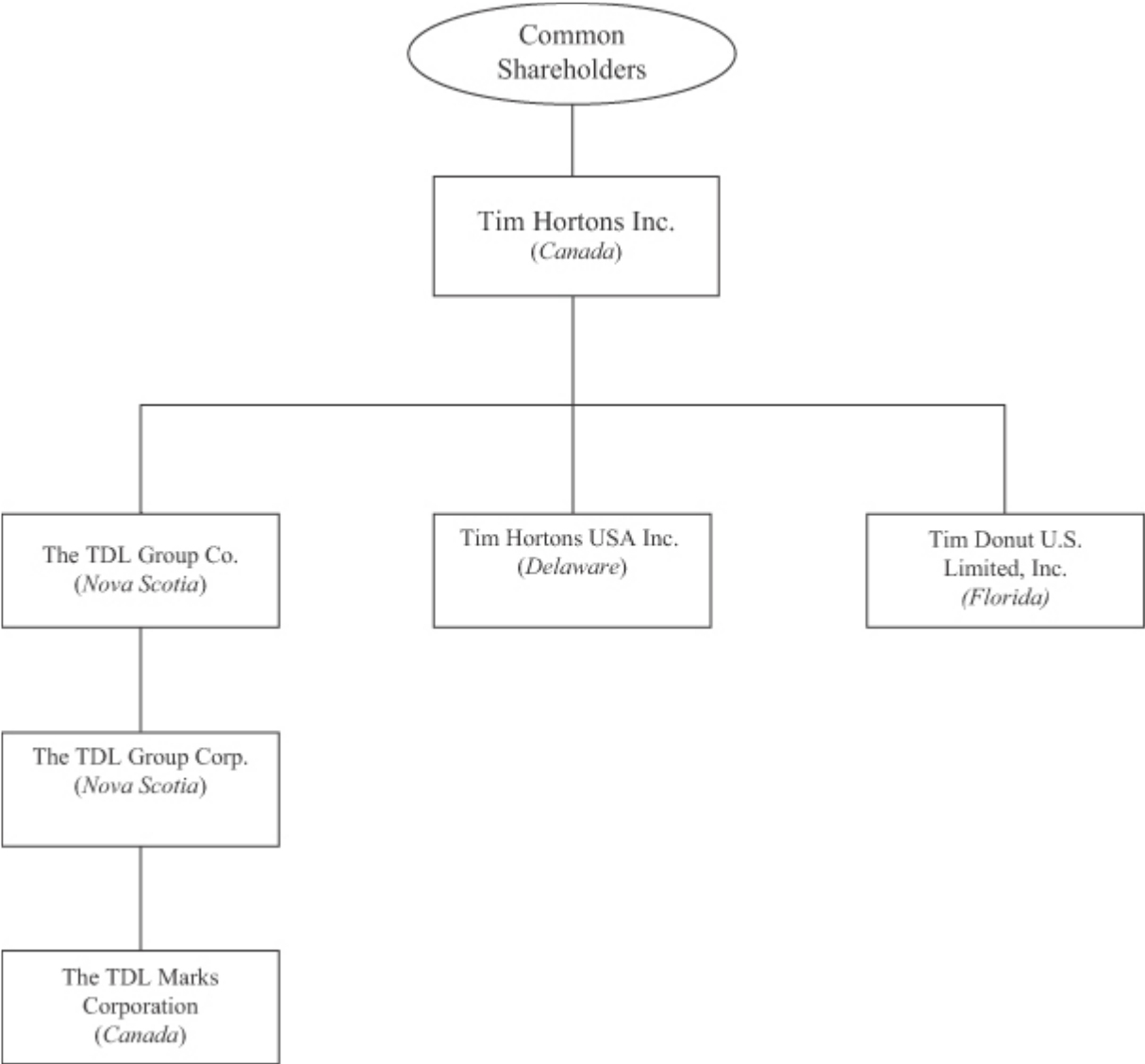


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The following is an organizational chart showing the intercorporate relationships between Burger King Worldwide and its material subsidiaries immediately before the commencement of the transactions:

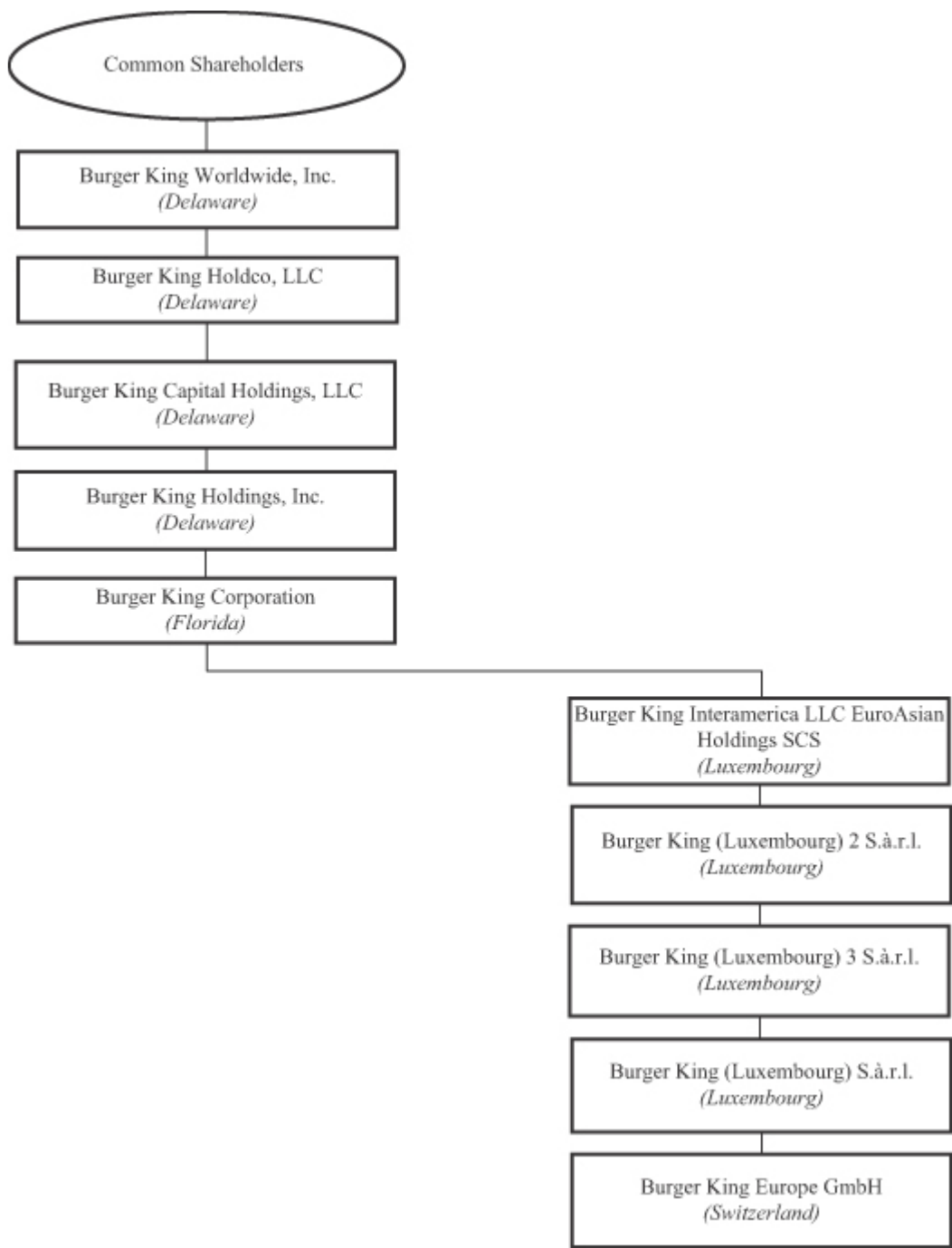
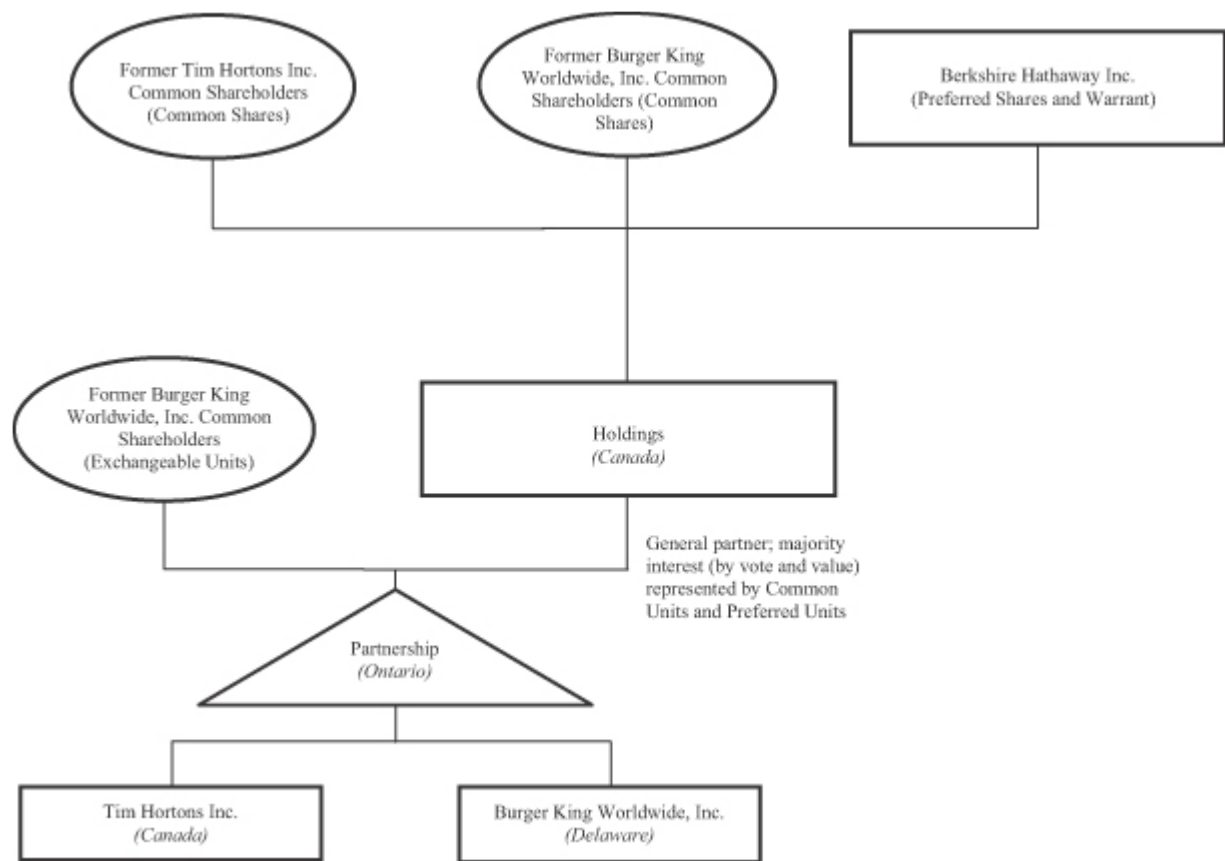


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The following is an organizational chart showing the anticipated intercorporate relationships of Holdings and its material subsidiaries immediately following the completion of the transactions:



Unless otherwise indicated, each subsidiary indicated on the above charts is wholly-owned. For purposes of the above charts, certain intermediaries were omitted that did not constitute a material subsidiary. All material subsidiaries of Tim Hortons and Burger King Worldwide existing immediately before the commencement of the transactions will remain in existence immediately following completion of the transactions as indirect subsidiaries of Holdings and Partnership.

Background of the Transaction

The senior management teams and boards of directors of each of Burger King Worldwide and Tim Hortons actively monitor and assess developments in the QSR sector and are generally aware of the business activities of other major QSR companies, including each other. As a result, executives from each of Burger King Worldwide and Tim Hortons are generally familiar with the other company’s business and operations.

In addition, the senior management teams and boards of directors of each of Burger King Worldwide and Tim Hortons regularly consider and evaluate options for achieving their company’s long-term strategic goals and enhancing shareholder value. These options have included periodic assessments of potential business combinations with other QSR companies.

Both companies also have been parties to significant business combination and other transactions in the past. In particular, in March 2006, Tim Hortons completed its initial public offering of Tim Hortons common shares, which began trading on the New York Stock Exchange and the Toronto Stock Exchange, and later in 2006 The Wendy’s Company completed the spin-off of the remainder of its interests in Tim Hortons to the stockholders of The Wendy’s Company. With respect to Burger King Worldwide and its predecessors, a

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predecessor to Burger King Worldwide was acquired by private equity funds controlled by TPG Capital, Bain Capital Partners and the Goldman Sachs funds in 2002, and in May 2006 it completed its initial public offering of common stock, which began trading on the New York Stock Exchange. On October 19, 2010, the predecessor to Burger King Worldwide was acquired by 3G, and as a result of the acquisition, its common stock ceased to be traded on the New York Stock Exchange after close of market on that day. On June 20, 2012, the predecessor to Burger King Worldwide merged with a subsidiary of Justice Holdings Limited, and shares of Burger King Worldwide common stock began trading on the New York Stock Exchange.

In early 2013, the Burger King Worldwide board of directors and senior management determined to consider mergers or other business combination transactions involving Burger King Worldwide in connection with its 5-year strategic plan process. Following approval by the board of directors of the strategic plan, in the second half of 2013, the senior management of Burger King Worldwide began to actively review potential business transactions involving Burger King Worldwide and determined to explore a potential transaction with Tim Hortons. In particular, they believed that a potential transaction could bring two fully-franchised QSR businesses with strong brands under one majority owner that would result in potential for further growth in strategic markets in a manner that could create value for the shareholders of Tim Hortons and the stockholders of Burger King Worldwide.

In early March 2014, Alexandre Behring, Managing Partner of 3G Capital and Chairman of the Board of Directors of Burger King Worldwide, spoke with Warren Buffett, Chairman of the Board of Directors and Chief Executive Officer of Berkshire, and proposed to Mr. Buffett that Burger King Worldwide, with the full support of 3G Capital, Burger King Worldwide's majority stockholder, and Tim Hortons combine and that Berkshire provide financing for the transaction in the form of a preferred stock investment in a company which would own both the Burger King Worldwide and Tim Hortons businesses. Shortly thereafter, Mr. Buffett responded that Berkshire was supportive of a transaction and would be willing to provide the equity financing for a transaction in the form of preferred equity of the kind and in approximately the amount that Berkshire ultimately agreed to provide. Mr. Buffett has known several partners of 3G Capital for many years, and Berkshire and affiliates of 3G Capital jointly acquired H.J. Heinz Company in 2013.

On or about March 10, 2014, a representative of Lazard Frères & Co. LLC (which we refer to as "Lazard"), financial advisor to Burger King Worldwide, contacted Marc Caira, President and Chief Executive Officer of Tim Hortons, and suggested that they have a telephone conversation. A telephone discussion followed on March 12, 2014, during which the representative of Lazard indicated that 3G, the controlling stockholder of Burger King Worldwide, was interested in discussing the Burger King Worldwide and Tim Hortons businesses. Mr. Caira agreed to have a dinner meeting with Mr. Behring.

On March 20, 2014, Messrs. Behring and Caira held a dinner meeting in Toronto, Ontario. During the dinner meeting, Mr. Behring indicated that Burger King Worldwide, with the support of 3G Capital, was interested in entering into a transaction involving Tim Hortons. No terms of any transaction were discussed during the dinner. Mr. Caira informed Mr. Behring that Tim Hortons was not for sale, but that he would inform the Tim Hortons board of directors of Burger King Worldwide's and 3G Capital's interest and indicated that any specific proposal should be communicated in writing.

On March 24, 2014, the Burger King Worldwide board of directors held a telephonic meeting during which the directors discussed the potential transaction. During the meeting, the senior management and board of directors of Burger King Worldwide discussed Tim Hortons and its business and operations, the potential benefits of the transaction, the likely financing for the transaction and the proposed terms and structure of the transaction. Mr. Behring confirmed that 3G, Burger King Worldwide's largest stockholder, was supportive of the transaction. Following discussion, the Burger King Worldwide board of directors authorized Burger King Worldwide's management to deliver a non-binding proposal to Tim Hortons in connection with the transaction and engage in discussions with Tim Hortons.

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Later on March 24, 2014, 3G Capital, Burger King Worldwide and Berkshire delivered a joint letter to Mr. Caira which contained a non-binding proposal by Burger King Worldwide to acquire all outstanding Tim Hortons common shares for C\$73.00 per share, payable in cash and stock of the combined company. The letter stated, among other things, that all of the preferred equity financing would be provided by Berkshire in the form of preferred equity in the combined company and that the parties were highly confident that they would be able to finalize debt financing commitments promptly. In addition, the letter indicated that the parties understood Tim Hortons rich Canadian heritage. The letter also noted that the proposal was conditioned on, among other things, customary due diligence, which the parties believed could be completed within weeks, and satisfactory negotiation of transaction documentation.

On March 27, 2014, Mr. Caira confirmed receipt of the March 24 proposal letter and indicated that he would discuss the proposal with the Tim Hortons board of directors.

On April 4, 2014, the Tim Hortons board of directors held a telephonic meeting for the purpose of reviewing the March 24 proposal letter. Mr. Caira presented background on the identities of 3G Capital and Burger King Worldwide and management's views as to why they may be interested in a transaction with Tim Hortons. Cynthia J. Devine, Chief Financial Officer of Tim Hortons, presented financial and other information regarding the proposed terms of the letter and related matters. In addition, Jill E. Sutton, Executive Vice President, General Counsel and Secretary of Tim Hortons, reviewed with the board the key terms and legal implications of the proposal, and outlined for the board its duties and obligations arising in connection with evaluation of the proposal. The Tim Hortons board of directors then discussed the March 24 proposal letter, including the offered consideration of C\$73.00 per Tim Hortons common share. Following the board's discussions and with these interests in mind, the Tim Hortons board of directors determined to conduct a formal evaluation of the transaction proposed by the March 24 proposal letter and proceeded to establish a working committee, consisting of Chairman Paul House, Lead Director Frank Iacobucci, directors Michael J. Endres and Thomas V. Milroy and Mr. Caira. The Tim Hortons board of directors also determined that, both between and in advance of full board meetings, the working committee would review and discuss with management significant matters to be considered by management, including those that would be brought before the board of directors in connection with the transaction. The working committee was also authorized to make recommendations to the board of directors on certain matters throughout the process, based on its detailed review of these matters in advance of meetings of the board of directors.

On April 16, 2014, Mr. Behring contacted Mr. Caira to inquire about the status of the Tim Hortons board of directors' evaluation of the March 24 proposal letter and noted that it would be helpful to receive feedback on the letter as promptly as possible. Mr. Caira said that the Tim Hortons board of directors would be meeting towards the end of the month and he would be able to provide feedback after that meeting.

On April 24, 2014, the Burger King Worldwide board of directors held a regular meeting in Miami, Florida. During the course of the meeting, the board of directors discussed the status of the potential transaction.

On April 25, 2014, the Tim Hortons board of directors held a meeting to further discuss the potential transaction proposed by the March 24 proposal letter, with representatives of Wachtell, Lipton, Rosen & Katz (which we refer to as "Wachtell"), counsel to Tim Hortons, RBC Dominion Securities Inc., a member company of RBC Capital Markets (which we refer to as "RBC Capital Markets") and Citigroup Global Markets Inc. (which we refer to as "Citi"), each a financial advisor to Tim Hortons, participating. A representative of Tim Hortons presented to the Tim Hortons board of directors a detailed strategic assessment of Burger King Worldwide and the potential synergies that might be achieved in a transaction between the two companies. RBC Capital Markets and Citi preliminarily reviewed with the Tim Hortons board of directors financial aspects of the proposed transaction, including with respect to the proposed consideration offered for each Tim Hortons common share. After discussing the proposal, including the perceived advantages and disadvantages of the proposed transaction, the Tim Hortons board of directors determined that the proposed consideration of C\$73.00 per Tim Hortons common share set forth in the March 24 proposal letter did not provide a basis upon which to enter into

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discussions with Burger King Worldwide. Later on April 25, 2014, Mr. Caira contacted Mr. Behring and informed him of the Tim Hortons board of directors' determination.

On May 12, 2014, 3G Capital, Burger King Worldwide and Berkshire sent a joint letter to Mr. Caira which contained a revised non-binding proposal by Burger King Worldwide to acquire all of the outstanding Tim Hortons common shares for C\$78.00 per share, payable in cash and stock of the combined company. The letter stated, among other things, that all of the preferred equity financing would be provided by Berkshire in the form of preferred equity in the combined company. The letter also contained the same conditions as the March 24 proposal letter.

On May 14, 2014, the Tim Hortons board of directors held a telephonic meeting to discuss the revised proposal reflected in the May 12 proposal letter. The board received a review from Citi and RBC Capital Markets regarding financial aspects of the revised proposal and concluded that the proposed consideration of C\$78.00 per Tim Hortons common share set forth in the May 12 proposal letter did not provide a basis upon which to enter into discussions with Burger King Worldwide with respect to a potential transaction. The Tim Hortons board of directors expressed its continued reliance on the determinations made at its April 25 meeting, indicating that there had been no change in circumstances related to the Tim Hortons business to alter those determinations.

On May 15, 2014, Mr. Caira contacted Mr. Behring and informed him that the Tim Hortons board of directors had met and considered the May 12 proposal. Mr. Caira noted that the Tim Hortons board of directors had comprehensively and carefully evaluated the March 24 proposal and that, based upon the substantial work undertaken to evaluate the March 24 proposal, as updated to reflect the revised consideration offered by the May 12 proposal, the May 12 proposal did not provide a basis upon which Tim Hortons would enter into discussions with Burger King Worldwide with respect to a potential transaction. In particular, he noted that the Tim Hortons board of directors believed that the implementation of its recently announced strategic plan offered greater opportunities for long-term value creation than the May 12 proposal.

On June 3, 2014, a representative of counsel to Burger King Worldwide contacted Mr. Iacobucci, to discuss the May 12 proposal, and requested that the Tim Hortons board of directors consider meeting with representatives of Burger King Worldwide so that they could present to the Tim Hortons board of directors Burger King Worldwide's plans for creating long-term shareholder value and the benefits of the transaction to Tim Hortons shareholders, other stakeholders and Canada. Mr. Iacobucci discussed this request with Messrs. Caira and House. Following that discussion, on June 10, 2014, Mr. Iacobucci contacted the representative of counsel to Burger King Worldwide and stated that, for the reasons previously conveyed to Mr. Behring by Mr. Caira on May 15, 2014, the determination of the Tim Hortons board of directors with respect to the May 12 proposal was unchanged and Tim Hortons did not believe a meeting would be productive.

On June 27, 2014, Burger King Worldwide delivered a letter to Mr. Caira which contained a revised non-binding proposal by Burger King Worldwide to acquire all outstanding Tim Hortons common shares for C\$82.50 per share, payable in cash and stock of the combined company. The letter confirmed that Burger King Worldwide had obtained full commitments for the entire financing necessary to complete the transaction. The letter also noted that Burger King Worldwide recognized the significance of the Tim Hortons brand and the company's heritage in Canada and understood how both had been major contributors to the long-term success of Tim Hortons, and, as a result, Burger King Worldwide confirmed that the combined company following the transaction would be incorporated in Canada, have a new name reflecting both companies' rich heritages, maintain separate brand management for Tim Hortons, maintain Tim Hortons headquarters in Canada and continue to support Tim Hortons commitments to the communities it serves. The letter also contained the same conditions as the March 24 and May 12 proposal letters. The letter indicated that Burger King Worldwide was ready to work on the transaction immediately.

On June 28, 2014, Mr. Caira informed Mr. Behring that he intended to discuss the June 27 proposal with the Tim Hortons board of directors.

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On June 30, 2014, the Tim Hortons board of directors met telephonically to discuss the June 27 proposal, with representatives of Wachtell, Citi and RBC Capital Markets participating. Mr. Caira presented an overview of the revised financial terms of the June 27 proposal and outlined the significant changes from the two previous proposals, including primarily the increased consideration. A representative of Wachtell reviewed the revised terms of the June 27 proposal with the Tim Hortons board of directors, highlighting relevant considerations, including the omission of Berkshire from the parties submitting the proposal. Citi and RBC Capital Markets reviewed financial aspects of the June 27 proposal with the Tim Hortons board of directors. The board of directors also discussed the continued importance of preserving the rich heritage of the Tim Hortons brand in Canada and the potential impact that the proposed transaction could have on Tim Hortons, its shareholders, its franchisees and its other stakeholders, and the determination of the board of directors that the core principles (as defined in “*The Transactions—Recommendation of Tim Hortons Board of Directors; Tim Hortons Reasons for the Transactions*”) would be a fundamental aspect of any potential transaction. Following review of the relevant financial and other considerations discussed in the meeting, the Tim Hortons board of directors, although not prepared to enter into a transaction on the basis of the June 27 proposal, determined to authorize Tim Hortons management to engage in discussions with Burger King Worldwide to determine whether a transaction could be agreed to that would be mutually acceptable to the two companies’ respective boards of directors, subject to the execution of a confidentiality agreement, including a standstill agreement.

On July 3, 2014, Mr. Caira contacted Mr. Behring and informed him that the Tim Hortons board of directors had evaluated the June 27 proposal and that, while the Tim Hortons board of directors was not prepared to enter into a transaction on the terms of the proposal, Tim Hortons was prepared to enter into discussions about whether there was a possible transaction that could be mutually agreeable to the respective boards of directors of Tim Hortons and Burger King Worldwide. Mr. Caira suggested that Burger King Worldwide and Tim Hortons could enter into discussions to further understand the June 27 proposal, after the parties entered into an appropriate confidentiality agreement and standstill.

On July 7, 2014, a representative of Kirkland & Ellis LLP (which we refer to as “Kirkland”), counsel to Burger King Worldwide, and a representative of Wachtell discussed the proposed transaction and next steps. During the call, the representative of Wachtell said that Tim Hortons wanted to review further details about the structure of the transaction and information about Burger King Worldwide and wanted to discuss, among other things, the financial terms contemplated by the June 27 proposal. He also said that Tim Hortons expected that the parties would agree to a mutual standstill period in the confidentiality agreement and the counsels discussed the range of standstill periods that would be mutually agreeable to their respective clients, ultimately agreeing to consider a standstill with a three-month term to allow for discussions of a possible transaction.

Later that day, Wachtell sent to Kirkland and Davies Ward Phillips & Vineberg LLP (which we refer to as “Davies”), counsel to Burger King Worldwide, a draft confidentiality agreement to be entered into by the parties. Wachtell and Kirkland negotiated the terms of the agreement during the course of the next two days with guidance from their respective clients.

On July 9, 2014, Burger King Worldwide, Tim Hortons and 3G executed the confidentiality agreement, including customary standstill provisions with a term of three months. The agreement permitted Burger King Worldwide to share information with Berkshire and certain financial institutions named in the confidentiality agreement but required further approval of Tim Hortons before confidential information could be shared with other parties.

On July 10, 2014, Messrs. Behring and Caira discussed next steps with respect to the parties’ consideration of whether terms of a potential transaction could be reached that would be mutually acceptable to the respective boards of directors of Tim Hortons and Burger King Worldwide. Mr. Caira reiterated that Tim Hortons was prepared to discuss a possible transaction but would not accept the current proposal and suggested that the parties schedule a management meeting after the Tim Hortons franchisee convention meeting to be held over the course of the next week.

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Over the next several days, the parties agreed to have their respective financial advisors begin to discuss the transaction in more detail, and representatives of Lazard had initial discussions with representatives of Citi and RBC Capital Markets.

On July 23, 2014, representatives of Kirkland, Wachtell, Lazard, Citi and RBC Capital Markets met in New York City so that the representatives of Tim Hortons could better understand Burger King Worldwide's proposal for a potential transaction. During the meeting, the representatives of Burger King Worldwide presented information on the transaction, including the business of the combined company following the transaction, the merits of the transaction, the terms of the proposed financing for the transaction, the effect of the transaction on franchisees and employees of Tim Hortons and Burger King Worldwide and regulatory approvals required for the transaction. The representatives of Burger King Worldwide also presented Burger King Worldwide's positions regarding more detailed terms of the proposed transaction, including that the consideration would include a fixed exchange ratio, two directors from Tim Hortons would join the new holding company's board of directors, each party would be subject to a "no-shop" provision that would prohibit it from soliciting alternative transactions after the execution of the transaction agreement and that the termination fee payable by Tim Hortons if the transaction agreement were terminated to accept a superior proposal would be equal to C\$445 million (4% of the Tim Hortons equity value of the transaction). The Burger King Worldwide representatives proposed that the transaction agreement would follow the leveraged buyout structure for a financed transaction in which Burger King Worldwide would pay Tim Hortons a reverse termination fee of C\$585 million if the transaction were not consummated due to the failure of the debt financing sources to provide the financing, which amount would only be payable after a grace period during which Burger King Worldwide could remedy the financing failure, and that the reverse termination fee amount would be Burger King Worldwide's maximum liability in connection with the transaction. The representatives of Lazard also described the closing conditions that would be included in the transaction agreement, such as the absence of a material adverse effect and receipt of U.S. and Canadian antitrust and Investment Canada Act approvals. The Tim Hortons representatives indicated that they would provide feedback regarding the presentation, including the proposed terms, which were not the subject of negotiation at this meeting, after consultation with Tim Hortons.

On July 25, 2014, representatives of Kirkland, Paul, Weiss, Rifkind, Wharton & Garrison LLP (which we refer to as "Paul Weiss"), counsel to Burger King Worldwide, and KPMG LLP, tax advisor to Burger King Worldwide, presented to representatives of Wachtell, Osler, Hoskin & Harcourt LLP (which we refer to as "Osler") and Fenwick & West LLP, counsel to Tim Hortons, information about the proposed corporate structure and tax implications of the transaction.

Also on July 25, 2014, the Tim Hortons board of directors met telephonically to discuss the July 23, 2014 meeting in New York. Representatives of Osler, Wachtell, Citi and RBC Capital Markets discussed with the board the terms of the proposed transaction that had been presented by Lazard and Kirkland at the meeting, including the proposed financing, continued independent management of the Tim Hortons and Burger King brands, preservation of Tim Hortons Canadian heritage and proposed structure. After further discussion and careful consideration of the proposed terms, the Tim Hortons board of directors authorized a meeting between Mr. Caira and Ms. Devine, on the one hand, and Mr. Behring and Daniel S. Schwartz, Chief Executive Officer of Burger King Worldwide, on the other.

On July 29, 2014, Messrs. Behring and Schwartz met with Mr. Caira and Ms. Devine in Toronto, Ontario. Messrs. Behring and Schwartz presented greater detail regarding the potential transaction and Burger King Worldwide's plans for the two brands after the transaction.

Also on July 29, 2014, representatives of several of Burger King Worldwide's advisors, with Joshua Kobza, Executive Vice President and Chief Financial Officer of Burger King Worldwide, also in attendance, met with representatives of several of Tim Hortons advisors, including a member of management of Tim Hortons, in New York City to provide more information about the proposed corporate and tax structure of the transaction, which included more detail than the initial conversation on this topic on July 25.

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On July 30, 2014, a representative from Citi called a representative of Lazard to provide an update on the status of the evaluation of the transaction by Tim Hortons. The Citi representative said that Tim Hortons was pleased with the outcome of the management meeting and transaction structure meeting from the previous day, that additional due diligence about the corporate structure of the transaction and the governance of the combined company would be required and that it may be helpful for the parties to have a further discussion of these items.

On July 31, 2014, the Burger King Worldwide board of directors held a regular meeting in Miami, Florida. During the course of the meeting, the board of directors discussed the status of the potential transaction.

On August 4, 2014, representatives of several of Burger King Worldwide's advisors, with Mr. Kobza also in attendance, had a conference call with representatives of several of Tim Hortons advisors to provide more information about the exchangeable units of the partnership that were intended to be provided as consideration to the holders of Burger King Worldwide common stock in the transaction. During the discussion, in response to questions raised by Tim Hortons, the representatives of Burger King Worldwide provided additional detail about the terms of the units. In particular, the Burger King Worldwide representatives confirmed that the units would not carry independent governance rights and that all governance of the combined company would be on a fully-diluted basis by virtue of pro rata voting interests in Holdings. Representatives of Tim Hortons advisors also asked questions about the listing of shares of the combined company on The Toronto Stock Exchange and other tax, corporate and governance matters, including limitations on the disposition of the shares of 3G Capital on a basis not also available to minority shareholders.

On August 5, 2014, the Tim Hortons board of directors met to review the discussions regarding the proposed transactions and to receive an update on the management meetings and the meetings with respect to structure. Citi and RBC Capital Markets reviewed with the Tim Hortons board of directors financial aspects of the proposed transaction, and members of Tim Hortons management, together with a representative of each of Wachtell and Osler, provided an overview of the proposed structure of the transaction. Representatives of Osler and Wachtell reviewed with the board the regulatory approvals that would be required in connection with any transaction and an assessment of the ability to obtain those approvals. The Tim Hortons board of directors again discussed the importance of any transaction addressing stakeholder interests important to the continued success of Tim Hortons, including the Tim Hortons franchisees and employees. The board of directors also discussed the Tim Hortons strategic plan in depth, including modifications and their potential to create additional long-term value for Tim Hortons shareholders, as well as an updated strategic assessment of Burger King Worldwide and the potential synergies that might be achieved in a transaction between the two companies. In connection with these discussions, Ms. Devine provided an overview of the strength and prospects of the Burger King Worldwide international business and how it might contribute to the international development of Tim Hortons in connection with the transaction. The Tim Hortons board of directors instructed management to continue the dialogue with Burger King Worldwide, with the understanding that Tim Hortons would not be prepared to consider a transaction unless Burger King Worldwide increased the price substantially from its June 27 proposal letter.

On the morning of August 6, 2014, Tim Hortons announced its earnings for the second quarter of 2014. The earnings release reported significant early progress and positive results from its strategic plan and, given its strong sales progression and momentum going into the second half of the year, Tim Hortons stated that it expected its earnings per share and U.S. same-store sales growth for fiscal 2014 to be at the high end, or slightly above, its previously announced targeted range. In the three trading days that followed, the trading price per Tim Hortons common share as reported on the Toronto Stock Exchange increased by almost 14%, from a closing price of C\$60.08 per share on August 5, 2014 to a closing price of C\$68.40 per share on August 8, 2014.

Later on August 6, 2014, Mr. Caira contacted Mr. Behring and informed him that the Tim Hortons board of directors had met and was prepared to provide feedback on the terms of Burger King Worldwide's proposal. He said that representatives of Citi would provide this feedback to representatives of Lazard. He noted that part of the feedback to be provided was that Burger King Worldwide would have to improve the price and terms of its proposal and clarify or provide additional detail about the commitments it was prepared to make in respect of

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other stakeholders, including those it was prepared to make to demonstrate its commitment to the franchisees, employees, guests, communities and Canada, as previously had been discussed in more general terms in its proposal. They agreed to meet in New York City early the following week to discuss these matters. Mr. Caira said that the Tim Hortons board of directors would be meeting on August 15, 2014 and requested a revised proposal from Burger King Worldwide reflecting its response to this feedback by August 14, 2014.

On August 7, 2014, a representative from Citi called a representative of Lazard to provide feedback on the evaluation of the transaction by the Tim Hortons board of directors as indicated by Mr. Caira to Mr. Behring on August 6. The Citi representative indicated that the price of Burger King Worldwide's proposal would have to be substantially higher than the price in the June 27 proposal letter. In addition, the Citi representative said that Tim Hortons board of directors wanted Burger King Worldwide to clarify or provide additional detail about the commitments it was prepared to make to demonstrate its commitment to Tim Hortons brand, customers and franchisees and, ultimately, Canada, and explain in more detail Burger King Worldwide's plan on obtaining regulatory approvals for the transaction. The representative from Citi told the representative from Lazard that the Tim Hortons board of directors also had asked for more detail on the strength and prospects of Burger King Worldwide's international business to assist in its evaluation of the transaction and wanted to limit any closing conditions that would prevent the transaction from proceeding that were not within the control of Tim Hortons. The Citi representative noted that Mr. Caira would be prepared to discuss these specific matters at the upcoming meeting in New York City.

On August 11, 2014, Messrs. Behring and Schwartz met with Mr. Caira and Ms. Devine in New York City. Mr. Caira and Ms. Devine presented information on the Tim Hortons business, strategy and valuation drivers. Mr. Caira and Ms. Devine also explained the commitments that the Tim Hortons board of directors wanted Burger King Worldwide to support, by way of undertakings in connection with Burger King Worldwide's application under the Investment Canada Act, Tim Hortons core principles. In particular, they stated that the Tim Hortons board of directors wanted Burger King Worldwide to agree, among other things, that Holdings would be incorporated in Canada, shares of Holdings common stock would be listed on the Toronto Stock Exchange, the Holdings board of directors would have three directors designated by Tim Hortons, a meaningful number of executives of Holdings who were Canadian-based, the Tim Hortons brand would be separately managed and headquartered in Canada, Tim Hortons store branding would be independent, Holdings would agree to not increase Tim Hortons rent and royalty structure with its franchisees for a period of five years and indicate that it had no plans to do so thereafter, and Holdings would agree to maintain Tim Hortons commitments to charitable organizations. Messrs. Behring and Schwartz agreed to consider these matters further, but they acknowledged that Burger King Worldwide expected to be able to approve most of these requests and, in fact, recognized the importance of and was fully supportive of the Tim Hortons core principles. Also at the meeting, at the request of Mr. Caira, Messrs. Behring and Schwartz presented information on Burger King Worldwide's strategy for international expansion of its brand and plans for international expansion of the Tim Hortons brand. Mr. Caira reiterated the prior message that the Tim Hortons board of directors expected that the price of Burger King Worldwide's proposal would have to be substantially higher than the price in the June 27 proposal letter. They also discussed plans for management of Holdings.

On August 12, 2014, representatives of Kirkland and representatives of Wachtell discussed the closing conditions to the transaction that had been initially proposed by Burger King Worldwide and alternatives that might be mutually agreeable.

On August 13 and 14, 2014, representatives of Burger King Worldwide and its advisors sought additional guidance from Tim Hortons about whether there was a price per share at which the Tim Hortons board of directors would be willing to fully engage in discussions. In particular, a representative of Lazard contacted a representative of Citi and indicated that Burger King Worldwide would only be prepared to improve the price and terms of its proposal if it believed there was a reasonable probability that the price and terms would be acceptable to the Tim Hortons board of directors and that as a result Burger King Worldwide wanted additional guidance. The representatives of Citi did not specifically identify a price that would be acceptable to the Tim

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Hortons board of directors but reiterated that the improvement to the price would have to be significant. Separately, Mr. Caira advised Mr. Behring that the increased price per Tim Hortons common share following the second quarter earnings announcement should serve as a baseline upon which a premium for a transaction should be determined and reflected in any revised proposal.

Also, on August 13 and 14, 2014, continuing prior discussions and following consultation with senior management of Burger King Worldwide, Mr. Behring consulted with the Burger King Worldwide directors about changes to the terms of Burger King Worldwide's proposal and sought guidance on whether the directors would be prepared to authorize an increase to the proposed price and overall improvement in the terms of the proposal and, if so, to what price and terms.

On August 14, 2014, Mr. Behring contacted Mr. Caira and informed him that Burger King Worldwide expected to submit a revised proposal on the following day.

On August 15, 2014, Burger King Worldwide delivered a letter to Mr. Caira which contained a revised non-binding proposal by Burger King Worldwide to acquire all of the outstanding Tim Hortons common shares for C\$88.50 per share, payable in cash and stock of the combined company. The letter confirmed that Burger King Worldwide had obtained full commitments for the entire debt financing necessary to complete the transaction and that Berkshire would provide equity financing for the transaction in the form of a preferred stock investment in the combined parent company. The letter also detailed the commitments that Burger King Worldwide was prepared to make in response to the items discussed at the meeting on August 11 and sought to limit any closing conditions in response to feedback provided by Wachtell. The letter noted that Burger King Worldwide expected to complete mutual due diligence and sign definitive agreements within two weeks and that the proposal was the "best and final" offer that Burger King Worldwide was prepared to make to complete the transaction.

During the afternoon of August 15, 2014, the Tim Hortons board of directors met in person to discuss the terms of the revised August 15 proposal, with representatives of Osler, Wachtell, Citi and RBC Capital Markets participating. Tim Hortons financial advisors reviewed with the Tim Hortons board of directors financial aspects of the revised proposal. RBC Capital Markets and Citi also stated their belief, based on discussions then to date with representatives of Burger King Worldwide, that Burger King Worldwide was unlikely to increase the proposed consideration offered in the transaction above C\$88.50 as Burger King Worldwide already had increased the transaction consideration three times previously, noting in particular that the August 15 proposal was presented as Burger King Worldwide's "best and final" offer. The Tim Hortons board of directors placed substantial weight on the commitments made by Burger King Worldwide in the August 15 proposal with respect to the Tim Hortons brand, franchisees, employees, guests, the communities in which Tim Hortons operates and the undertakings that Burger King Worldwide was willing to make with respect to Canada in connection with seeking approval under the Investment Canada Act. At the request of the board and based on an in-depth review she had undertaken with representatives of Burger King Worldwide, Ms. Devine made a presentation about the overall strength, prospects and scalability of Burger King Worldwide's international business, including how Tim Hortons could leverage that platform to accelerate its growth in connection with a potential transaction. Ms. Sutton and representatives of Osler and Wachtell again reviewed with the Tim Hortons board of directors its fiduciary responsibilities in evaluating a potential transaction. After further discussion of the content of the August 15 letter and the increased value offered to Tim Hortons, its shareholders and its other stakeholders, the Tim Hortons board of directors authorized Tim Hortons management to engage fully in mutual due diligence and to negotiate a definitive agreement with Burger King Worldwide on the basis of the August 15 proposal, while still achieving the greatest possible transaction closing certainty and addressing the other points of emphasis of the board discussed at the meeting.

During the August 15, 2014 meeting and throughout the process of considering the various proposals from Burger King Worldwide, the Tim Hortons board of directors reviewed with Tim Hortons management and advisors the identity and potential strategic interest and financial capacity of several industry and financial parties

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in pursuing a transaction with Tim Hortons. The board determined that it was premature to contact any of those parties and, in particular, determined after receipt of the August 15 proposal that it was unlikely that any of those parties would be able to consummate a transaction on terms that were superior to the August 15 proposal, and in any event that any agreement reached with Burger King Worldwide would not preclude any party from making a subsequent offer.

On the morning of August 16, 2014, Mr. Caira contacted Mr. Behring and informed him that the Tim Hortons board of directors had concluded its evaluation of the August 15 proposal and had authorized Tim Hortons to proceed with further discussions, undertake mutual diligence and negotiate definitive agreements on the basis of the proposal, as revised as stated above.

On the evening of August 16, 2014, Kirkland and Davies circulated an initial draft of the arrangement agreement to Wachtell, which draft was consistent with the terms set forth in the August 15 proposal and the terms discussed at the meeting on July 23, and which draft formed the basis for subsequent negotiations. In particular, the draft arrangement agreement followed the leveraged buyout structure for a financed transaction, with a reverse termination fee payable by Burger King Worldwide in the event of a financing failure equal to 5.5% of the Tim Hortons equity value of the transaction, which amount would only be payable after a nine-month grace period during which Burger King Worldwide could remedy the financing failure. The draft arrangement agreement also included a right of the Tim Hortons board of directors to change its recommendation to shareholders solely in connection with a superior proposal and a termination fee payable by Tim Hortons equal to 4.0% of the Tim Hortons equity value of the transaction. The draft arrangement agreement also required each of the parties to use its reasonable best efforts to obtain antitrust and regulatory approvals and consummate the transaction, subject to certain limitations (including that Burger King Worldwide would not be required to agree to any divestitures or limitations on the operation of the businesses). Finally, in response to feedback provided by Tim Hortons to address the conditionality of the transaction, the draft arrangement agreement contemplated that 3G would provide its written consent to the adoption of the agreement. Over the course of the next several days, Kirkland and Davies circulated initial drafts of the ancillary agreements and attachments to the arrangement agreement to Wachtell and Osler, including the plan of arrangement, form of partnership agreement for Partnership, the form of articles and by-laws for Holdings and the form of voting trust agreement.

On August 17, 2014, the parties discussed a work-plan of due diligence, management meetings, timing for an announcement of signing a definitive transaction agreement and coordinating further work on a communications plan. The parties agreed to target management presentations on August 19, 2014 and signing the definitive transaction agreement shortly after Labor Day.

Later in the day on August 17, 2014, Tim Hortons and its advisors were granted access to an online data site to which Burger King Worldwide and its representatives had uploaded certain public and non-public information of Burger King Worldwide. Thereafter and through the execution of the arrangement agreement, Burger King Worldwide and its representatives continued to upload due diligence materials and make information available in response to due diligence requests of Tim Hortons and its advisors.

On August 18, 2014, several members of Burger King Worldwide's management team, including Messrs. Schwartz and Kobza and Jill Granat, Senior Vice President and General Counsel of Burger King Worldwide, and several of its advisors held a teleconference with several members of the Tim Hortons management team, including Ms. Devine and Ms. Sutton, and several of its advisors to coordinate work plans of due diligence, meetings and negotiations. On the call, the parties agreed to work to have due diligence and definitive documentation and a communications plan completed shortly following the Labor Day weekend.

Later that day, representatives of Wachtell and Osler contacted representatives of Kirkland and Davies and informed them that Tim Hortons expected Burger King Worldwide would agree not to have a right to limit its liability under the arrangement agreement in the event of a financing failure, which would therefore not include a termination right or a reverse termination fee in the event of a financing failure. The Wachtell and Osler

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representatives also indicated that the arrangement agreement should require Burger King Worldwide to take any actions necessary to receive all required antitrust and regulatory approvals. Following further discussions between Mr. Schwartz and Ms. Devine and Mr. Behring and Mr. Caira, the parties agreed that they would continue to discuss these matters.

On August 19, 2014, management presentations were held at the New York City offices of Lazard, at which members of the management team of Tim Hortons, including Ms. Devine and Ms. Sutton, gave representatives of Burger King Worldwide and its debt financing sources and advisors an overview of the Tim Hortons business and members of the management team of Burger King Worldwide, including Messrs. Behring, Schwartz and Kobza and Ms. Granat, gave representatives of Tim Hortons and its advisors an overview of the Burger King Worldwide business. Later that day, members of the management teams of each of Burger King Worldwide and Tim Hortons reconvened to discuss the topics that had been raised in the prior day's discussion between legal counsel and the work plan for the proposed transaction. After August 19, 2014 and through the execution of the arrangement agreement, breakout due diligence sessions between the respective management teams and advisors of Burger King Worldwide and Tim Hortons continued.

On August 20, 2014, representatives of Kirkland and Davies contacted representatives of Wachtell and Osler to provide feedback on the items discussed on their call on August 18, 2014. They informed them that Burger King Worldwide was prepared to discuss and be constructive about both items that had been raised but that Burger King Worldwide would not be willing to agree to the proposal for either request made by Tim Hortons. In particular, Burger King Worldwide was prepared to provide in the arrangement agreement that it would confirm its obligation to take specific actions to obtain antitrust and regulatory approvals and take further actions for those purposes, but that the obligations would not be unlimited. In response to this call, the representatives of Wachtell and Osler said that Tim Hortons was prepared to accept that approach if Burger King Worldwide would agree to pay Tim Hortons a reverse termination fee if the transaction was not completed as a result of the failure to obtain any required antitrust or regulatory approval. A representative of Osler later that day communicated to representatives of Burger King Worldwide that Tim Hortons proposed that the reverse termination fee be C\$1.0 billion.

Also on August 20, 2014, Burger King Worldwide and its advisors were granted access to an online data site to which Tim Hortons and its representatives had uploaded certain public and non-public information of Tim Hortons. Thereafter through the execution of the arrangement agreement, Tim Hortons and its representatives continued to upload due diligence materials and make information available in response to due diligence requests from Burger King Worldwide and its advisors.

On August 22, 2014, Messrs. Behring and Schwartz met in Boston, Massachusetts with Mr. Caira and Scott Bonikowsky, Senior Vice President, Corporate, Public & Government Affairs of Tim Hortons. They discussed the companies' plans to obtain antitrust and regulatory approvals for the transaction and the nature of communications to the companies' respective stakeholders. They also discussed the timeline for completion of due diligence, the negotiation of definitive transaction agreements, and final evaluation of the transaction by the respective boards of directors of the companies. They agreed to target signing the definitive transaction agreement on August 27, 2014.

Also on August 22, 2014, Wachtell and Osler circulated a revised draft of the arrangement agreement to Kirkland and Davies. The revised draft agreement included the requirements for obtaining antitrust and regulatory approvals proposed by Wachtell and Osler on the conference call on August 20, 2014, including a reverse termination fee and specific commitments to be made by Burger King Worldwide. The revised draft of the arrangement agreement also enhanced transaction certainty to Tim Hortons by removing Burger King Worldwide's ability to terminate the agreement upon payment of a reverse termination fee in the event of a failure by Burger King Worldwide to obtain required financing. The draft arrangement agreement also included a right of the Tim Hortons board of directors to change its recommendation to shareholders in connection with a superior proposal or any other matter deemed relevant to the board of directors and a termination fee payable by

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Tim Hortons equal to 2.0% of the Tim Hortons equity value of the transaction, which fee would only be payable in certain circumstances. The draft agreement also included a provision allowing holders of Tim Hortons common shares to make elections about the form of consideration they would receive (subject to aggregate pro rata adjustments) and a provision requiring that 3G be subject to limitations on the disposition of its shares on a basis not also required of minority shareholders beyond those provided under law.

Over the next three days, the management teams of Burger King Worldwide and Tim Hortons and representatives of Kirkland, Davies, Wachtell and Osler continued negotiating the open points in the transaction documents, including the limits on and nature of actions that Burger King Worldwide would agree to take or accept in order to obtain antitrust and Investment Canada Act approvals and refinement of the expression of Tim Hortons core principles to be included in the arrangement agreement, the termination fees that may become payable, the ability of the Tim Hortons board of directors to change its recommendation for certain intervening events and Burger King Worldwide's rights to a grace period in the event of a financing failure and ability to cure such financing failure. In particular, on August 23, 2014, the companies and their respective advisors had a series of teleconferences during which they finalized these terms as reflected in the final arrangement agreement. In connection with these discussions several subsequent drafts of the transaction agreements were exchanged.

On August 24, 2014, reporters from *The Wall Street Journal* contacted representatives of Burger King Worldwide and Tim Hortons and informed them that they intended to report in an article later that evening of the advanced discussions between the companies about the potential transaction between Burger King Worldwide and Tim Hortons. The article was posted later that evening.

In response to the call from the reporters from *The Wall Street Journal*, Mr. Behring contacted Mr. Caira to discuss the upcoming article and the appropriate response of each company. Following a series of discussions, they agreed that the companies should jointly issue a press release about the discussions to address the market rumors that would result from the article and seek to finalize the definitive agreements and convene meetings of the boards of directors to evaluate and, if thought appropriate, approve the transaction as soon as possible, likely on August 25, 2014.

Later that evening, Burger King Worldwide and Tim Hortons issued a joint press release confirming their discussions related to the transaction and explaining its strategic rationale.

On August 25, 2014, the Burger King Worldwide board of directors held a telephonic meeting during which it discussed the potential transaction. During the meeting, Mr. Behring reported to the board of directors about recent events, including the final negotiations of the terms of the transaction and the press reports, and informed the board of directors that negotiations with Tim Hortons regarding the transaction agreements had substantially concluded. Mr. Schwartz reviewed with the board of directors the terms of the transaction and related financing. Representatives of Kirkland reviewed with the board of directors the fiduciary duties applicable to the board's evaluation of the transaction and a summary of the terms of the transaction, including the written consent to approve the transaction to be delivered by 3G, the structure of the combined company after the closing and the exchangeable units of the partnership to be issued as consideration to the holders of Burger King Worldwide common stock. Prior to the meeting, the directors had received copies of the draft arrangement agreement and other transaction documentation and a summary of their terms. The board of directors then reviewed information received from Lazard regarding the financial terms of the transaction, and Lazard delivered to the Burger King Worldwide board of directors its oral opinion, subsequently confirmed in writing, that, as of such date and subject to the various limitations and assumptions set forth in its opinion, the consideration to be received by the holders of Burger King Worldwide common stock (other than its affiliates) was fair, from a financial point of view, to such holders (see the section titled “— *Opinion of Burger King Worldwide's Financial Advisor* ” below). Following these presentations and the opportunity for further discussion among the board of directors about the transaction, the Burger King Worldwide board of directors unanimously approved the arrangement agreement, substantially in the form presented to the board of directors, the merger and the other transactions contemplated by the arrangement agreement (see the section titled “ *Burger King Worldwide's Reasons for the Merger* ” below).

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Also on August 25, 2014, the Tim Hortons board of directors held a telephonic meeting during which the board discussed the potential transaction, with the participation of representatives of Osler, Wachtell, Citi and RBC Capital Markets. Mr. Caira reported to the board of directors about management's progress in negotiating the terms of the transaction and informed the Tim Hortons board of directors that the transaction agreements were nearing substantially final form. Ms. Devine, Ms. Sutton and representatives of Osler and Wachtell reviewed with the board of directors the final material terms of the arrangement agreement, including the high degree of transaction certainty resulting from those terms as well as certain employee benefits matters and other significant terms. The directors also considered that Tim Hortons would be entitled to name three directors to the board of directors of Holdings and determined that one of its three appointees to the Holdings board would be Marc Caira, further acknowledging that Mr. Behring had extended to Mr. Caira an invitation to serve as Vice Chairman of the Holdings board of directors. The directors considered the nature and magnitude of the additional commitments required of Burger King Worldwide to secure Investment Canada Act and U.S. and Canadian antitrust approvals and the C\$500 million reverse termination fee. The board of directors again reviewed how the core principles would serve to enhance the continued success of Tim Hortons and be responsive to the interests of stakeholders, including franchisees, employees, communities guests, creditors and Canada. A representative of Wachtell reviewed the financial arrangements relating to the transaction. A representative of Osler summarized for the Tim Hortons board of directors its fiduciary obligations in the context of the potential transaction, and in particular advised the Tim Hortons board of directors that it had conducted an in-depth and careful review of the process and had appropriate regard for the matters relevant to the discharge of its fiduciary duties. Ms. Sutton and Ms. Devine confirmed that no matters had been disclosed in due diligence for either party that would prevent the transaction from proceeding. The directors had received copies of the draft arrangement agreement and a summary of its terms in advance of the meeting. Citi and RBC Capital Markets delivered to the Tim Hortons board of directors separate oral opinions, confirmed by delivery of separate written opinions dated August 25, 2014, in the case of RBC Capital Markets, and dated August 26, 2014, in the case of Citi, to the effect that, as of such date and based on and subject to the procedures followed, assumptions made, factors considered and qualifications in the review undertaken, the consideration under the arrangement was fair, from a financial point of view, to holders of Tim Hortons common shares (see the section titled "*— Opinions of Tim Hortons Financial Advisors*" below). Following further discussion among the board of directors, the Tim Hortons board of directors unanimously determined that the arrangement was in the best interests of Tim Hortons and authorized Tim Hortons management to finalize and execute the arrangement agreement, substantially in the form presented to the board of directors (see the section titled "*— Recommendation of Tim Hortons Board of Directors; Tim Hortons Reasons for the Agreement*" below).

Following the approval of the transaction by the Burger King Worldwide board of directors and the Tim Hortons board of directors, the parties and their respective advisors finalized the arrangement agreement and the other transaction documentation and the arrangement agreement was executed by the parties early the following morning. Later that day, 3G and Tim Hortons executed and delivered the voting agreement.

Before the opening of trading on the NYSE and the TSX on August 26, 2014, Burger King Worldwide and Tim Hortons issued a joint press release announcing entry into the transaction prior to the opening of trading and held a teleconference with investors to describe the transaction.

Recommendation of Tim Hortons Board of Directors; Tim Hortons Reasons for the Arrangement

At a meeting held on August 25, 2014, the Tim Hortons board of directors unanimously determined that the arrangement was in the best interests of Tim Hortons. **Accordingly, the Tim Hortons board of directors recommends that Tim Hortons shareholders vote "FOR" the arrangement resolution at the Tim Hortons special meeting.**

In evaluating the arrangement, the Tim Hortons board of directors consulted with Tim Hortons senior management and with legal, financial and other advisors, reviewed a significant amount of information and considered a number of factors, conducted a comprehensive evaluation through a thorough process and concluded in its business judgment that the arrangement is expected to maintain the strong position of Tim

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Hortons in the QSR industry, while enhancing its future strategic opportunities beyond what Tim Hortons could achieve on a stand-alone basis. Considering the interests of all affected stakeholders, including Tim Hortons shareholders, franchisees, employees, guests, communities and Canada, the Tim Hortons board of directors determined that the arrangement is in the best interests of Tim Hortons for reasons including:

- the receipt of a substantial premium by Tim Hortons shareholders;
- continued share ownership in Holdings offered by the arrangement, resulting in a number of benefits to Tim Hortons shareholders, including the opportunity to participate in any future increase in the value of Holdings;
- the support of Burger King Worldwide for core principles (the “core principles”) of Tim Hortons with respect to the continued success of the company’s respective brands and the significance of the core principles to Tim Hortons stakeholders and Canada, including:
 - Tim Hortons continuing to manage its own operations;
 - maintaining plans to increase the number of Tim Hortons franchisees in Canada;
 - not increasing, for five years following the closing of the arrangement, the franchisee rent and royalty structure for Canadian franchisees on either renewals or new agreements outside of Tim Hortons current practices and policies and committing that there are no current plans to do so after conclusion of such five year period;
 - maintaining Tim Hortons financial contribution policy, in accordance with Tim Hortons current practice and strategic plan, in support of its franchisees’ renovation plans;
 - maintaining the current level of staffing commitment provided to Tim Hortons franchisee-facing operational organization;
 - requiring Holdings as part of the functions it undertakes to be a significant supplier of shared services (including functions that support human resources, finance, business services, procurement, global development, legal and information technology) to its subsidiaries globally;
 - ensuring Holdings has a meaningful number of positions held by Canadian-based executives;
 - maintaining current funding and other support to Tim Hortons Children’s Foundation, the Coffee Partnership and other charitable and community organizations across Canada;
 - appointing three of the current Canadian resident directors of Tim Hortons to the Holdings board of directors;
 - establishing and maintaining the headquarters of each of Holdings, Partnership and Tim Hortons in Canada;
 - maintaining Holdings and Tim Hortons as corporations incorporated under the laws of Canada or a province thereof; and
 - establishing and maintaining a TSX listing for each of Holdings and Partnership;
- the impact of the arrangement on stakeholders of Tim Hortons, including Tim Hortons shareholders, Tim Hortons franchisees, employees of Tim Hortons and its franchisees, the communities in which Tim Hortons operates, together with the creditors, charitable partners and guests of Tim Hortons;
- preserving the rich heritages of both the Tim Hortons and Burger King Worldwide brands, as the brands will be independently managed but will share best practices;
- the creation of the third largest global QSR holding company, with over 18,000 restaurants in approximately 100 countries, while maintaining the integrity and capitalizing on the strengths of the two distinct industry-leading brands;

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- the combined company is expected to accelerate Tim Hortons international growth by leveraging Burger King Worldwide's master franchise joint venture model and the experience of a global development team dedicated to growing the Tim Hortons brand around the world;
- the combined company is expected to enhance global shared services to improve efficiencies across the Tim Hortons and Burger King Worldwide organizations and to leverage greater global scale to achieve savings and drive system-wide synergies; and
- the ability of Tim Hortons shareholders to elect the form of consideration, as Tim Hortons shareholders will have the option to receive cash and/or Holdings common shares, at their election, in each case subject to proration as set out in the arrangement agreement.

These conclusions are based in part on the following factors considered by the Tim Hortons board of directors:

- the significant premium to be received by Tim Hortons shareholders:
 - a 39% premium based on the implied value of the arrangement mixed consideration calculated using the 30-day volume-weighted average trading price of the closing TSX share price of Tim Hortons and the closing NYSE stock price of Burger King Worldwide through August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons; and
 - a premium of 30% based on the closing TSX share price of Tim Hortons and the closing NYSE stock price of Burger King Worldwide on such date;
- its due diligence review and investigations of the business, operations, financial condition, products, strategy and future prospects of Burger King Worldwide;
- that the arrangement agreement was negotiated and executed following a robust and lengthy process during the course of which the Tim Hortons board of directors reviewed with Tim Hortons management and advisors the identity and potential strategic interest and financial capacity of several industry and financial parties in pursuing a potential transaction with Tim Hortons and determined that it was unlikely any of those parties would be able to consummate a transaction on terms that were superior to the proposed transaction with Burger King Worldwide;
- Burger King Worldwide's commitment in the arrangement agreement to make undertakings with respect to the core principles in connection with obtaining approval under the Investment Canada Act, such that the core principles will be enforceable by the government of Canada during the term of the undertakings, and, subject to the limitations contained in the arrangement agreement, Burger King Worldwide's agreement to make enhanced and/or additional commitments in addition to those contemplated by the arrangement agreement if and as required to secure approval under the Investment Canada Act;
- the opinion of Citigroup Global Markets Inc., which we refer to as "Citigroup Global Markets", to the Tim Hortons board of directors as to the fairness, from a financial point of view, to Tim Hortons shareholders of the arrangement consideration. The full text of Citigroup Global Markets' opinion is attached hereto as Annex G. For further discussion of Citigroup Global Markets' opinion, see "*The Transactions—Opinions of Tim Hortons Financial Advisors—Opinion of Citigroup Global Markets Inc.*" below;
- the opinion of RBC Capital Markets to the Tim Hortons board of directors as to the fairness, from a financial point of view and as of the date of such opinion, of the consideration under the arrangement to holders of Tim Hortons common shares, which opinion was based on and subject to the procedures

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followed, assumptions made, factors considered and limitations and qualifications on the review undertaken as more fully described in the section entitled “ *The Transactions—Opinions of Tim Hortons Financial Advisors—RBC Capital Markets* ” below;

- as a part of the combined business’s commitment to Canada, Burger King Worldwide has agreed to maintain, for 12 months following the closing of the arrangement, compensation, benefits and severance entitlements for current employees of Tim Hortons who remain employees following the closing of the arrangement that are no less favorable than those provided immediately prior to the closing of the arrangement;
- the terms of the arrangement agreement and the resulting prospects that the arrangement will be completed on a timely basis, including the following:
 - the fact that the closing of the arrangement is not subject to a financing condition and that the arrangement agreement imposes certain obligations on Burger King Worldwide in connection with obtaining alternative financing if and as required;
 - that Burger King Worldwide must pay a termination fee of C\$500 million if the arrangement agreement is terminated under certain circumstances specified in the arrangement agreement, including failure to obtain approval under the Investment Canada Act in the event that all other conditions to closing the arrangement have been satisfied;
 - that the arrangement agreement allows the Tim Hortons board of directors to, at any time prior to obtaining the approval of Tim Hortons shareholders, respond to an unsolicited bona fide acquisition proposal that the Tim Hortons board of directors determines in good faith constitutes or would reasonably be expected to lead to a superior proposal and that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under applicable law, subject to the limitations contained in the arrangement agreement on Tim Hortons ability to solicit, participate in any discussions or negotiations with respect to, provide any information to any third party regarding or entering into any agreement providing for the acquisition of Tim Hortons;
 - that the arrangement agreement provides that Tim Hortons has the right to pursue claims for damages on behalf of Tim Hortons shareholders (including damages based on the loss of the economic benefits of the arrangement, including the loss of premium offered to such shareholders) in the event of certain breaches of the arrangement agreement by Burger King Worldwide that gives rise to any such claim;
 - the fact that closing of the arrangement is subject to approval by not less than $66\frac{2}{3}\%$ of Tim Hortons shareholders and to receipt of the order of the Ontario court approving the arrangement (“final order”), which will consider, among other things, the fairness of the arrangement to Tim Hortons shareholders; and
 - the availability of dissent rights to the registered Tim Hortons shareholders with respect to the arrangement;
- the anticipated market capitalization, liquidity and capital structure of Holdings as well as the financial statements of Burger King Worldwide; and
- anticipated tax benefits to the combined company following the transactions.

In the course of its deliberations, the Tim Hortons board of directors also considered a variety of risks and other potentially negative factors, including the following:

- the exchange ratio is fixed and will not be adjusted to reflect any fluctuations in the price of the Burger King Worldwide common stock or Tim Hortons common shares prior to the effective time of the arrangement;

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- the risk that the interests of 3G Capital, which will control approximately 48% of the voting power of Holdings following the closing of the transactions, may not always be aligned with the interests of Tim Hortons shareholders and the other Burger King Worldwide stockholders and that it may exercise its voting rights in a manner that may be adverse to the interests of such shareholders;
- the challenges posed by the common ownership of two business enterprises of the size and scope of Burger King Worldwide and Tim Hortons, including the possibility that the anticipated benefits sought to be obtained from the arrangement might not be achieved in the time frame contemplated or at all or the other numerous risks and uncertainties which could adversely affect Burger King Worldwide's or Tim Hortons operating results;
- the risk that Holdings' substantial leverage and debt service obligations after giving effect to the transactions could adversely affect Holdings' business, including by increasing Holdings' vulnerability to, and reducing its flexibility to respond to, general adverse economic and industry conditions;
- the risk arising from provisions in the arrangement agreement relating to the potential payment of a C\$345 million termination fee by Tim Hortons under certain circumstances specified in the arrangement agreement;
- the risk arising from provisions in the arrangement agreement relating to the potential payment of a C\$40 million reimbursement fee by Tim Hortons if Tim Hortons shareholders fail to approve the arrangement resolution;
- the adverse impact that business uncertainty pending the effective time of the arrangement could have on Burger King Worldwide's and Tim Hortons ability to attract, retain and motivate key personnel until the effective time of the arrangement;
- the risk that the arrangement may not be consummated despite the parties' efforts or that consummation may be unduly delayed, including due to a failure to obtain required regulatory approvals or as a result of the occurrence of a material adverse effect on Burger King Worldwide or Tim Hortons, and the potential resulting disruptions to Burger King's and Tim Hortons respective businesses and relationships;
- the fact that certain executive officers and directors of Tim Hortons have certain interests in the arrangement that may be different from, or in addition to, the interest of Tim Hortons shareholders generally;
- the fact that, as a result of the transactions, Tim Hortons expects to recognize, in total, transaction-related costs of approximately C\$80.0 to C\$90.0 million, a significant portion of which will be incurred regardless of whether the arrangement is consummated (and approximately C\$27.3 million of which have been recognized as of the date of this document);
- the risk that changes in law or regulation could adversely impact the expected benefits of the arrangement to Tim Hortons and its shareholders and other stakeholders; and
- the risks of the type and nature described under the heading "*Risk Factors*".

The foregoing discussion of the information and factors considered by the Tim Hortons board of directors includes the material information and factors (both potentially positive and negative) considered by the Tim Hortons board of directors, but is not, and is not intended to be, exhaustive. In view of the wide variety of factors considered in connection with its evaluation of the arrangement, and the complexity of these matters, the Tim Hortons board of directors did not find it practical or useful, and did not attempt, to quantify or assign any relative or specific weights to the various factors that it considered in reaching its determination to make its recommendation to Tim Hortons shareholders. Rather, the Tim Hortons board of directors viewed its decisions as being based on the totality of the information presented to it and the factors it considered. In addition, individual members of the Tim Hortons board of directors may have given differing weights to different factors.

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The foregoing discussion of the reasons for the arrangement and the information and factors considered by the Tim Hortons board of directors contains forward-looking information and statements, all of which are subject to various risks and assumptions. This information should be read in light of the risk factors and assumptions described under the section entitled “ *Cautionary Note Regarding Forward-Looking Statements* ”.

Burger King Worldwide’s Reasons for the Merger

The Burger King Worldwide board of directors has determined that the arrangement and the merger are fair to and in the best interests of Burger King Worldwide stockholders. In reaching its decision to approve the arrangement agreement and the transactions contemplated by the arrangement agreement, including the arrangement and the merger, the Burger King Worldwide board of directors reviewed a significant amount of information, consulted with Burger King Worldwide’s senior management, financial and legal advisors and considered a number of factors, including the following material factors.

- The Burger King Worldwide board of directors considered a number of factors related to the strategic rationale for the merger, including the following:
 - The combined company, through its ownership company of Tim Hortons and Burger King Worldwide, is expected to be the third largest global QSR company, with over \$23 billion in expected system-wide sales and over 18,000 restaurants in approximately 100 countries.
 - The combined company is expected to maintain two separate highly-profitable businesses with iconic brands, each of which is anticipated to be fast-growing and have significant potential for further global growth and a strong cash flow generation profile.
 - The common ownership of Tim Hortons and Burger King Worldwide would allow the combined company to have the potential to unlock significant synergies by leveraging Burger King Worldwide’s greater global scale to accelerate Tim Hortons international growth and by allowing each standalone brand to share best practices, access enhanced global shared services to improve efficiency across both organizations, and leverage the greater global scale of the combined company to achieve savings and drive system-wide benefits.
 - The combined company is expected to be able to leverage Burger King Worldwide’s master franchise joint venture model to accelerate Tim Hortons international growth.
 - The combined company is expected to have attractive free cash flow generation and be able to steadily de-leverage, in large part due to both brands’ fully-franchised business models which generate recurring royalty and rental revenue.
- The terms of the arrangement agreement, which the Burger King worldwide board of directors viewed as favorable to Burger King Worldwide, including the restrictions on Tim Hortons soliciting alternative acquisition proposals and the fact that Tim Hortons must pay a termination fee of C\$345 million if the arrangement agreement is terminated under certain circumstances specified in the arrangement agreement and the fact that Tim Hortons must pay a C\$40 million reimbursement fee if the Tim Hortons shareholders fail to approve the arrangement resolution.
- The likelihood that the transactions will be completed on a timely basis and the limited number of conditions to Tim Hortons obligation to complete the transactions.
- The anticipated market capitalization, liquidity and capital structure of Holdings as well as the financial statements of Tim Hortons.
- The terms of the equity and debt financing obtained in connection with the transactions and the likelihood that the necessary financing will be obtained given the financing commitments obtained in connection with the transactions.

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- Anticipated tax benefits to the combined company following the transactions, primarily a slightly lower combined effective tax rate of approximately 26.5% relative to Burger King's current tax rate of 27.4% in the most recent calendar year, which may become more meaningful as the combined company's business continues to grow internationally.
- Burger King Worldwide's due diligence review and investigations of the business, operations, financial condition, strategy and future prospects of Tim Hortons.
- The financial analyses reviewed and discussed with the Burger King Worldwide board of directors by representatives of Lazard, as well as the oral opinion of Lazard rendered to the Burger King Worldwide board of directors on August 25, 2014 (which was subsequently confirmed in writing by delivery of a written opinion of Lazard, dated August 25, 2014) to the effect that, as of the date of such opinion and based upon and subject to the assumptions, procedures, factors, limitations and qualifications set forth therein, the consideration to be received by the Burger King Worldwide stockholders is fair, from a financial point of view, to such stockholders.

In the course of its deliberations regarding the transactions, the Burger King Worldwide board of directors also identified and considered the following potentially negative factors.

- The fact that the exchange ratio is fixed and will not be adjusted to reflect any fluctuations in the price of Burger King Worldwide common stock or Tim Hortons common shares prior to the effective time of the arrangement.
- The potential disruption to Burger King Worldwide's business that could result from the announcement of the transactions, including the diversion of management and employee attention and the effect on business and customer relationships.
- The risks arising from provisions in the arrangement agreement relating to the potential payment of a C\$500 million fee by Burger King Worldwide under certain circumstances specified in the arrangement agreement.
- The restrictions on the conduct of Burger King Worldwide's business prior to the completion of the transactions, which could delay or prevent Burger King Worldwide from undertaking some business opportunities that may arise pending completion of the transactions.
- The adverse impact that business uncertainty pending the effective time of the transactions could have on Burger King Worldwide's ability to attract, retain and motivate key personnel until the effective time of the transactions.
- The fact that Burger King Worldwide has incurred and will continue to incur significant transaction costs and expenses (in an amount of approximately \$49.7 million to date) in connection with the transactions, regardless of whether the transactions are consummated.
- The risk that the transactions may not be consummated despite the parties' efforts or that consummation may be unduly delayed and the potential resulting disruptions to Burger King Worldwide's businesses and relationships.
- The risk that changes in law or regulation could adversely impact the expected benefits of the transaction to Burger King Worldwide and Tim Hortons. The risk of changes in U.S. tax laws, as taken into consideration by the board of directors, is addressed with specificity in "*Risk Factors—U.S. Federal Income Tax Risks Related to the Holdings Common Shares and Partnership Exchangeable Units — Future changes to U.S. and non-U.S. tax laws could materially affect Holdings and/or Partnership, including their status as foreign entities for U.S. federal income tax purposes, and adversely affect their anticipated financial positions and results*".
- The amount of indebtedness required to finance the merger and the related restrictions to which the combined company would be subject.
- The risks of the type and nature described under "*Risk Factors*".

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The foregoing discussion of the factors considered by Burger King Worldwide's board of directors is not intended to be exhaustive, but rather includes material factors considered by Burger King Worldwide's board of directors. In reaching its decision to approve the arrangement agreement and the transactions contemplated thereby, the Burger King Worldwide board of directors did not quantify or assign any relative weights to the factors considered, but rather based its approval on the totality of the information presented to and considered by it. In addition, individual directors may have given different weight to different factors. The conclusions and recommendation of the Burger King Worldwide board of directors was made after considering the totality of the information and factors involved.

The foregoing discussion of the information and factors considered by the Burger King Worldwide board of directors contains forward looking information and statements, all of which are subject to various risks and assumptions. This information should be read in light of the factors described under the section entitled “ *Cautionary Note Regarding Forward-Looking Statements* ”.

Opinions of Tim Hortons Financial Advisors

Opinion of Citigroup Global Markets Inc.

In connection with the transactions, Tim Hortons retained Citi to render an opinion to the Tim Hortons board of directors with respect to the fairness, from a financial point of view, of the arrangement consideration proposed to be received by the holders of Tim Hortons common shares. On August 25, 2014, at a meeting of the Tim Hortons board of directors held to evaluate the transactions, Citi rendered to the Tim Hortons board of directors an oral opinion, confirmed in a written opinion, dated August 26, 2014, to the effect that, as of the date of the opinion and based on and subject to the matters described in its opinion, the consideration proposed to be received in the transactions by holders of Tim Hortons common shares was fair, from a financial point of view, to such holders.

The full text of Citi's written opinion, dated August 26, 2014, which describes the assumptions made, procedures followed, matters considered and limitations on the review undertaken, is attached to this joint proxy statement/prospectus as Annex G and is incorporated into this joint proxy statement/circular by reference. The summary of Citi's opinion in this joint proxy statement/prospectus is qualified in its entirety by reference to the full text of its written opinion. **Citi's opinion was provided for the information of the Tim Hortons board of directors (in its capacity as such) in its evaluation of the arrangement consideration from a financial point of view and Citi expressed no view as to, and its opinion did not address, any other aspects or implications of the transactions or the underlying business decision of Tim Hortons to effect the transactions, the relative merits of the transactions as compared to any alternative business strategies that might exist for Tim Hortons or the effect of any other transaction in which Tim Hortons might engage. Citi's opinion is not intended to be and does not constitute a recommendation to any shareholder as to how such shareholder should vote or act on any matters relating to the proposed transactions, including whether any shareholder should elect to receive either the arrangement mixed consideration, the arrangement cash consideration or the arrangement shares consideration. With respect to such elections, Citi expressed no opinions as to the related proration mechanisms, procedures and limitations in the arrangement agreement.**

Citi's written opinion speaks as of the date rendered and, as such, addressed only the fairness, from a financial point of view, of the arrangement consideration to be received in the transactions by holders of Tim Hortons common shares pursuant to the plan of arrangement.

In arriving at its opinion, Citi:

- reviewed the arrangement agreement;
- held discussions with certain senior officers, directors and other representatives and advisors of Tim Hortons and certain senior officers and other representatives and advisors of Burger King Worldwide concerning the businesses, operations and prospects of Tim Hortons and Burger King Worldwide;
- examined certain publicly available business and financial information relating to Tim Hortons and Burger King Worldwide;

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- examined certain financial forecasts and other information and data relating to Tim Hortons and Burger King Worldwide which were provided to or discussed with Citi by Tim Hortons and Burger King Worldwide's respective managements, including information relating to the potential strategic, operational, tax and financial benefits (including the amount, timing and achievability thereof) anticipated by the managements of Tim Hortons and Burger King Worldwide to result from the transactions;
- reviewed the financial terms of the transactions as set forth in the arrangement agreement in relation to, among other things: current and historical market prices and trading volumes of Tim Hortons common shares and Burger King Worldwide's common stock and Tim Hortons and Burger King Worldwide's historical and projected earnings and other operating data, capitalization and financial condition;
- considered, to the extent publicly available, the financial terms of other transactions that Citi judged relevant in evaluating the transactions;
- analyzed certain financial, stock market and other publicly available information relating to the businesses of other companies whose operations Citi considered relevant in evaluating those of Tim Hortons and Burger King Worldwide;
- evaluated certain potential pro forma financial effects of the transactions; and
- conducted such other analyses and examinations and considered such other information and financial, economic and market criteria as Citi deemed appropriate in arriving at its opinion.

In rendering its opinion, Citi assumed and relied, without independent verification, upon the accuracy and completeness of all financial and other information and data publicly available or provided to or otherwise reviewed by or discussed with Citi, and upon the assurances of the managements of Tim Hortons and Burger King Worldwide that they were not aware of any relevant information that was omitted or remained undisclosed to Citi. With respect to financial forecasts and other information and data relating to Tim Hortons and Burger King Worldwide provided to or otherwise reviewed by or discussed with Citi, Citi was advised by the respective managements of Tim Hortons and Burger King Worldwide that such forecasts and other information and data were reasonably prepared on bases reflecting the best currently available estimates and judgments of the managements of Tim Hortons and Burger King Worldwide as to Tim Hortons and Burger King Worldwide's future financial performance of Tim Hortons and Burger King Worldwide.

Citi assumed, with Tim Hortons consent, that the transactions would be consummated in accordance with their terms, without waiver, modification or amendment of any material term, condition or agreement and that, in the course of obtaining the necessary regulatory or third party approvals, consents and releases for the transactions, no delay, limitation, restriction or condition would be imposed that would have an adverse effect on Tim Hortons, Burger King Worldwide or Holdings or the contemplated benefits of the transactions, other than as agreed in the arrangement agreement. Citi did not express any opinion as to what the value of the Holdings common shares would be when issued in the transactions or the price at which Holdings common shares would trade at any time. Citi did not make, and it was not provided with, an independent evaluation or appraisal of the assets or liabilities, contingent or otherwise, of Tim Hortons or Burger King Worldwide, and Citi did not make any physical inspection of the properties or assets of Tim Hortons or Burger King Worldwide. Citi was not requested to, and it did not, solicit third-party indications of interest in the possible acquisition of all or a part of Tim Hortons. Citi expressed no view as to, and its opinion did not address, the underlying business decision of Tim Hortons to effect the transactions, the relative merits of the transactions as compared to any alternative business strategies that might exist for Tim Hortons or the effect of any other transaction in which Tim Hortons might engage. Citi expressed no view as to, and its opinion did not address, the fairness (financial or otherwise) of the amount or nature or any other aspect of any compensation to any officers, directors or employees of any parties to the transactions, or any class of such persons, relative to the arrangement consideration or the merger consideration. Citi's opinion was necessarily based on information available to Citi, and financial, stock market and other conditions and circumstances existing and disclosed to it as of the date of its opinion.

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In preparing its opinion, Citi performed a variety of financial and comparative analyses, including those described below. The summary of these analyses is not a complete description of the analyses underlying Citi's opinion. The preparation of a financial opinion is a complex analytical process involving various determinations as to the most appropriate and relevant methods of financial analysis and the application of those methods to the particular circumstances and, therefore, a financial opinion is not readily susceptible to summary description. Citi arrived at its ultimate opinion based on the results of all analyses undertaken by it and assessed as a whole, and did not draw, in isolation, conclusions from or with regard to any one factor or method of analysis for purposes of its opinion. Accordingly, Citi believes that its analyses must be considered as a whole and that selecting portions of its analyses and factors or focusing on information presented in tabular format, without considering all analyses and factors or the narrative description of the analyses, could create a misleading or incomplete view of the processes underlying its analyses and opinion.

In its analyses, Citi considered industry performance, general business, economic, market and financial conditions and other matters existing as of the date of its opinion, many of which are beyond the control of Tim Hortons and Burger King Worldwide. No company, business or transaction used in those analyses as a comparison is identical to Tim Hortons, Burger King Worldwide or the transactions, and an evaluation of those analyses is not entirely mathematical. Rather, the analyses involve complex considerations and judgments concerning various factors that could affect the public trading, acquisition or other values of the companies, business segments or transactions analyzed, including market conditions, financial, operating and other characteristics of the companies or business segments involved, transaction type and size, and the strategic rationale for, and synergies expected to be realized from, a transaction. Accordingly, such analyses may not necessarily utilize all companies or transactions that could be deemed comparable to Tim Hortons, Burger King Worldwide or the transactions.

The estimates contained in Citi's analyses and the valuation ranges resulting from any particular analysis are not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by its analyses. In addition, analyses relating to the value of businesses or securities do not necessarily purport to be appraisals or to reflect the prices at which businesses or securities actually may be sold. Accordingly, the estimates used in, and the results derived from, Citi's analyses are inherently subject to substantial uncertainty.

Citi was not requested to, and it did not, recommend the specific consideration payable in the transactions, the ability of Tim Hortons shareholders to elect the arrangement mixed consideration, the arrangement cash consideration or the arrangement shares consideration; or the related proration mechanisms, procedures and limitations in the arrangement agreement. The type and amount of consideration payable in the transactions and a Tim Hortons shareholder's option regarding elections with respect to such consideration was determined through negotiations between Tim Hortons and Burger King Worldwide and the decision to enter into the arrangement agreement was solely that of the Tim Hortons board of directors. Citi's opinion was only one of many factors considered by the Tim Hortons board of directors in its evaluation of the transactions and should not be viewed as determinative of the views of the Tim Hortons board of directors or management with respect to the transactions or the arrangement consideration or the merger consideration.

The following is a summary of the material financial analyses in connection with Citi's opinion. **The financial analyses summarized below include information presented in tabular format. In order to fully understand Citi's financial analyses, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses. Considering the data below without considering the full narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of Citi's financial analyses.**

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Tim Hortons Financial Analyses

Selected Companies Analysis. Citi reviewed and compared financial and stock market information of Tim Hortons with publicly-available information for certain companies that operate in and are exposed to similar lines of business as Tim Hortons, namely companies in the QSR sector. The peer group included:

- Dunkin' Brands Group, Inc.
- Domino's Pizza, Inc.
- Starbucks Corporation
- Popeyes Louisiana Kitchen Inc.
- Papa John's International, Inc.
- Sonic Corp.
- Jack in the Box Inc.
- The Wendy's Company
- Yum! Brands, Inc.
- McDonald's Corporation
- Panera Bread Company

Citi reviewed, among other information, enterprise values of the selected companies, calculated as equity market value based on closing stock prices on August 22, 2014, plus debt and non-controlling interests, less cash and other adjustments, as a multiple of calendar year 2015 estimated earnings before interest, taxes, depreciation and amortization, which is referred to as "EBITDA". Citi also reviewed per share equity values of the selected companies, based on closing stock prices on August 22, 2014, as a multiple of calendar year 2015 estimated earnings per share, which is referred to as EPS. No individual company above is directly comparable to Tim Hortons given different historical and expected financial performance, end markets, and nature of products sold. The low to high ranges of the observed estimated EBITDA multiples and estimated EPS multiples, respectively, observed for the selected companies were 9.3x to 15.1x and 15.7x to 23.5x. Based on its professional judgment, which took into consideration the low to high ranges of such multiples and the overall implied median multiples for the selected companies (which reflected an estimated EBITDA median multiple for calendar year 2015 of 10.4x and estimated EPS median multiple for calendar year 2015 of 20.6x), as well as certain operational and financial characteristics of Tim Hortons, Citi then selected a range of selected calendar year 2015 estimated EBITDA multiples of 10.5x to 12.5x and estimated EPS multiples of 17.5x to 22.0x derived from the selected companies, and applied such selected multiples to corresponding data of Tim Hortons. Financial data for the selected companies were based on publicly available research analysts' estimates, public filings and other publicly available information. Financial data for Tim Hortons were based on the strategic plan of Tim Hortons management. These analyses indicated implied per share equity reference ranges for Tim Hortons of approximately C\$59.75 to C\$73.00 per share and C\$62.75 to C\$78.75 per share, respectively.

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Selected Precedent Transactions Analysis. Using publicly available information, Citi reviewed financial data relating to the following seventeen selected transactions announced in calendar years 2005 to present. These transactions were selected generally because, as is the case with the transactions, they involved companies in the QSR sector.

<u>Announcement Date</u>	<u>Acquiror</u>	<u>Target</u>
December 2005	• Bain Capital, The Carlyle Group and Thomas H. Lee Partners	• Dunkin' Brands Group, Inc.
November 2006	• Bain Capital and Catterton Partners	• OSI Restaurant Partners, Inc.
July 2007	• IHOP Corp.	• Applebee's International, Inc.
August 2007	• Darden Restaurants, Inc.	• RARE Hospitality International, Inc.
April 2008	• Triarc Companies, Inc.	• Wendy's International Inc.
April 2010	• Apollo Global Management, LLC	• CKE Restaurants Inc.
May 2010	• Oak Hill Capital Partners	• Dave & Buster's, Inc.
August 2010	• Kelso & Co.	• Logan's Roadhouse, Inc.
September 2010	• 3G Capital Management	• Burger King Holdings, Inc.
April 2011	• Yum! Brands Inc.	• Little Sheep Group Limited
November 2011	• Olympus Partners	• NPC International Inc.
April 2012	• Burger King Worldwide Holdings, Inc.	• Justice Holdings Limited
May 2012	• Centerbridge Partners	• P.F. Chang's China Bistro Inc.
July 2012	• Darden Restaurants, Inc.	• Yard House USA Inc.
July 2012	• Joh. A. Benckiser GmbH	• Peet's Coffee & Tea Inc.
November 2012	• Starbucks Corporation	• Teavana Holdings, Inc.
December 2012	• Joh. A. Benckiser GmbH	• Caribou Coffee Co.

Citi reviewed, among other information, transaction values of the selected transactions, calculated as the purchase prices paid for the target companies, plus debt and minority interests, less cash and other adjustments, as a multiple of such target companies' latest 12 months EBITDA. The overall low to high transaction values observed for the selected transactions were approximately \$300 million to \$8.3 billion. Citi then selected, based on its professional judgment, which took into consideration the low to high range and median of implied multiples for the selected transactions as well as certain operational and financial characteristics of Tim Hortons, a range of selected latest 12 months EBITDA multiples of 13.0x to 16.0x derived from the selected transactions and applied such selected multiple range to Tim Hortons latest 12 months (as of June 30, 2014) EBITDA. Financial data for the selected transactions were based on information publicly available at the time of announcement of the relevant transaction. Financial data for Tim Hortons were based on Tim Hortons public filings. This analysis indicated an implied per share equity reference range for Tim Hortons of C\$69.75 to C\$88.25.

Discounted Cash Flow Analysis. Citi performed a discounted cash flow analysis of Tim Hortons by calculating (i) the estimated present value of the standalone unlevered after-tax free cash flows that Tim Hortons was forecasted to generate, based on the strategic plan of Tim Hortons management, during the second half of fiscal year 2014 and for fiscal years 2015 through 2018, plus (ii) estimated terminal values based on Tim Hortons estimated EBITDA for the fiscal year 2018. Estimated terminal values for Tim Hortons were calculated by applying multiples of 11.5x to 13.0x to Tim Hortons estimated EBITDA for the fiscal year 2018, with such range of multiples selected by Citi based on its professional judgment, which took into account, among other things, implied historical trailing EBITDA multiples observed for Tim Hortons. The present values of the cash flows and terminal values were then calculated using discount rates ranging from 6.6% to 7.6%, reflecting estimates of the weighted average cost of capital for Tim Hortons. This analysis indicated an implied per share equity reference range for Tim Hortons of C\$75.50 to C\$88.25.

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Burger King Worldwide Financial Analyses

Selected Companies Analysis. Citi reviewed and compared financial and stock market information of Burger King Worldwide with publicly-available information for the companies listed above under “*Tim Hortons Financial Analyses—Selected Companies Analysis*” because such companies operate in and are exposed to similar lines of business as Burger King Worldwide, namely companies in the QSR sector.

Based on its professional judgment, which took into consideration the low to high ranges of such multiples and the overall implied median multiples for the selected companies (which reflected an estimated EBITDA median multiple for calendar year 2015 of 10.4x and estimated EPS median multiple for calendar year 2015 of 20.6x), as well as certain operational and financial characteristics of Burger King Worldwide, Citi then selected a range of selected calendar year 2015 estimated EBITDA multiples of 13.0x to 15.0x and estimated EPS multiples of 20.0x to 24.0x derived from the selected companies and applied such selected multiples to corresponding data of Burger King Worldwide. Financial data for the selected companies were based on publicly available research analysts’ estimates, public filings and other publicly available information. Financial data for Burger King Worldwide were based on the forecasts provided by Burger King Worldwide’s management. These analyses indicated implied per share equity reference ranges for Burger King Worldwide of approximately \$23.75 to \$28.25 per share and approximately \$24.00 to \$29.00 per share, respectively.

Discounted Cash Flow Analysis. Citi performed a discounted cash flow analysis of Burger King Worldwide by calculating (i) the estimated present value of the standalone unlevered after-tax free cash flows that Burger King Worldwide was forecasted to generate, based on the forecast provided by Burger King Worldwide’s management, during the second half of fiscal year 2014 and for fiscal years 2015 through 2018, plus (ii) estimated terminal values based on Burger King Worldwide’s estimated EBITDA, as adjusted for stock-based compensation and non-recurring items, for the fiscal year 2018. Estimated terminal values for Burger King Worldwide were calculated by applying multiples of 14.0x to 16.0x to Burger King Worldwide’s estimated EBITDA for the fiscal year 2018, with such range of multiples selected by Citi based on its professional judgment, which took into account, among other things, implied historical trailing EBITDA multiples observed for Burger King Worldwide. The present values of the cash flows and terminal values were then calculated using discount rates ranging from 7.2% to 8.3%, reflecting estimates of the weighted average cost of capital for Burger King Worldwide. This analysis indicated an implied per share equity reference range for Burger King Worldwide of \$31.00 to \$37.00.

Miscellaneous

Under the terms of Citi’s engagement, Tim Hortons has agreed to pay Citi for its financial advisory services in connection with the transactions an aggregate fee of 0.20% of the aggregate consideration paid in the transactions (on an enterprise value basis) as of the closing, currently estimated to be approximately C\$28 million (\$25 million), a portion of which was payable on execution of the fee agreement between Citi and Tim Hortons, a portion of which was payable upon delivery of Citi’s opinion, a portion of which was payable upon execution of the arrangement agreement and approximately C\$24 million (\$22 million) of which is contingent upon completion of the transactions. Tim Hortons also has agreed to reimburse Citi for reasonable expenses incurred by Citi in performing its services, including reasonable fees and expenses of its legal counsel, and to indemnify Citi and related persons against liabilities, including liabilities under the federal securities laws, arising out of its engagement.

Citi and its affiliates in the past have provided, currently are providing and in the future may provide services to Tim Hortons, its affiliates and their respective affiliates unrelated to the proposed transactions, including, without limitation, providing credit facilities unrelated to the transactions to Tim Hortons, Burger King Worldwide and companies in which Burger King Worldwide’s largest shareholder has a controlling or substantial equity ownership, for which services Citi and its affiliates have received and expect to receive compensation, including acting as a co-manager for Tim Hortons issuance of C\$450 million of debt securities in

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each of 2014 and 2013. Excluding the C\$0.5 million payable to Citi on execution of the fee agreement between Citi and Tim Hortons, Tim Hortons and its affiliates paid aggregate fees of approximately \$0.5 million to Citi and its affiliates during the two years prior to the date of Citi's opinion. In the ordinary course of business, Citi and its affiliates may actively trade or hold the securities of Tim Hortons, Burger King Worldwide and their respective affiliates for their own account or for the account of their customers and, accordingly, may at any time hold a long or short position in those securities. In addition, Citi and its affiliates, including Citigroup Inc. and its affiliates, may maintain relationships with Tim Hortons, Burger King Worldwide and their respective affiliates.

Tim Hortons selected Citi to render an opinion to the Tim Hortons board of directors with respect to the arrangement consideration based on Citi's reputation, experience and familiarity with Tim Hortons business. Citi is an internationally recognized investment banking firm which regularly engages in the valuation of businesses and their securities in connection with mergers and acquisitions, negotiated underwritings, competitive bids, secondary distributions of listed and unlisted securities, private placements and valuations for estate, corporate and other purposes. The issuance of Citi's opinion was authorized by Citi's fairness opinion committee.

Opinion of RBC Capital Markets

Tim Hortons has retained RBC Capital Markets to act as a financial advisor to Tim Hortons in connection with the transactions. As part of this engagement, the Tim Hortons board of directors requested that RBC Capital Markets evaluate the fairness, from a financial point of view, of the consideration under the arrangement to holders of Tim Hortons common shares. At an August 25, 2014 meeting of the Tim Hortons board of directors held to evaluate the transactions, RBC Capital Markets rendered to the Tim Hortons board of directors an oral opinion, confirmed by delivery of a written opinion dated August 25, 2014, to the effect that, as of that date and based on and subject to the matters described in the opinion, the consideration under the arrangement was fair, from a financial point of view, to holders of Tim Hortons common shares. The full text of RBC Capital Markets' written opinion, dated August 25, 2014, is attached as Annex H to this joint information statement/circular and is incorporated in this document by reference. The written opinion sets forth, among other things, the procedures followed, assumptions made, factors considered and qualifications and limitations on the review undertaken by RBC Capital Markets in connection with its opinion. The following summary of RBC Capital Markets' opinion is qualified in its entirety by reference to the full text of the opinion. **RBC Capital Markets delivered its opinion to the Tim Hortons board of directors for the benefit, information and assistance of the Tim Hortons board of directors (in its capacity as such) in connection with and for purposes of its evaluation of the transactions. RBC Capital Markets' opinion addressed only the arrangement consideration from a financial point of view and did not address any other aspect of the transactions, including with respect to proration mechanisms, procedures and limitations in the arrangement agreement. RBC Capital Markets' opinion also did not address the underlying business decision of Tim Hortons to engage in the transactions or the relative merits of the transactions compared to any alternative business strategy or transaction that might be available to Tim Hortons or in which Tim Hortons might engage. RBC Capital Markets does not express any opinion and does not make any recommendation to any shareholder of Tim Hortons as to how such shareholder should vote or act with respect to any proposal to be voted upon in connection with the arrangement or any other matter, including with respect to arrangement consideration elections.**

In connection with RBC Capital Markets' opinion, RBC Capital Markets reviewed and relied upon or carried out, among other things, the following:

- the most recent draft, dated August 25, 2014, of the arrangement agreement;
- the most recent draft, dated August 25, 2014, of the securities purchase agreement;
- the most recent draft, dated August 25, 2014, of the commitment letter from JPMorgan Chase Bank N.A., J.P. Morgan Securities LLC, Wells Fargo Bank, N.A., WF Investment Holdings, LLC and Wells Fargo Securities, LLC;

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- audited financial statements of Tim Hortons for each of the five fiscal years ended January 3, 2010, January 2, 2011, January 1, 2012, December 30, 2012 and December 29, 2013;
- audited financial statements of Burger King Worldwide for each of the five fiscal years ended June 30, 2009, June 30, 2010, December 31, 2011, December 31, 2012 and December 31, 2013 and the transition report for the six-month period ended December 31, 2010;
- the unaudited quarterly reports of Tim Hortons for the fiscal quarters ended March 30, 2014 and June 29, 2014;
- the unaudited quarterly reports of Burger King Worldwide for the fiscal quarters ended March 31, 2014 and June 30, 2014;
- the annual reports of Tim Hortons for each of the two fiscal years ended December 30, 2012 and December 29, 2013;
- the annual reports of Burger King Worldwide (Form 10-K) for each of the two fiscal years ended December 31, 2012 and December 31, 2013;
- the Notice of Annual Meeting of Shareholders and Management Proxy Circular of Tim Hortons for the fiscal year ended December 30, 2012 and the Notice of Annual and Special Meeting of Shareholders and Management Proxy Circular of Tim Hortons for the fiscal year ended December 29, 2013;
- the Proxy Statement of Burger King Worldwide for each of the two fiscal years ended December 31, 2012 and December 31, 2013;
- annual information forms of Tim Hortons for each of the two fiscal years ended December 30, 2012 and December 29, 2013;
- unaudited projected financial results of Tim Hortons on a consolidated basis, prepared by the management of Tim Hortons, for each of the fiscal years ending on the Sunday nearest to December 31, 2014 through December 31, 2018;
- internal management and presentations of the Tim Hortons board of directors regarding the strategic plan and financial and operating performance of Tim Hortons;
- summary unaudited projected financial results of Burger King Worldwide on a consolidated basis, prepared by the management of Burger King Worldwide, for each of the fiscal years ending December 31, 2014 to December 31, 2018;
- discussions with senior management of each of Tim Hortons and Burger King Worldwide;
- discussions with internal legal counsel of each of Tim Hortons and Burger King Worldwide;
- discussions with Burger King Worldwide's financial advisor;
- publicly available information relating to the business, operations, financial performance and stock trading history of Tim Hortons, Burger King Worldwide and other selected public companies considered by RBC Capital Markets to be relevant;
- publicly available information with respect to other transactions of comparable nature considered by RBC Capital Markets to be relevant;
- publicly available information regarding the North American QSR industry;
- representations contained in certificates addressed to RBC Capital Markets, dated as of the date of RBC Capital Markets' written opinion, from senior officers of each of Tim Hortons and Burger King Worldwide as to the completeness and accuracy of the information upon which RBC Capital Markets' opinion was based; and
- such other corporate, industry and financial market information, investigations and analyses as RBC Capital Markets considered necessary or appropriate in the circumstances.

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RBC Capital Markets was not, to the best of its knowledge, denied access by Tim Hortons or Burger King Worldwide to any information requested by RBC Capital Markets.

With the Tim Hortons board of directors' approval and as provided for in the agreement between Tim Hortons and RBC Capital Markets, which we refer to as the "RBCCM Engagement Agreement," RBC Capital Markets relied upon the completeness, accuracy and fair presentation of all of the financial (including, without limitation, the financial statements of Tim Hortons) and other information, data, advice, opinions or representations obtained by RBC Capital Markets from public sources, senior management of each of Tim Hortons and Burger King Worldwide, and their respective consultants and advisors, which we collectively refer to as the "TH information" as related to Tim Hortons and its subsidiaries, and the "BK information" as related to Burger King Worldwide and its subsidiaries. RBC Capital Markets' opinion was conditional upon such completeness, accuracy and fair presentation of such TH information and BK information. Subject to the exercise of professional judgment and except as expressly described in RBC Capital Markets' written opinion, RBC Capital Markets did not attempt to verify independently the completeness, accuracy or fair presentation of any of the TH information or BK information.

Senior officers of Tim Hortons represented to RBC Capital Markets in a certificate delivered as of the date of RBC Capital Markets' written opinion, among other things, that (i) the TH information provided orally by an officer or employee of Tim Hortons or in writing by Tim Hortons or any of its subsidiaries (as such term is defined in the Securities Act (Ontario), which we refer to as the "Ontario Act") or their respective agents to RBC Capital Markets for the purpose of preparing RBC Capital Markets' opinion was, at the date the TH information was provided to RBC Capital Markets or, in the case of historical information, at the date of preparation if so specifically identified to RBC Capital Markets, complete, true and correct in all material respects, and did not contain any untrue statement of a material fact (as such term is defined in the Ontario Act) in respect of Tim Hortons, its subsidiaries or the transactions and did not omit to state a material fact in respect of Tim Hortons, its subsidiaries or the transactions necessary to make the TH information or any statement contained therein not misleading in light of the circumstances under which the TH information was provided or any statement was made; and (ii) since the dates on which the TH information was provided to RBC Capital Markets, except as disclosed in writing to RBC Capital Markets, there had been no material change, financial or otherwise, in the financial condition, assets, liabilities (contingent or otherwise), business, operations or prospects of Tim Hortons or any of its subsidiaries and no material change (as defined in the Ontario Act) had occurred in the TH information or any part thereof which would have or which would reasonably have been expected to have a material effect on RBC Capital Markets' opinion.

Senior officers of Burger King Worldwide represented to RBC Capital Markets in a certificate delivered as of the date of RBC Capital Markets' opinion, among other things, that (i) the BK information provided orally by an officer or employee of Burger King Worldwide or in writing by Burger King Worldwide or any of its subsidiaries (as such term is defined in the Ontario Act) or their respective agents to RBC Capital Markets for the purpose of preparing RBC Capital Markets' opinion was, at the date the BK information was provided to RBC Capital Markets or, in the case of historical information, at the date of preparation if so specifically identified to RBC Capital Markets, complete, true and correct in all material respects, and did not contain any untrue statement of a material fact (as such term is defined in the Ontario Act) in respect of Burger King Worldwide, its subsidiaries or the transactions or omit to state any material fact in respect of Burger King Worldwide, its subsidiaries or the transactions necessary to make the BK information not misleading in light of the circumstances under which the BK information was provided; and (ii) since the dates on which the BK information was provided to RBC Capital Markets, except as disclosed in writing to RBC Capital Markets, there had been no material change, financial or otherwise, in the financial condition, assets, liabilities (contingent or otherwise), business, operations or prospects of Burger King Worldwide or any of its subsidiaries and no material change (as defined in the Ontario Act) had occurred in the BK information or any part thereof which would have or which would reasonably have been expected to have a material effect on RBC Capital Markets' opinion.

In preparing its opinion, RBC Capital Markets made several assumptions, including that all of the conditions required to implement the transactions will be met.

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RBC Capital Markets' opinion was provided for the use of the Tim Hortons board of directors in its evaluation of the transactions. RBC Capital Markets' opinion was rendered on the basis of securities markets, economic, financial and general business conditions prevailing as at the date of RBC Capital Markets' written opinion and the condition and prospects, financial and otherwise, of Tim Hortons, Burger King Worldwide and their respective subsidiaries and affiliates, as they were reflected in the TH information and BK information and as they were represented to RBC Capital Markets in discussions with management of each of Tim Hortons and Burger King Worldwide. In its analyses and in preparing its opinion, RBC Capital Markets made numerous assumptions with respect to industry performance, general business and economic conditions and other matters, many of which were beyond the control of RBC Capital Markets, Tim Hortons, Burger King Worldwide or other parties involved in the transactions.

RBC Capital Markets' opinion was given as of the date of RBC Capital Markets' written opinion and RBC Capital Markets disclaims any undertaking or obligation to advise any person of any change in any fact or matter affecting its opinion which may come or be brought to RBC Capital Markets' attention after the date of its written opinion. Without limiting the foregoing, in the event of any material change in any fact or matter affecting RBC Capital Markets' opinion after the date its written opinion, RBC Capital Markets reserved the right to change, modify or withdraw its opinion. RBC Capital Markets' opinion represents the opinion of RBC Capital Markets and the form and content of such opinion were approved for release by a committee of its directors, each of whom is experienced in merger, acquisition, divestiture and fairness opinion matters.

In preparing its opinion to the Tim Hortons board of directors, RBC Capital Markets performed various financial and comparative analyses, including those described below. The summary below of RBC Capital Markets' material financial analyses provided to the Tim Hortons board of directors in connection with RBC Capital Markets' opinion is not a comprehensive description of all analyses undertaken or factors considered by RBC Capital Markets in connection with its opinion. No company, business or transaction reviewed is identical or directly comparable to Tim Hortons, Burger King Worldwide, their respective businesses or the proposed transactions and an evaluation of these analyses is not entirely mathematical; rather, the analyses involve complex considerations and judgments concerning various factors that could affect the public trading, acquisition or other values of the companies, business segments or transactions reviewed, including market conditions, financial, operating and other characteristics of the companies or business segments involved, transaction type and size, and the strategic rationale for, and synergies expected to be realized from, a transaction. The preparation of a financial opinion is a complex process involving various determinations as to the most appropriate and relevant methods of financial analysis and the application of those methods to the particular circumstances and, therefore, a financial opinion is not necessarily susceptible to partial analysis or summary description. Any attempt to do so could lead to undue emphasis on any particular factor or analysis.

In performing its analyses, RBC Capital Markets considered industry performance, general business and economic conditions and other matters, many of which are beyond the control of Tim Hortons and Burger King Worldwide. The estimates of the future performance of Tim Hortons and Burger King Worldwide in or underlying RBC Capital Markets' analyses are not necessarily indicative of actual values or actual future results, which may be significantly more or less favorable than those estimates or those suggested by RBC Capital Markets' analyses. The analyses do not purport to be appraisals or to reflect the prices at which a company might actually be sold or acquired or the prices at which any securities have traded or may trade at any time in the future. Accordingly, the estimates used in, and the ranges resulting from, any particular analysis described below are inherently subject to substantial uncertainty and should not be taken as RBC Capital Markets' view of the actual value of Tim Hortons or Burger King Worldwide.

The arrangement consideration provided for in the arrangement was determined through negotiations between Tim Hortons and Burger King Worldwide and was approved by the Tim Hortons board of directors. The decision to enter into the arrangement agreement was solely that of the Tim Hortons board of directors. RBC Capital Markets' opinion and analyses were only one of many factors considered by the Tim Hortons board of directors in its evaluation of the transactions and should not be viewed as determinative of the views of the Tim Hortons board of directors, management or any other party with respect to the transactions or the consideration payable in the transactions.

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The following is a brief summary of the material financial analyses of RBC Capital Markets in connection with its opinion, dated August 25, 2014, to the Tim Hortons board of directors. **The financial analyses summarized below include information presented in tabular format. In order to fully understand the financial analyses performed by RBC Capital Markets, the tables must be read together with the text of each summary. The tables alone do not constitute a complete description of the financial analyses. RBC Capital Markets believes that its financial analyses must be considered as a whole and that selecting portions of its financial analyses or factors considered or focusing on the data set forth in the tables below without considering all analyses or factors or the full narrative description of such analyses or factors, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of RBC Capital Markets’ financial analyses.**

Introduction . In considering the fairness of the arrangement consideration from a financial point of view to Tim Hortons shareholders, RBC Capital Markets principally considered and relied upon the following: (i) a comparison of the arrangement consideration to the results of a discounted cash flow analysis of Tim Hortons; (ii) a comparison of selected financial multiples, to the extent publicly available, of selected precedent transactions to the multiples implied by the arrangement consideration; and (iii) a comparison of the arrangement consideration to recent market trading prices of Tim Hortons common shares. RBC Capital Markets also reviewed and compared selected financial multiples for North American QSR companies the securities of which are publicly traded to the multiples implied by the arrangement consideration; however, given that public company values generally reflect minority discount values rather than “en bloc” values, RBC Capital Markets did not rely on this methodology. For purposes of the financial analyses described below, the term “implied arrangement consideration” refers to an implied consideration of C\$94.05 per outstanding Tim Hortons common share based on the arrangement consideration of C\$65.50 in cash and, for the arrangement shares consideration portion, an implied value for shares of Burger King Worldwide common stock of C\$26.00 utilizing the 0.8025 exchange ratio (in the case of a cash and stock consideration election), the closing price per share of Burger King Worldwide common stock on August 25, 2014 of \$32.40 and Canadian to U.S. Dollar exchange rates as of August 25, 2014. Financial data utilized for Tim Hortons in the financial analyses described below was based on internal financial forecasts and other estimates of the management of Tim Hortons utilizing both the strategic plan prepared by the management of Tim Hortons, which we refer to as the “strategic plan,” and certain sensitivities to the strategic plan provided by the management of Tim Hortons and discussed with (but not formally approved by) the Tim Hortons board of directors to reflect, among other things, a reduction in certain controllable costs and potential upside in certain revenue and margins identified by the management of Tim Hortons, which we refer to as the “sensitivity case”.

Tim Hortons Discounted Cash Flow Analysis. RBC Capital Markets performed a discounted cash flow analysis of Tim Hortons by calculating the estimated present value of the standalone unlevered, after-tax free cash flows that Tim Hortons was forecasted to generate during the last two quarters of the fiscal year ending December 28, 2014 through the full fiscal year ending December 30, 2018 based both on the strategic plan and the sensitivity case. RBC Capital Markets calculated terminal values for Tim Hortons by applying to the terminal year estimated EBITDA of Tim Hortons a range of EBITDA multiples of 11.0x to 14.0x selected based on RBC Capital Markets’ professional judgment, which took into consideration, among other things, implied EBITDA multiples in selected precedent transactions, the risk and growth prospects for Tim Hortons beyond the terminal year based on discussions with Tim Hortons management and the long-term outlook for the North American QSR industry. The unlevered, after-tax free cash flows and terminal values were then discounted to present value using discount rates ranging from 6.5% to 7.5%. This analysis indicated the following approximate implied per share reference ranges for Tim Hortons, as compared to the implied arrangement consideration:

Implied Per Share Reference Range (Strategic Plan)	Implied Per Share Reference Range (Sensitivity Case)	Implied Arrangement Consideration
C\$72.66 – C\$94.85	C\$80.86 – C\$105.99	C\$94.05

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RBC Capital Markets also calculated terminal values for Tim Hortons by applying to the estimated unlevered, after-tax free cash flows of Tim Hortons at the end of the forecast period a range of perpetuity growth rates of 1.5% to 2.0%. The unlevered, after-tax free cash flows and terminal values were then discounted to present value using discount rates ranging from 6.5% to 7.5%. This analysis indicated the following approximate implied per share reference ranges for Tim Hortons, as compared to the implied arrangement consideration:

<u>Implied Per Share Reference Range (Strategic Plan)</u>	<u>Implied Per Share Reference Range (Sensitivity Case)</u>	<u>Implied Arrangement Consideration</u>
C\$71.13 – C\$96.91	C\$79.88 – C\$109.25	C\$94.05

For illustrative purposes, RBC Capital Markets also evaluated the impact that certain deviations in same-store sales growth, EBITDA margin and unit growth of Tim Hortons would have on the implied per share reference ranges for Tim Hortons described above utilizing both the strategic plan and the sensitivity case. This analysis indicated, among other things, that a 1.0% change in EBITDA margin and same-store sales growth in each period of the strategic plan would result in a change in the implied per share reference range for Tim Hortons common shares of, on average, approximately C\$3.30 and C\$5.00, respectively, and that a 20% change in unit growth in each period of the strategic plan would result in a change in the implied per share reference range for Tim Hortons common shares of, on average, approximately C\$1.95. This analysis also indicated, among other things, that a 1.0% change in EBITDA margin and same-store sales growth in each period of the sensitivity case would result in a change in the implied per share reference range for Tim Hortons common shares of, on average, approximately C\$3.30 and C\$5.40, respectively, and that a 20% change in unit growth in each period of the sensitivity case would result in a change in the implied per share reference range for Tim Hortons common shares of, on average, approximately C\$2.20.

Tim Hortons Selected Precedent Transactions Analysis . RBC Capital Markets performed a selected precedent transactions analysis of Tim Hortons in which RBC Capital Markets reviewed, to the extent publicly available, certain financial information relating to the following 17 selected transactions announced from December 2005 through December 2012 involving companies in the QSR industry, which we refer to as the “selected transactions”:

<u>Announcement Date</u>	<u>Acquiror</u>	<u>Target</u>
December 2012	Joh. A. Benckiser	Caribou Coffee Company Inc.
November 2012	Starbucks Coffee Company	Teavana Holdings, Inc.
July 2012	Joh. A. Benckiser	Peet’s Coffee & Tea Inc.
July 2012	Darden Restaurants, Inc.	Yard House USA, Inc.
May 2012	Centerbridge Partners, L.P.	P.F. Chang’s China Bistro, Inc.
April 2012	Justice Holdings Limited	Burger King Worldwide, Inc.
November 2011	Olympus Partners, L.P.	NPC International, Inc.
April 2011	Yum! Brands Inc.	Little Sheep Group Ltd.
September 2010	3G Capital, Inc.	Burger King Holdings, Inc.
August 2010	Kelso & Company, L.P.	Logan’s Roadhouse, Inc.
May 2010	Oak Hill Capital Partners, L.P.	Dave & Buster’s, Inc.
April 2010	Apollo Global Management, LLC	CKE Restaurants, Inc.
April 2008	Triarc Companies, Inc.	Wendy’s International, Inc.
August 2007	Darden Restaurants, Inc.	RARE Hospitality International, Inc.
July 2007	IHOP Corp.	Applebee’s International, Inc.
November 2006	Bain Capital Partners, LLC/Catterton Partners, L.P.	OSI Restaurant Partners, Inc.
December 2005	Bain Capital Partners, LLC/The Carlyle Group/Thomas H. Lee Partners, L.P.	Dunkin’ Brands Group, Inc.

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Financial data for the selected transactions were based on publicly available research analysts' estimates, public filings and other publicly available information. Financial data for Tim Hortons was based on public filings and the strategic plan.

RBC Capital Markets reviewed transaction values, calculated as equity values of the target companies based on the purchase prices paid in the selected transactions plus debt, plus preferred stock, plus minority interests, less cash and cash equivalents and less equity investments, as a multiple, as of announcement of such transaction and to the extent publicly available, of such target companies' latest 12 months EBITDA. The overall low to high transaction values observed for the selected transactions were approximately \$300 million to \$8.3 billion and the overall low to high latest 12 months EBITDA multiples observed for the selected transactions were 6.4x to 21.2x. RBC Capital Markets noted that the mean latest 12 months EBITDA multiple observed for the selected transactions was 11.7x as compared to the latest 12 months EBITDA multiple for Tim Hortons based on the implied arrangement consideration of 17.0x.

Tim Hortons Recent Market Trading Prices. RBC Capital Markets compared the implied arrangement consideration relative to the closing price of Tim Hortons common shares on August 22, 2014 (the last trading day prior to published reports speculating on a potential transaction involving Tim Hortons and Burger King Worldwide) of C\$68.78 and the volume-weighted average closing prices of Tim Hortons common shares over the 20-day period ended August 22, 2014 of C\$65.56. RBC Capital Markets observed that the implied arrangement consideration represented a premium of approximately 37% over the closing price of Tim Hortons common shares on August 22, 2014 and a premium of approximately 43% based on the volume-weighted average closing prices of Tim Hortons common shares over the 20-day period ended August 22, 2014.

Certain Arrangement Shares Consideration Observations . RBC Capital Markets observed certain additional information in connection with its evaluation of the arrangement shares consideration, including certain market and other data such as (i) implied enterprise values as multiples of latest 12 months and calendar year 2014 estimated EBITDA and earnings per share of selected publicly traded companies in the QSR industry, which we refer to as the "selected companies," and Burger King Worldwide relative to Tim Hortons, (ii) leverage ratios of the selected companies relative to Tim Hortons, Burger King Worldwide and the combined company, (iii) the relative historical trading performance of Tim Hortons common shares, Burger King Worldwide common stock, shares of the selected companies and the Standard & Poor's 500 index and (iv) the potential pro forma financial impact of the transactions, after giving effect to the proposed financing for the transactions and both before and after giving effect to potential pre-tax revenue, purchasing and cost synergies, on Burger King Worldwide's fiscal years 2015 and 2016 estimated earnings per share.

Miscellaneous . In connection with RBC Capital Markets' services as Tim Hortons financial advisor, Tim Hortons has agreed to pay RBC Capital Markets an aggregate fee currently estimated to be approximately C\$28 million (\$25 million), portions of which were payable upon RBC Capital Markets' engagement, upon execution of the arrangement agreement and upon delivery of RBC Capital Markets' opinion and approximately C\$24 million (\$22 million) of which is contingent upon consummation of the arrangement or any other acquisition of or business combination involving Tim Hortons or acquisition of more than 50% of Tim Hortons voting securities. Tim Hortons also has agreed to reimburse RBC Capital Markets for certain expenses reasonably incurred in connection with RBC Capital Markets' services and to indemnify RBC Capital Markets and related persons against certain liabilities, including liabilities under the federal securities laws, arising out of RBC Capital Markets' engagement.

Neither RBC Capital Markets, nor any of its affiliates is an insider, associate or affiliate (as those terms are defined in the Ontario Act) of Tim Hortons, Burger King Worldwide, 3G Capital or any of their respective associates or affiliates. RBC Capital Markets has not been engaged to provide any financial advisory services nor has it participated in any financing involving Tim Hortons, Burger King Worldwide, 3G Capital or any of their respective associates or affiliates, during the two-year period prior to delivery of its opinion, other than the services provided under the RBCCM Engagement Agreement and as described herein. During such two-year

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period, RBC Capital Markets provided certain investment banking, financial advisory or other financial services to Tim Hortons, including having acted in the following capacities: (i) joint bookrunner for C\$450 million of senior unsecured notes in March 2014, (ii) joint bookrunner for C\$450 million of senior unsecured notes in November 2013 and (iii) lead arranger on a C\$400 million 364-day senior unsecured revolving facility used to fund an expanded share repurchase program in September 2013, for which services RBC Capital Markets and its affiliates received aggregate fees of approximately C\$2.8 million from Tim Hortons. In addition, during such two-year period, RBC Capital Markets acted for 3G Capital and its associates and affiliates as a participant in a debt financing package totaling \$13.6 billion for the acquisition by 3G Capital of a majority interest in HJ Heinz Company in June 2013, for which services RBC Capital Markets and its affiliates received aggregate fees of approximately \$4 million (USD) from 3G Capital.

There are no understandings, agreements or commitments between RBC Capital Markets and Tim Hortons, Burger King Worldwide, 3G Capital or any of their respective associates or affiliates with respect to any future business dealings. RBC Capital Markets may, in the future, in the ordinary course of its business, perform financial advisory or investment banking services for Tim Hortons, Burger King Worldwide, 3G Capital or any of their respective associates or affiliates. Royal Bank of Canada, controlling shareholder of RBC Capital Markets, also provides banking services to Tim Hortons and certain of 3G Capital's associates or affiliates in the normal course of business.

RBC Capital Markets acts as a trader and dealer, both as principal and agent, in major financial markets and, as such, may have had and may in the future have positions in the securities of Tim Hortons, Burger King Worldwide, 3G Capital or any of their respective associates or affiliates and, from time to time, may have executed or may execute transactions on behalf of such companies or clients for which it received or may receive compensation. As an investment dealer, RBC Capital Markets conducts research on securities and may, in the ordinary course of its business, provide research reports and investment advice to its clients on investment matters, including with respect to Tim Hortons, Burger King Worldwide or the transactions.

Tim Hortons selected RBC Capital Markets to act as its financial advisor in connection with the transactions on the basis of RBC Capital Markets' experience in similar transactions, its reputation in the investment community and its familiarity with Tim Hortons and its business. RBC Capital Markets is one of Canada's largest investment banking firms, with operations in all facets of corporate and government finance, corporate banking, mergers and acquisitions, equity and fixed income sales and trading and investment research. RBC Capital Markets also has significant operations in the U.S. and internationally.

Opinion of Burger King Worldwide's Financial Advisor

In connection with the transactions, on August 25, 2014, Lazard rendered its oral opinion, subsequently confirmed in writing, to the board of directors of Burger King Worldwide that, as of such date, and based upon and subject to the assumptions, procedures, factors, qualifications and limitations set forth therein, the consideration to be received by the stockholders of Burger King Worldwide (other than Holdings, Partnership, Merger Sub and affiliates of Burger King Worldwide) in the transactions was fair, from a financial point of view, to such stockholders of Burger King Worldwide.

The full text of Lazard's written opinion, dated August 25, 2014, which sets forth the assumptions made, procedures followed, factors considered and qualifications and limitations on the review undertaken by Lazard in connection with its opinion, is attached to this joint information statement/circular as Annex I and is incorporated into this joint information statement/circular by reference. The description of Lazard's opinion set forth in this joint information statement/circular is qualified in its entirety by reference to the full text of Lazard's written opinion attached as Annex I. You are encouraged to read Lazard's opinion and this section carefully and in their entirety.

Lazard's opinion was directed to the board of directors of Burger King Worldwide in connection with its evaluation of the transactions and only addressed the fairness as of the date of the opinion, from a financial point

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of view, of the consideration to be received by the stockholders of Burger King Worldwide (other than Holdings, Partnership, Merger Sub and affiliates of Burger King Worldwide) in the transactions. Lazard's opinion was not intended to, and does not constitute, a recommendation to any stockholder of Burger King Worldwide or Tim Hortons as to how such stockholder should vote or act with respect to the transactions or any matter relating thereto. Lazard's opinion was necessarily based on economic, monetary, market and other conditions as in effect on, and the information made available to Lazard as of, the date of the opinion. Lazard assumed no responsibility for updating or revising its opinion based on circumstances or events occurring after the date of the opinion. Lazard did not express any opinion as to the prices at which Holdings common shares, exchangeable units, Burger King Worldwide common stock or Tim Hortons common shares may trade at any time subsequent to the announcement of the transactions.

In connection with its opinion, Lazard:

- reviewed the financial terms and conditions of a draft, dated August 25, 2014, of the arrangement agreement;
- reviewed certain publicly available historical business and financial information relating to Tim Hortons and Burger King Worldwide;
- reviewed various financial forecasts and other data provided to Lazard by Tim Hortons relating to the business of Tim Hortons and extrapolations thereto prepared based on the guidance of management of Burger King Worldwide and approved for Lazard's use, financial forecasts and other data provided to Lazard by Burger King Worldwide relating to the business of Burger King Worldwide and extrapolations thereto prepared based on the guidance of management of Burger King Worldwide and approved for Lazard's use, and the projected synergies and other benefits under various scenarios, including the amount and timing thereof, anticipated by the management of Burger King Worldwide to be realized from the transactions;
- held discussions with members of the senior managements of Tim Hortons and Burger King Worldwide with respect to the businesses and prospects of Tim Hortons and Burger King Worldwide, respectively, and with members of the senior management of Burger King Worldwide with respect to the synergies and other benefits, including the amount and timing thereof, anticipated by the management of Burger King Worldwide to be realized from the transactions;
- reviewed public information with respect to certain other companies in lines of business Lazard believed to be generally relevant in evaluating the businesses of Tim Hortons and Burger King Worldwide, respectively;
- reviewed the financial terms of certain business combinations involving companies in lines of business Lazard believed to be generally relevant in evaluating the businesses of Tim Hortons and Burger King Worldwide, respectively;
- reviewed historical stock prices and trading volumes of Tim Hortons common shares and Burger King Worldwide common stock;
- reviewed the potential pro forma financial impact of the transactions on the combined company based on the financial forecasts referred to above relating to Tim Hortons and Burger King Worldwide; and
- conducted such other financial studies, analyses and investigations as Lazard deemed appropriate.

Lazard assumed and relied upon the accuracy and completeness of the foregoing information, without independent verification of such information. Lazard did not conduct any independent valuation or appraisal of any of the assets or liabilities (contingent or otherwise) of Tim Hortons or Burger King Worldwide or concerning the solvency or fair value of Tim Hortons or Burger King Worldwide, and Lazard was not furnished with any such valuation or appraisal. With respect to the financial forecasts utilized in Lazard's analyses, including those

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related to projected synergies and other benefits anticipated by the management of Burger King Worldwide to be realized from the transactions, Lazard assumed, with the consent of Burger King Worldwide, that they were reasonably prepared on bases reflecting the best currently available estimates and judgments as to the future financial performance of Tim Hortons and Burger King Worldwide, respectively, and such synergies and other benefits. Lazard further assumed, with the consent of Burger King Worldwide, that such financial forecasts, including such projected synergies and other benefits, will be realized in the amounts and at the times contemplated thereby. Lazard assumed no responsibility for, and expressed no view as to, any such forecasts, including such projected synergies and other benefits, or the assumptions on which they were based. Lazard further assumed for purposes of its opinion, at the direction of Burger King Worldwide, that an exchangeable unit will have equivalent economic value as a Holdings common share.

In rendering its opinion, Lazard assumed, with the consent of Burger King Worldwide, that the transactions would be consummated on the terms described in the arrangement agreement, without any waiver or modification of any material terms or conditions. Representatives of Burger King Worldwide advised Lazard, and Lazard assumed, that the arrangement agreement, when executed, would conform to the draft reviewed by Lazard in all material respects. Lazard also assumed, with Burger King Worldwide's consent, that obtaining the necessary governmental, regulatory or third party approvals and consents for the transactions would not have an adverse effect on Burger King Worldwide, Tim Hortons, Holdings, Partnership or the transactions. The tax elements of Lazard's financial analyses, and the tax attributes expected to apply to the combined company following the consummation of the transactions, were provided to Lazard by Burger King Worldwide, and Lazard did not express any view or opinion as to such tax elements or tax attributes. Lazard did not express any opinion as to any tax or other consequences that might result from the transactions, nor did Lazard's opinion address any legal, tax, regulatory or accounting matters, as to which Lazard understood that Burger King Worldwide had obtained such advice as it deemed necessary from qualified professionals. Lazard expressed no view or opinion as to any terms or other aspects (other than the consideration to the extent expressly specified in the opinion) of the transactions, including, without limitation, the form or structure of the transactions or any agreements or arrangements entered into in connection with, or contemplated by, the transactions, including any voting agreements, any agreements governing the exchangeable units and any agreements relating to any debt or equity financing. In addition, Lazard expressed no view or opinion as to the fairness of the amount or nature of, or any other aspects relating to, the compensation to any officers, directors or employees of any parties to the transactions, or class of such persons, relative to the consideration or otherwise.

The preparation of a fairness opinion is a complex process involving various determinations as to the most appropriate and relevant methods of financial analysis and review and the application of those methods to particular circumstances and, therefore, is not readily susceptible to partial analysis or summary description. Selecting portions of the analyses or of the summary set forth below, without considering the analyses as a whole, could create an incomplete view of the processes underlying Lazard's opinion. In arriving at its opinion, Lazard considered the results of all of its analyses and did not attribute any particular weight to any factor or analysis considered by it. Rather, Lazard made its determination as to fairness on the basis of its experience and professional judgment after considering the results of all of its analyses.

The following is a brief summary of the material financial and comparative analyses that Lazard deemed appropriate for this type of transaction and that were performed by Lazard in connection with rendering its opinion described above as well as analyses that were presented to the board of directors of Burger King Worldwide for informational purposes only but were not material to the rendering of Lazard's opinion. The following summary, however, does not purport to be a complete description of the financial analyses performed by Lazard, nor does the order of analyses described represent relative importance or weight given to those analyses by Lazard.

In its analyses, Lazard considered industry performance, general business, economic, market and financial conditions and other matters, many of which are beyond the control of Burger King Worldwide and Tim Hortons.

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No company or transaction used in the below analyses as a comparison is directly comparable to Burger King Worldwide, Tim Hortons or the transactions, and an evaluation of the results of those analyses is not entirely mathematical. Rather, the analyses involve complex considerations and judgments concerning financial and operating characteristics and other factors that could affect the acquisition, public trading or other values of the companies or transactions analyzed. The estimates contained in Lazard's analyses and the ranges of valuations resulting from any particular analysis are not necessarily indicative of actual values or predictive of future results or values, which may be significantly more or less favorable than those suggested by the analyses. In addition, analyses relating to the value of businesses or securities do not purport to be appraisals or to reflect the prices at which businesses or securities actually may be sold. Accordingly, the estimates used in, and the results derived from, Lazard's analyses are inherently subject to substantial uncertainty.

Some of the summaries of the financial analyses include information presented in tabular format. In order to fully understand the financial analyses performed by Lazard, the tables must be read together with the full text of each summary and are alone not a complete description of Lazard's financial analyses. Considering the data set forth in the tables below without considering the narrative description of the financial analyses, including the methodologies and assumptions underlying the analyses, could create a misleading or incomplete view of Lazard's financial analyses. Except as otherwise noted, the following quantitative information, to the extent that it is based on market data, is based on market data as it existed on or before August 22, 2014, and is not necessarily indicative of current market conditions.

Discounted Cash Flow Analysis—Company

Lazard performed a discounted cash flow analysis of Tim Hortons as of July 1, 2014. Discounted cash flow analysis is a valuation methodology used to derive a valuation of a company by calculating the present value of estimated future cash flows of such company. "Future cash flows" refers to projected unlevered free cash flows of a company. Lazard calculated the discounted cash flow value as the sum of the net present value of the estimated future cash flows that Tim Hortons is expected to generate for each of the years from July 1, 2014 through December 31, 2022 and the estimated terminal value of Tim Hortons at the end of 2022.

Lazard performed this discounted cash flow analysis of Tim Hortons on a standalone basis based on the financial forecasts provided to Lazard by Tim Hortons relating to the business of Tim Hortons, at an assumed effective tax rate of 29.0% as indicated by Tim Hortons management, and extrapolations thereto prepared based on the guidance of management of Burger King Worldwide and approved for Lazard's use on the following two bases: (1) excluding synergies and (2) including synergies projected by Burger King Worldwide's management and approved for Lazard's use.

Excluding Synergies

Lazard applied discount rates ranging from 6.5% to 7.5%, and terminal growth rates ranging from 1.75% to 2.25%, to the estimated future cash flows of Tim Hortons. Using its professional judgment, Lazard selected the ranges of discount rates (based on an analysis of weighted average cost of capital) and terminal growth rates above. This analysis indicated an implied per share equity value reference range for Tim Hortons common shares of C\$77.90 to C\$106.28 and an implied terminal value EBITDA multiple reference range of 11.5x to 15.5x.

Including Synergies

Lazard applied discount rates ranging from 6.5% to 7.5%, and terminal growth rates ranging from 1.75% to 2.25%, to the estimated future cash flows of Tim Hortons. Using its professional judgment, Lazard selected the ranges of discount rates (based on an analysis of weighted average cost of capital) and terminal growth rates above. This analysis indicated an implied per share equity value reference range for Tim Hortons common shares of C\$86.20 to C\$117.39 and an implied terminal value EBITDA multiple reference range of 11.6x to 15.7x.

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Selected Comparable Companies Analysis—Company

Lazard reviewed and analyzed selected public companies in the coffee/specialty, QSR and fast casual restaurant industries that it viewed as reasonably comparable to Tim Hortons based on Lazard’s knowledge of such industries. In performing these analyses, Lazard reviewed and analyzed certain publicly available financial information, implied multiples and market trading data relating to the selected comparable companies and compared such information to the corresponding information for Tim Hortons. Specifically, Lazard compared Tim Hortons to the following public companies:

<u>Industry</u>	<u>Company</u>
Coffee/Specialty	Starbucks Corporation
	Dunkin’ Brands Group
QSR	Krispy Kreme Doughnuts
	McDonald’s Corporation
	YUM! Brands, Inc.
	Burger King Worldwide
	Domino’s Pizza
	Wendy’s Company
	Jack in the Box
	Papa John’s International
Fast Casual	Sonic Corp.
	Popeye’s Louisiana Kitchen
	Chipotle Mexican Grill
	Panera Bread Company
	Fiesta Restaurant Group
	Noodles & Co.
	Potbelly Corp.

Although none of the selected companies is directly comparable to Tim Hortons, the companies included are publicly traded companies with operations and/or other criteria, such as lines of business, markets, business risks and size and scale of business, which for purposes of analysis Lazard considered similar to Tim Hortons. Based on FactSet estimates and other public information, Lazard reviewed, among other things, the enterprise value (of each selected comparable company as a multiple of such comparable company’s projected EBITDA for the fiscal year ending December 31, 2015. The results of the analyses were as follows:

	Enterprise Value/ EBITDA 2015E
Coffee/Specialty	
Low	11.6x
Mean	13.3x
High	14.6x
QSR	
Low	9.7x
Mean	11.3x
High	15.1x
Fast Casual	
Low	8.9x
Mean	13.4x
High	21.2x
Combined	
Low	8.9x
Mean	12.3x
High	21.2x

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Based on the foregoing and Lazard's professional judgment, including, without limitation, considering Tim Hortons then-current enterprise value as a multiple of 2015 EBITDA (11.6x based on Tim Hortons management projections), Lazard applied multiples of 11.5x to 14.5x to estimated EBITDA for Tim Hortons fiscal year ending December 31, 2015 provided in Tim Hortons management projections. The results of the foregoing analysis implied an equity value per share range for Tim Hortons of C\$65.75 to C\$85.75.

Selected Precedent Transactions Analysis—Company

Lazard reviewed and analyzed certain publicly available financial information of target companies in selected precedent merger and acquisition transactions involving U.S. QSRs, leading Canadian retail brands and leading and sizeable consumer brands, in each case that Lazard viewed as relevant. In performing these analyses, Lazard analyzed certain financial information and transaction multiples relating to the target companies involved in the selected transactions and compared such information to the corresponding information for Tim Hortons.

Although none of the selected precedent transactions or the companies party to such transactions is directly comparable to the transactions or to Tim Hortons, all of the transactions were chosen because they involve transactions that, for purposes of analysis, may be considered similar to the transactions and/or involve targets that, for purposes of analysis, may be considered similar to Tim Hortons. In conducting this analysis, Lazard noted the relatively limited number of transactions that are truly comparable to the transactions in terms of the size of the transaction and the business model and strategic attributes of the companies involved.

The precedent transactions reviewed were:

<u>Acquiror</u>	<u>Target</u>	<u>Date</u>
U.S. QSRs		
Roark Capital	CKE Restaurants	Nov. 2013
Joh. A. Benckiser	Peet's	July 2012
3G Capital	Burger King	Sept. 2010
Apollo	CKE Restaurants	April 2010
Triarc Companies	Wendy's International	April 2008
Private Equity Consortium	Dunkin' Brands	Dec. 2005
Leading Canadian Retail Brands		
Loblaw	Shoppers Drug Mart	July 2013
Sobeys	Safeway Canada	June 2013
Leading and Sizeable Consumer Brands		
Suntory	Beam	Jan. 2014
Joh. A. Benckiser	D.E. Master Blenders 1753	Apr. 2013
3G Capital	Heinz	Feb. 2013
AB InBev	Modelo	June 2012
Kraft	Cadbury	Nov. 2009
InBev	Anheuser Busch	July 2008
Mars	Wrigley's	Apr. 2008

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For each of the selected precedent transactions, Lazard calculated and, to the extent information was publicly available, compared enterprise value as a multiple of EBITDA for the trailing twelve months (based on most recently publicly available information) prior to the date that the relevant transaction was announced. The results of the analyses were as follows:

	Enterprise Value/ EBITDA
U.S. QSRs	
Low	6.2x
Mean	11.4x
Median	9.2x
High	21.6x
Leading Canadian Retail Brands	
Low	10.6x
Mean	11.0x
Median	11.0x
High	11.4x
Leading and Sizeable Consumer Brands	
Low	12.4x
Mean	15.7x
Median	13.9x
High	20.6x

Based on the foregoing analyses and Lazard's professional judgment, Lazard applied multiples of 11.0x to 16.0x to estimated EBITDA for Tim Hortons fiscal year ended December 31, 2015 provided in Tim Hortons management projections to calculate an implied equity value per share range for Tim Hortons of C\$57.00 to C\$87.75.

Other Analyses—Company

The analyses and data relating to Tim Hortons described below were presented to the board of directors of Burger King Worldwide for informational purposes.

Analyst Price Targets Analysis

Lazard reviewed recently available equity analyst price targets based on published, publicly available Wall Street equity research reports prepared by equity analysts covering Tim Hortons, which indicated target prices that ranged from C\$56.00 per share of Tim Hortons common shares to C\$79.00 per share.

52-Week High/Low Analysis

Lazard reviewed the range of trading prices of Tim Hortons common shares for the 52 weeks ended on August 22, 2014. Lazard observed that, during such period, the daily intra-day share prices of Tim Hortons common shares ranged from C\$56.12 per share to C\$68.90 per share.

Discounted Cash Flow Analysis—Burger King Worldwide

Lazard performed a discounted cash flow analysis of Burger King Worldwide as of July 1, 2014. As described above in “*Discounted Cash Flow Analysis—Company*”, discounted cash flow analysis is a valuation methodology used to derive a valuation of a company by calculating the present value of estimated future cash flows of such company. Lazard calculated the discounted cash flow value as the sum of the net present value of the estimated future cash flows that Burger King Worldwide is expected to generate for each of the years from

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July 1, 2014 through December 31, 2022 and the estimated terminal value of Burger King Worldwide at the end of 2022.

Lazard performed this discounted cash flow analysis of Burger King Worldwide on a standalone basis on the following bases: (1) (a) using publicly available consensus estimates from FactSet and extrapolations thereto prepared based on the guidance of management of Burger King Worldwide and approved for Lazard's use (the "Consensus Street Case") and (b) Burger King Worldwide's estimated effective tax rate (as indicated by Burger King Worldwide's management), (2) (a) using financial forecasts provided to Lazard by Burger King Worldwide relating to the business of Burger King Worldwide and extrapolations thereto prepared based on the guidance of management of Burger King Worldwide and approved for Lazard's use (the "Burger King Worldwide Management Case") and (b) the U.S. marginal corporate income tax rate (assumed for informational purposes at the direction of Burger King Worldwide) and (3) (a) using the Burger King Worldwide Management Case and (b) Burger King Worldwide's estimated effective tax rate (as indicated by Burger King Worldwide's management).

Consensus Street Case

Lazard applied discount rates ranging from 6.5% to 8.0%, and terminal growth rates ranging from 1.75% to 2.25%, to the estimated future cash flows of Burger King Worldwide. Using its professional judgment, Lazard selected the ranges of discount rates (based on an analysis of weighted average cost of capital) and terminal growth rates above. This analysis indicated an implied per share equity value reference range for Burger King Worldwide's common stock of \$24.72 to \$37.74 and an implied terminal value EBITDA multiple reference range of 12.2x to 17.8x.

Burger King Worldwide Management Case One

Lazard applied discount rates ranging from 6.5% to 8.0%, and terminal growth rates ranging from 1.75% to 2.25%, to the estimated future cash flows of Burger King Worldwide. Using its professional judgment, Lazard selected the ranges of discount rates (based on an analysis of weighted average cost of capital) and terminal growth rates above. This analysis indicated an implied per share equity value reference range for Burger King Worldwide's common stock of \$24.20 to \$37.13 and an implied terminal value EBITDA multiple reference range of 10.5x to 15.4x.

Burger King Worldwide Management Case Two

Lazard applied discount rates ranging from 6.5% to 8.0%, and terminal growth rates ranging from 1.75% to 2.25%, to the estimated future cash flows of Burger King Worldwide. Using its professional judgment, Lazard selected the ranges of discount rates (based on an analysis of weighted average cost of capital) and terminal growth rates above. This analysis indicated an implied per share equity value reference range for Burger King Worldwide's common stock of \$28.42 to \$43.19 and an implied terminal value EBITDA multiple reference range of 12.0x to 17.5x.

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Selected Comparable Companies Analysis—Burger King Worldwide

Lazard reviewed and analyzed selected public companies in the coffee/specialty, QSR and fast casual restaurant industries that it viewed as reasonably comparable to Burger King Worldwide based on Lazard’s knowledge of such industries. In performing these analyses, Lazard reviewed and analyzed certain publicly available financial information, implied multiples and market trading data relating to the selected comparable companies and compared such information to the corresponding information for Burger King Worldwide. Specifically, Lazard compared Burger King Worldwide to the following public companies:

<u>Industry</u>	<u>Company</u>
Coffee/Specialty	Starbucks Corporation
	Dunkin’ Brands Group
	Krispy Kreme Doughnuts
	Tim Hortons Inc.
QSR	McDonald’s Corporation
	YUM! Brands, Inc.
	Domino’s Pizza
	Wendy’s Company
	Jack in the Box
	Papa John’s International
	Sonic Corp.
	Popeye’s Louisiana Kitchen
Fast Casual	Chipotle Mexican Grill
	Panera Bread Company
	Fiesta Restaurant Group
	Noodles & Co.
	Potbelly Corp.

Although none of the selected companies is directly comparable to Burger King Worldwide, the companies included are publicly traded companies with operations and/or other criteria, such as lines of business, markets, business risks and size and scale of business, which for purposes of analysis Lazard considered similar to Burger King Worldwide. Based on FactSet estimates and other public information, Lazard reviewed, among other things, the enterprise value of each selected comparable company as a multiple of such comparable company’s projected EBITDA for the fiscal year ending December 31, 2015. The results of the analyses were as follows:

	Enterprise Value/ EBITDA 2015E
Coffee/Specialty	
Low	11.6x
Mean	13.3x
High	14.6x
QSR	
Low	9.7x
Mean	11.3x
High	15.1x
Fast Casual	
Low	8.9x
Mean	13.4x
High	21.2x
Combined	
Low	8.9x
Mean	12.3x
High	21.2x

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Based on the foregoing and Lazard's professional judgment, including, without limitation, considering Burger King Worldwide's then-current enterprise value as a multiple of 2015 EBITDA (15.1x based on the Consensus Street Case; 14.4x based on the Burger King Worldwide Management Case), Lazard applied multiples of 14.0x to 16.0x to estimated EBITDA for the Burger King Worldwide fiscal year ending December 31, 2015. The results of the foregoing analysis implied an equity value per share range for Burger King Worldwide of \$24.50 to \$28.75, in the case of the Consensus Street Case, and \$26.00 to \$30.50, in the case of the Burger King Worldwide Management Case.

Other Analyses—Burger King Worldwide

The analyses and data described below were presented to the board of directors of Burger King Worldwide for informational purposes.

Analyst Price Targets Analysis

Lazard reviewed recently available equity analyst price targets based on published, publicly available Wall Street Journal equity research reports prepared by equity analysts covering Burger King Worldwide, which indicated target prices that ranged from \$25.00 per share of Burger King Worldwide's common stock to \$30.00 per share.

52-Week High/Low Analysis

Lazard reviewed the range of trading prices of shares of Burger King Worldwide's common stock for the 52 weeks ended on August 22, 2014. Lazard observed that, during such period, the daily intra-day share prices of Burger King Worldwide's common stock ranged from \$18.86 per share to \$28.00 per share.

"Transaction Consequences" Analysis

Lazard reviewed and analyzed certain financial information in order to compare the stand-alone per share value of Burger King Worldwide common stock to the pro-forma per share value of Burger King Worldwide common stock (after giving effect to and the projected synergies and other benefits under various scenarios anticipated by the management of Burger King Worldwide to be realized from the transaction). This comparison analysis is referred to as the "transaction consequences" analysis.

Lazard performed a discounted cash flow analysis to calculate the estimated present value of the unlevered, after-tax free cash flows that Burger King Worldwide, on a stand-alone and on a pro-forma basis, was forecasted to generate during the calendar years 2014 to 2022 (as provided by Burger King Worldwide management). Lazard calculated the estimated stand-alone equity value of Burger King Worldwide. Lazard then adjusted the pro forma equity value for the stand-alone value of Tim Hortons, the present value of acquisition debt, fees and expenses, and projected changes in the combined company's capital structure and projected synergies and other benefits. This analysis resulted in the following range midpoint implied per share values of Burger King Worldwide common stock, in each case on a stand-alone and on a pro-forma basis:

Implied Per Share Values of Burger King Worldwide Common Stock

Stand-Alone: \$31.13

Pro-Forma: \$38.82

Miscellaneous

Lazard prepared these analyses solely for purposes of, and the analyses were delivered to the board of directors of Burger King Worldwide in connection with, the provision of its opinion to the board of directors of Burger King Worldwide as to the fairness, from a financial point of view, of the consideration to be received by

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the stockholders of Burger King Worldwide (other than Holdings, Partnership, Merger Sub and affiliates of Burger King Worldwide) in the transactions to such stockholders of Burger King Worldwide. These analyses do not purport to be appraisals nor do they necessarily reflect or purport to reflect the prices at which businesses or securities actually may be sold or the prices at which any securities have traded or may trade at any time in the future. Analyses based upon forecasts of future results are not necessarily indicative of actual future results, which may be significantly more or less favorable than suggested by these analyses. Because these analyses are inherently subject to uncertainty, being based upon numerous factors or events beyond the control of the parties or their respective advisors, neither Lazard nor any other person assumes responsibility if future results are materially different from those forecast.

Lazard, as part of its investment banking business, is continually engaged in the valuation of businesses and their securities in connection with mergers and acquisitions, negotiated underwritings, secondary distributions of listed and unlisted securities, private placements, leveraged buyouts, and valuations for estate, corporate and other purposes. Lazard in the past has provided, currently is providing and in the future may provide certain investment banking services to Burger King Worldwide's principal stockholder, 3G Capital, and certain of its affiliates, for which Lazard has received and may receive compensation, including, without limitation, having advised 3G Capital in connection with the acquisition of Burger King Worldwide in 2010 and, in the past two years, having advised 3G Capital in connection with the acquisition of H.J. Heinz Company and having advised Anheuser-Busch InBev and predecessor companies, in which certain affiliates of 3G Capital have an interest, on numerous transactions (including the purchase of Oriental Brewery, the combination with Grupo Modelo and the related divestitures of the U.S. business of Grupo Modelo and Santos Laguna). In connection with Lazard's role as financial advisor in such 2010 acquisition of Burger King Worldwide and such acquisition of H.J. Heinz Company, fees in an aggregate amount of \$31.5 million were paid by 3G Capital to Lazard. In addition, in the ordinary course, Lazard and its affiliates and its and their employees may trade securities of Burger King Worldwide, Tim Hortons and certain of their respective affiliates for their own accounts and for the accounts of their customers and, accordingly, may at any time hold a long or short position in such securities, and may also trade and hold securities on behalf of Burger King Worldwide, Tim Hortons and certain of their respective affiliates. The issuance of Lazard's opinion was approved by the Opinion Committee of Lazard.

In connection with Lazard's services as financial advisor to Burger King Worldwide with respect to the transactions, Burger King Worldwide agreed to pay Lazard a fee of \$13.75 million, \$2.5 million of which was payable upon the date of public announcement by Burger King Worldwide of the execution of the definitive agreement providing for the transactions and the remainder of which is payable upon consummation of the transactions. In the event that any company or entity formed or used by Burger King Worldwide is paid a break-up, termination or similar fee, upon receipt thereof, Burger King Worldwide agreed to pay Lazard a fee equal to 10% of such amount net of Burger King Worldwide's fees and expenses in connection with the transactions, provided that such fee may not exceed \$5 million and will be credited against the amount of Lazard's aggregate fee described above to the extent subsequently payable. Burger King Worldwide has also agreed to reimburse Lazard for certain expenses incurred in connection with Lazard's engagement and to indemnify Lazard and certain related persons under certain circumstances against certain liabilities that may arise from or be related to Lazard's engagement, including certain liabilities under U.S. federal securities laws.

The type and amount of consideration payable in the transactions was determined through arm's-length negotiations between Tim Hortons and Burger King Worldwide, rather than by any financial advisor, and was approved by the board of directors of Burger King Worldwide. Lazard did not recommend any specific transactions consideration to the board of directors of Burger King Worldwide or to Burger King Worldwide or that any given transactions consideration constituted the only appropriate consideration for the transactions. The decision to enter into the arrangement agreement was solely that of the board of directors of Burger King Worldwide. As described above, the opinion of Lazard was one of many factors taken into consideration by the board of directors of Burger King Worldwide in making the determination to approve the arrangement agreement. Consequently, the analyses described above should not be viewed as determinative of the opinion of the board of directors of Burger King Worldwide with respect to the transactions consideration.

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Lazard is an internationally recognized investment banking firm providing a full range of financial advisory and other services. Lazard was selected to act as investment banker to Burger King Worldwide because of its qualifications, expertise and reputation in investment banking and mergers and acquisitions, as well as its familiarity with the business of Burger King Worldwide.

Certain Unaudited Tim Hortons Forecasts

Tim Hortons does not, as a matter of course, make public long-term annual projections as to future revenues, earnings or other results. However, in connection with the evaluation of the arrangement, Tim Hortons made available to Burger King Worldwide, its board of directors and its financial advisors certain unaudited prospective financial information based on Tim Hortons strategic plan for the five-year period from 2014 through 2018, on a stand-alone, pre-transaction basis. In the view of Tim Hortons management, the projections prepared by it were prepared on a reasonable basis, reflected the best then-available estimates and judgments, and presented, to the best of Tim Hortons knowledge and belief, the expected course of action and expected future financial performance of Tim Hortons on a standalone basis. The projections that are presented below reflect certain assumptions and judgments made by Tim Hortons. However, this information is not fact and should not be relied upon as necessarily indicative of actual future results, and readers of this joint information statement/circular are cautioned not to place undue reliance on the prospective financial information. The information about projections included in this joint information statement/circular is presented solely to give Burger King Worldwide stockholders and Tim Hortons shareholders access to the information that was made available to Burger King Worldwide and its representatives.

The projections were not prepared with a view toward public disclosure or for complying with the published guidelines of the SEC or any Canadian securities regulators regarding projections or the guidelines established by the American Institute of Certified Public Accountants for preparation and presentation of prospective financial information. The projections have been prepared by, and are the responsibility of, Tim Hortons management. Neither Tim Hortons independent registered public accounting firm, nor Burger King Worldwide's independent registered public accounting firm, nor any other independent accountants, have compiled, examined, or performed any procedures with respect to the projections, nor have they expressed any opinion or any other form of assurance on such projections or the achievability of the results reflected in such projections, and they assume no responsibility for, and disclaim any association with, such projections. The report of PricewaterhouseCoopers LLP incorporated by reference in this joint information statement/circular relates only to the historical consolidated financial statement of Tim Hortons Inc. incorporated by reference herein. It does not extend to the projections and should not be read to do so.

The projections included in this joint information statement/circular are subjective in many respects and thus subject to interpretation. While presented with numeric specificity, and considered reasonable by management at the time they were prepared, such projections reflect numerous estimates and assumptions with respect to industry performance and competition, general business, economic, market and financial conditions and matters specific to Tim Hortons business and the factors listed in this joint information statement/circular under the section entitled “*Risk Factors*,” as well as the risk factors set out in Tim Hortons public disclosure documents incorporated by reference in this joint information statement/circular, all of which are difficult to predict and many of which are beyond Tim Hortons control. The information contained in the projections was based on assumptions that were accurate at the time of preparation. In addition, since the projections cover multiple years, such information by its nature becomes less predictive with each successive year.

The projections were based on Tim Hortons as a standalone company. Such projections do not take into account the transactions contemplated by the arrangement agreement, including the impact of negotiating or executing the transactions, the expenses that may be incurred in connection with consummating the transactions, the potential synergies that may be achieved by the combined company as a result of the transactions, the effect of any business or strategic decision or action that has been or will be taken as a result of the arrangement agreement having been executed, or the effect of any business or strategic decisions or actions which likely would have been taken if the arrangement agreement had not been executed but which were instead altered, accelerated, postponed or not taken in anticipation of the transactions.

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Burger King Worldwide stockholders and Tim Hortons shareholders are urged to read the section entitled “ *Risk Factors* ” in this joint information statement/circular and Tim Hortons most recent SEC filings for a description of risk factors with respect to Tim Hortons business. You should read the section entitled “ *Cautionary Note Regarding Forward-Looking Statements* ” in this joint information statement/circular for additional information regarding the risks inherent in forward-looking information such as the financial projections and “ *Where You Can Find More Information* ” in this joint information statement/circular.

Certain of the financial projections set forth herein may be considered non-GAAP financial measures. Non-GAAP financial measures should not be considered in isolation from, or as a substitute for, financial information presented in compliance with U.S. GAAP, and non-GAAP financial measures as used by Tim Hortons may not be comparable to similarly titled amounts used by other companies. Quantitative reconciliations of the prospective non-GAAP measures included herein to the most directly comparable U.S. GAAP financial measures have not been provided. Not all of the information necessary for quantitative reconciliations is available to Tim Hortons at this time without unreasonable efforts. This is due primarily to variability and difficulty in making accurate detailed projections. Accordingly, Tim Hortons does not believe that reconciling information for such projected figures would be meaningful.

Neither Tim Hortons nor Burger King Worldwide has made any representation to the other, or to any stockholder of Burger King Worldwide or shareholder of Tim Hortons, in the arrangement agreement and neither makes any representation to Burger King Worldwide’s stockholders or Tim Hortons shareholders concerning any of the Burger King Worldwide or Tim Hortons projections included in this joint information statement/circular.

Key assumptions underlying the Tim Hortons projections include the following:

- approximately 5.5% compound per annum growth of Tim Hortons revenue from 2013 through 2018, based on Tim Hortons management’s assessment of demand fundamentals;
- manageable growth in total costs and expenses driving 9.1% compound per annum growth of Tim Hortons operating income from 2013 through 2018; and
- achievement of the Tim Hortons strategic plan and its objectives.

A summary of the Tim Hortons projections is set forth below:

	Tim Hortons Financial Projections (in C\$millions)					
	Fiscal Year					
	2013A	2014E	2015E	2016E	2017E	2018E
Revenues	3,256	3,328	3,551	3,792	4,034	4,251
Operating Income plus Total Depreciation ⁽¹⁾	783	853	925	1,008	1,084	1,158

(1) Tim Hortons provided Burger King Worldwide with forecasts for operating income and total depreciation. Operating Income plus Total Depreciation should not be considered an alternative to operating income or net income as a measure of operating performance or cash flows or as a measure of liquidity.

Tim Hortons has not updated and does not intend to update, or otherwise revise the financial projections or underlying assumptions to reflect circumstances existing since their preparation or to reflect the occurrence of future events, even in the event that any or all of the assumptions on which such projections were based are shown to be in error. Furthermore, Tim Hortons does not intend to update or revise the prospective financial information to reflect changes in general economic or industry conditions. Accordingly, no undue reliance should be placed on any such assumptions or projections.

Interests of Certain Persons related to Tim Hortons in the Transactions

In considering the recommendation of the Tim Hortons board of directors with respect to the transactions, Tim Hortons shareholders should be aware that the executive officers and directors of Tim Hortons have certain interests in the transactions that may be different from, or in addition to, the interests of Tim Hortons shareholders generally. The Tim Hortons board of directors was aware of these interests and considered them, among other matters, in approving the arrangement agreement and the transactions contemplated thereby, including the arrangement, and making its recommendation that the Tim Hortons shareholders adopt the arrangement agreement and approve the transactions contemplated thereby. For purposes of the arrangements described below, to the extent applicable, the completion of the transactions will constitute a change in control or term of similar meaning. These interests are described in further detail below, and certain of them are quantified in the narrative and table below.

Treatment of Outstanding Tim Hortons Equity Awards

Stock Options. Pursuant to the arrangement, each outstanding vested surrendered Tim Hortons stock option will be surrendered and transferred to Tim Hortons in consideration for the issuance of the number of Tim Hortons common shares, rounded down to the nearest whole share, equal in value to the in-the-money value of such surrendered Tim Hortons stock option. The in-the-money value of the Tim Hortons stock option is the amount by which the fair market value of a Tim Hortons common share exceeds the exercise price of the Tim Hortons stock option. The surrendered Tim Hortons stock options will be terminated at the time of their surrender and Tim Hortons common shares issued in respect of such surrendered stock options will be treated as described below.

Pursuant to the arrangement, each outstanding Tim Hortons stock option (and its tandem stock appreciation right), whether vested or unvested, that is not a surrendered Tim Hortons stock option will be exchanged for a stock option (with a tandem stock appreciation right) to acquire from Holdings a number of Holdings common shares equal to the product of: (a) the number of Tim Hortons common shares subject to such Tim Hortons stock option multiplied by (b) the exchange ratio of 3.0879 (and rounded down to the nearest whole number of Holdings common shares). The exercise price per Holdings common share of such Holdings stock option shall be equal to the quotient of: (a) the exercise price per Tim Hortons common share subject to the exchanged Tim Hortons stock option divided by (b) the exchange ratio of 3.0879 (with the aggregate exercise price being rounded up to the nearest whole cent), provided that the in-the-money value of such Holdings stock options immediately after the issuance of such Holdings stock options may not exceed the in-the-money value of the Tim Hortons stock options immediately prior to such issuance. Subject to the foregoing, each Holdings stock option will have the same terms and conditions as were applicable to the exchanged Tim Hortons stock option.

Restricted Stock Units and Performance Stock Units. Pursuant to the arrangement, all outstanding Tim Hortons restricted stock units and performance stock units will vest, with the number of performance stock units vesting determined based on the maximum or highest level achievable, and Tim Hortons common shares will be issued in full settlement of such awards on the basis of one Tim Hortons common share for each restricted stock unit or performance stock unit.

Tim Hortons common shares issued in consideration for surrendered Tim Hortons stock options or in settlement of restricted stock unit awards and performance stock unit awards will be transferred to Amalgamation Sub pursuant to the arrangement and the holders of such Tim Hortons common shares will be entitled to make an election in respect of the arrangement consideration to be received in consideration for such transfer.

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Deferred Stock Units. At the effective time of the arrangement, all outstanding Tim Hortons deferred stock units will ordinarily vest in accordance with the plan terms of the Tim Hortons deferred stock units, or DSUs, and require settlement as the director will cease to serve in such capacity for Tim Hortons. Each DSU will be settled for the value of C\$65.50 plus the value of 0.8025 newly issued common shares of Holdings (with the value determined based on the opening price of a common share of Holdings on the TSX on the first trading day following the effective time of the arrangement).

For an estimate of the amounts that would become payable to each of the Tim Hortons named executive officers on settlement of their unvested equity awards, see “—*Quantification of Potential Payments to Tim Hortons Named Executive Officers in connection with the Arrangement*” below. We estimate that the aggregate amount that would become payable to the five other executive officers of Tim Hortons on settlement of their unvested equity awards if the effective time of the arrangement were September 15, 2014, and based on a price per Tim Hortons common share of C\$87.77 (the average closing price of a Tim Hortons common share on the five days following the announcement of the arrangement), is C\$6,808,963. We estimate that the aggregate amount that would become payable to all of the Tim Hortons non-employee directors on settlement of their deferred stock units if the effective time of the arrangement were September 15, 2014, and based on a price per share Tim Hortons common shares of C\$87.77, is C\$13,926,956.

Employment and Change-in-Control Agreements

Tim Hortons is party to agreements with each of its executive officers that provide for the severance benefits described below upon a termination of employment without cause or for good reason within two years following the consummation of the transactions (each, a “qualifying termination”). Pursuant to the terms of the arrangement agreement, Burger King has acknowledged that each of the Tim Hortons executive officers will have the right to terminate his or her employment for good reason under the terms of the Tim Hortons benefit plans, agreements and arrangements as a result of the consummation of the transactions.

In the event of a qualifying termination, the Tim Hortons executive officers would be entitled to the following payments and benefits:

Accrued Obligations. Each executive officer would receive all earned or accrued but unpaid compensation, including base salary, vacation pay and other compensation and benefits that have been earned or become payable, including a contribution to the supplemental pension plan, prorated for the portion of the year elapsed as of the qualifying termination. In addition, each executive officer would be entitled to receive a prorated annual incentive award for the year of termination; however, as described below, for fiscal year 2014 and for so long as the executive officers participate in the Tim Hortons Executive Annual Performance Plan a full payout will be made and, this provision regarding proration will not apply.

Equity Vesting . All outstanding Tim Hortons equity awards would vest in full as of the date of termination.

Severance Payment . Each executive officer would receive a cash severance payment, payable in a lump sum within 10 days following the date of termination, in an amount equal to two times the greater of (a) the executive officer’s base salary and target bonus in effect at the time notice of termination is given and (b) the sum of the average of the executive officer’s base salary and target bonus in effect at the time notice of termination is given and during the two years preceding notice of termination.

Insurance Continuation. For a period of two years following the date of termination each executive officer would receive the life, disability, medical, dental and hospitalization benefits that were provided to the executive officer at the time of notice of termination for a period of two years. Such benefits will be no less favorable to the executive officer, in terms of the amounts and deductibles and costs to the executive, than the coverage provided to the executive officer at the time of the notice of termination.

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Pension Contributions . Each executive officer would receive a cash payment, payable in a lump sum within ten days following the date of termination, equal to the present value of employer contributions that the executive officer would have accrued under the registered pension plan and supplemental pension plan, if any, had the executive officer remained employed for two years following the date of termination, with contributions calculated based on the executive's base salary and rate of the employer contribution in effect as of the date of termination.

Automobile Expenses . For a period of two years following the date of termination, each executive officer would receive a monthly car allowance based on a pre-determined amount for the car, gas, maintenance and insurance for the grade level of the executive officer.

For an estimate of the value of the payments and benefits described above that would become payable under the employment or change-in-control agreements to each of the named executive officers of Tim Hortons, see “—*Quantification of Potential Payments to Tim Hortons Named Executive Officers in Connection with the Arrangement*” below. We estimate that the aggregate amount of the cash payments (including severance payment, pension contributions and auto expenses) and the cost of insurance continuation described above that would become payable to the five other executive officers of Tim Hortons if the effective time of the arrangement were September 15, 2014 and they all experienced a qualifying termination at such time is C\$6,131,267.

Annual Incentive Awards

Under the arrangement agreement, Tim Hortons may generally pay full annual incentive awards in respect of fiscal year 2014 prior to consummation of the transactions to all employees who participate in such programs, including the executive officers, regardless of whether such employees experience a qualifying termination. The amount of such incentive awards will be based on the greatest of (a) the annual incentive compensation award paid or payable to the participant for fiscal year 2013, (b) the annual incentive compensation award that would be payable to such participant assuming that Tim Hortons achieved the target level of the applicable performance objectives for the fiscal year 2014 and (c) the annual incentive award that would be payable to such participant based on Tim Hortons actual performance and achievement of applicable performance objectives for fiscal year 2014, subject to adjustment consistent with historical practice.

In addition, if the transactions are consummated in fiscal year 2015 or later, under the current Tim Hortons Executive Annual Performance Plan, each executive officer who experiences a qualifying termination in such year will receive a full annual incentive award, payable in an amount equal to the greatest of (a) the annual incentive award paid or payable to such executive officer for the fiscal year prior to the consummation of the transactions, (b) the annual incentive award that would be payable to such executive officer for the fiscal year in which the transactions are consummated assuming that Tim Hortons achieved the target level of the performance objectives for such fiscal year and (c) the annual incentive award that would be payable to such executive officer for the fiscal year in which the transactions are consummated based on Tim Hortons actual performance and achievement of applicable performance objectives for such fiscal year.

For an estimate of the value of the fiscal year 2014 annual incentive awards that would become payable to each of the named executives of Tim Hortons, see “—*Quantification of Potential Payments to Tim Hortons Named Executives in Connection with the Arrangement*” below. We estimate that the aggregate amount of the fiscal year 2014 annual incentive awards that would become payable to the five other executive officers of Tim Hortons if the effective time of the arrangement were September 15, 2014, and assuming that actual performance is equal to target performance for fiscal year 2014, is C\$1,052,796.

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Tax Matters

Under the terms of the arrangement agreement, Tim Hortons may, in consultation with Burger King Worldwide, implement strategies to mitigate any taxes arising under sections 280G and 4999 of the U.S. Internal Revenue Code. In addition, Tim Hortons may execute agreements with any individuals subject to such taxes to compensate such individuals for the cost of such excise taxes, provided that the cost of such arrangements may not exceed \$2.5 million without the consent (not to be unreasonably withheld) of Burger King Worldwide. As of the date of this filing, Tim Hortons has not entered into any agreements.

Indemnification Insurance

Under the terms of the arrangement agreement, the directors and executive officers of Tim Hortons will be entitled to certain ongoing indemnification and coverage under directors' and officers' liability insurance policies from the surviving corporation following the arrangement. Such indemnification and insurance coverage is further described in the section entitled "*The Arrangement Agreement—Indemnification and Insurance*".

Tim Hortons—Directors and Officers Following the Transactions

The Holdings board of directors after the transactions is expected to be eleven members and will include each of the current directors of Burger King Worldwide, in addition to three of the current Tim Hortons directors designated by Tim Hortons. Each of the Tim Hortons director designees must be a "resident Canadian" for the purposes of the CBCA and two of the designees must qualify as "independent" under U.S. and Canadian securities laws and the respective rules of the TSX and the NYSE. In addition, the senior management of Holdings following the closing of the transactions may include members of Tim Hortons senior management team. Accordingly, certain Tim Hortons directors and certain members of senior management may be entitled to receive compensation from Holdings in such capacities following the consummation of the transactions. For additional information regarding the compensation directors or members of senior management may receive see "*Post-Transactions Organizational Structure—Corporate Governance and Management of Holdings*".

Quantification of Potential Payments to Tim Hortons Named Executives in Connection with the Arrangement

Set forth in the table below is information about certain compensation payable to the individuals who were named executive officers of Tim Hortons for fiscal year 2013 that is based on or otherwise relates to the arrangement and assumes, among other things, that the named executive officers who are currently executive officers will incur a qualifying termination of employment immediately following a change in control. For additional details regarding the terms of the payments described below, see the discussion under the caption "*Interests of Certain Persons related to Tim Hortons in the Transactions*" above.

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Please note that the amounts indicated below are estimates based on multiple assumptions that may or may not actually occur or be accurate on the relevant date, including assumptions described below, and do not reflect certain compensation actions that may occur before the consummation of the arrangement. Pursuant to the arrangement agreement, the consummation of the arrangement constitutes a change in control for the purposes of all applicable compensation plans or agreements. For purposes of calculating such amounts, we have assumed:

- That the transactions will be consummated on September 15, 2014; and
- Each named executive's employment is terminated without "cause" or for "good reason" immediately following the transactions.

<u>Name</u>	<u>Cash (C\$(1))</u>	<u>Equity (C\$(2))</u>	<u>Perquisites/ Benefits (C\$(3))</u>	<u>Tax Reimburse- ment (C\$(4))</u>	<u>Total (C\$)</u>
Current Named Executive Officers					
Marc Caira (5) Chief Executive Officer	5,424,655	10,159,825	14,561	0	15,599,041
Cynthia J. Devine Chief Financial Officer	2,733,797	3,817,637	14,561	0	6,565,995
David F. Clanachan Chief Operating Officer	2,733,797	3,833,484	14,561	0	6,581,842
Roland M. Walton President, Tim Hortons Canada	2,653,763	3,181,440	14,561	0	5,849,764
Former Named Executive Officers					
Paul D. House (6) Chairman, formerly Executive Chairman, President and Chief Executive Officer	n/a	5,039,244	n/a	n/a	5,039,244
William A. Moir (6) Former Chief Brand and Marketing Officer	n/a	1,457,333	n/a	n/a	1,457,333

(1) The cash payments payable to each of the named executives consist of the following components:

- A severance payment, payable in a lump sum within ten days following the date of termination, in an amount equal to two times the greater of (i) base salary and target bonus in effect at the time notice of termination is given and (ii) the sum of the average of the named executive's base salary and target bonus in effect at the time notice of termination is given and during the two years preceding notice of termination;
- An amount, payable in a lump sum within ten days following the date of termination, equal to the present value of employer contributions that the named executive would have accrued under the registered pension plan and supplemental pension plan, if any, had the named executive remained employed for two years following the date of termination, plus a contribution to the supplemental pension plan, prorated for the portion of the year elapsed as of the qualifying termination;
- A monthly car allowance based on a pre-determined amount for the car, gas, maintenance and insurance for the grade level of the executive officer, payable for two years following the date of termination; and
- An annual incentive payment in respect of fiscal year 2014, based on the greatest of (i) the annual incentive compensation award paid or payable to the named executive for fiscal year 2013, (ii) the annual incentive compensation award that would be payable to such participant assuming that Tim Hortons achieved the target level of the applicable performance objectives for the fiscal year 2014 and (iii) the annual incentive award that would be payable to such participant based on Tim Hortons actual performance and achievement of applicable performance objectives for fiscal year 2014. For purposes of the amount reflected above, it is assumed that actual performance will equal target performance for fiscal year 2014.

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Except for the annual incentive payment in respect of fiscal year 2014, which is payable prior to the consummation of the transactions, all components of the cash payment are “double-trigger” (i.e., they are contingent upon a qualifying termination following the consummation of the transactions). The estimated amount of each component of the cash payment is set forth in the table below.

Name	Severance Payment (C\$)	Pension Contributions (C\$)	Car Allowance (C\$)	Annual Bonus (C\$)
Current Named Executive Officers				
Marc Caira	3,820,000	547,055	57,600	1,000,000
Cynthia J. Devine	1,920,000	293,197	45,600	475,000
David F. Clanachan	1,920,000	293,197	45,600	475,000
Roland M. Walton	1,840,000	290,663	45,600	477,500

- (2) As described in more detail in “*The Arrangement Agreement—Treatment of Outstanding Tim Hortons Equity Awards*,” upon the consummation of the transactions, (a) each restricted stock unit and performance stock unit will vest (performance stock units will vest at maximum performance) and be settled for Tim Hortons common shares, and the holder will be entitled to make an election to receive the arrangement consideration, (b) each vested option may be exercised or surrendered contingent upon the closing, and the holder will be entitled to make an election to receive the arrangement consideration with respect to net Tim Hortons common shares received upon exercise, subject to adjustment, (c) all outstanding options that are not exercised or surrendered prior to or contingent upon the consummation of the arrangement will be converted into options to purchase Holdings common shares which, pursuant to the employment or change-in-control agreements with the named executive officers, would vest upon a qualifying termination, and (d) for Paul D. House who has been receiving deferred stock units since his appointment as Chairman in July 2013, each deferred stock unit will be deemed vested and he will receive a cash payment equal to the sum of C\$65.50 plus the value of 0.8025 Holdings common shares, based on the opening price of Holdings common shares on the first trading day immediately following the effective time.

The amounts above and in the table below assume a price per Tim Hortons common share of C\$87.77 (the average closing price of Tim Hortons common shares on the five days following the announcement of the arrangement). Except for the options, which following the consummation of the transactions will continue to vest upon their existing vesting schedule or an earlier qualifying termination, all components of the equity payment are “single-trigger”.

Name	Restricted Stock	Performance	Deferred Stock	
	Units (C\$)	Stock Units (C\$)	Options (C\$)	Units (C\$)
Current Named Executive Officers				
Marc Caira	1,464,618	2,578,858	6,116,348	—
Cynthia J. Devine	975,125	773,605	2,068,907	—
David F. Clanachan	978,372	773,605	2,081,507	—
Roland M. Walton	812,662	644,671	1,724,106	—
Former Named Executive Officers				
Paul D. House	4,879,398	—	—	159,847
William A. Moir	812,662	644,671	—	—

- (3) The amounts above reflect the company cost of continuation of the life, disability, medical, dental and hospitalization benefits that were provided to the named executive officers at the time of notice of termination for a period of two years. These benefits are “double-trigger.”
- (4) The estimated excise tax reimbursements are subject to change based on the actual consummation date of the transactions, date of termination of employment (if any) of the named executive, interest rates then in effect and certain other assumptions used in the calculations. The excise tax reimbursements are “single-trigger.”
- (5) In consideration for the severance benefits under his change-in-control agreement, Mr. Caira is subject to covenants concerning competition, solicitation of franchisees, business partners and employees, non-interference with suppliers and non-disparagement that apply for two years following his termination of employment.

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- (6) Messrs. House and Moir are no longer executive officers and therefore are not entitled to severance compensation under employment or change-in-control agreements. Mr. House has unvested restricted stock units and deferred share units, and Mr. Moir has unvested restricted stock units and performance stock units, that will vest due to the change in control (“single-trigger”). Mr. Moir also has unvested options that will continue to vest according to their vesting schedule.

Interests of Certain Persons related to Burger King Worldwide in the Transactions

In considering the recommendation of the Burger King Worldwide board of directors with respect to the transactions, Burger King Worldwide stockholders should be aware that the executive officers and directors of Burger King Worldwide have certain interests in the transactions that may be different from, or in addition to, the interests of Burger King Worldwide stockholders. The Burger King Worldwide board of directors was aware of these interests and considered them, among other matters, in approving the arrangement agreement and the merger and making their recommendations to Burger King Worldwide stockholders. These interests are described below.

Burger King Worldwide—Directors and Officers Following the Transactions

Each of the members of the Burger King Worldwide board of directors is expected to serve as a director on the Holdings board of directors following the closing. In addition, the senior management of Holdings following the closing of the transactions will consist of members of Burger King Worldwide’s senior management teams. Accordingly, Burger King Worldwide directors and members of senior management may be entitled to receive compensation from Holdings in such capacities following the consummation of the transactions. For additional information regarding the compensation directors or members of senior management may receive see “*Post-Transactions Organizational Structure—Corporate Governance and Management of Holdings*.”

Burger King Worldwide—Merger-Related Compensation

None of Burger King Worldwide’s executive officers or directors is party to a change in control agreement or other agreement that provides for benefits solely upon the occurrence of the transactions contemplated by the arrangement agreement.

Likewise, the transactions do not constitute a “change in control” under the equity compensation plans of Burger King Worldwide and therefore will not cause any acceleration of outstanding Burger King Worldwide equity awards.

Burger King Worldwide—Indemnification and Insurance

Pursuant to the terms of the Arrangement Agreement, Burger King Worldwide directors and executive officers will be entitled to certain ongoing indemnification and coverage under directors’ and officers’ liability insurance policies from Holdings. See “*The Arrangement Agreement—Indemnification*”.

In addition to the interests set forth in this section entitled “*The Transaction—Interests of Certain Persons related to Burger King Worldwide in the Transaction s*” of this joint information statement/circular, certain officers and directors of Burger King Worldwide may be the compensation of the board of directors of Burger King Worldwide will not be affected by the merger.

The Written Consent of Certain Burger King Worldwide Stockholders

In connection with the arrangement agreement, on August 26, 2014, at the request of Tim Hortons, Tim Hortons entered into a voting agreement with 3G, the holder of approximately 243,858,915 of shares of Burger King Worldwide common stock, which represents 69.22% of the outstanding shares of Burger King Worldwide

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common stock and a sufficient number of shares of Burger King Worldwide common stock to approve the merger and adopt the arrangement agreement. Pursuant to the voting agreement, 3G Capital agreed to deliver a written consent approving the merger and adopting the arrangement agreement within five days following the effective time of the registration statement of which this joint information statement/circular forms a part, registering the Holdings common shares to be issued in connection with the transactions. Pursuant to the voting agreement, 3G Capital also granted to Tim Hortons an irrevocable proxy to secure 3G Capital's obligations under the voting agreement. Also pursuant to the voting agreement, 3G Capital agreed that it would make an exchangeable election in connection with the merger.

The foregoing description of the voting agreement is not complete and is qualified in its entirety by reference to the voting agreement, which is filed as Exhibit 10.1 hereto and the form of written consent which is attached hereto as Annex J and is incorporated herein by reference.

The merger requires approval by a majority of the outstanding shares of Burger King Worldwide common stock. Each share of Burger King Worldwide common stock is entitled to one vote. As discussed above, 3G Capital, which controls 69.22% of the total voting power of Burger King Worldwide's outstanding shares of common stock, has agreed to deliver a written consent, in the form attached hereto as Annex J, approving the merger and adopting the arrangement agreement within five days following the effective time of the registration statement of which this joint information statement/circular is a part. Accordingly, no vote is required on your part. Therefore, Burger King Worldwide will not need to hold a special meeting and no further action is required on the part of Burger King Worldwide stockholders. Burger King Worldwide stockholders will, however, be able to make an election to receive only Partnership exchangeable units in the merger if they so choose, subject to proration, as described in "*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock*".

Appraisal / Dissent Rights

Burger King Worldwide

Appraisal rights are statutory rights under Delaware law that enable stockholders who object to certain extraordinary transactions to demand that the corporation pay such stockholders the fair value of their shares instead of receiving the consideration offered to stockholders in connection with the extraordinary transaction. However, appraisal rights are not available in all circumstances. Appraisal rights are not available to Burger King Worldwide stockholders in connection with the merger.

Tim Hortons

Registered holders of Tim Hortons common shares are expected to be entitled to dissent (dissent rights) from the arrangement resolution in the manner provided in section 190 of the CBCA, as expected to be modified by the interim order and the plan of arrangement as described herein.

This section summarizes the provisions of section 190 of the CBCA, as expected to be modified by the interim order and the plan of arrangement. Registered holders of Tim Hortons common shares who wish to exercise dissent rights should obtain legal advice and carefully read the provisions of the plan of arrangement and the provisions of section 190 of the CBCA, which are appended hereto as Annex B and Annex K, respectively.

Anyone who is a beneficial owner of Tim Hortons common shares registered in the name of an intermediary and who wishes to dissent should be aware that only registered holders of Tim Hortons common shares are entitled to exercise dissent rights. A registered holder of Tim Hortons common shares who holds Tim Hortons common shares as an intermediary for one or more beneficial owners, one or more of whom wish to exercise dissent rights, must exercise such dissent rights on behalf of such holder(s). In such case, the written objection should specify the number of Tim Hortons common shares held by the intermediary for such beneficial owner. A Tim Hortons shareholder who has duly exercised its dissent rights and has not withdrawn or been deemed to have

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withdrawn such exercise of dissent rights, but only in respect of Tim Hortons common shares in respect of which dissent rights are validly exercised by such dissenting Tim Hortons shareholder, may dissent only with respect to all the Tim Hortons common shares held on behalf of any one beneficial owner and registered in the name of the dissenting Tim Hortons shareholder.

Each registered holder of Tim Hortons common shares who properly exercises dissent rights (or on whose behalf dissent rights have been properly exercised) who is:

(a) ultimately entitled to be paid fair value for such holder's Tim Hortons common shares, which fair value, notwithstanding anything to the contrary contained in Part XV of the CBCA, shall be determined as of the close of business on the day before the final order becomes effective, will be deemed to have transferred such holder's Tim Hortons common shares to Amalgamation Sub as of the effective time of the arrangement and as set forth in the plan of arrangement, and will not be entitled to any other payment or consideration, including any payment that would be payable under the arrangement had such dissenting shareholder not exercised dissent rights in respect of such Tim Hortons common shares; or

(b) ultimately not entitled, for any reason, to be paid such fair value for such holder's Tim Hortons common shares, will be deemed to have participated in the arrangement with respect to such Tim Hortons common shares, as of the effective time of the arrangement on the same basis as a holder of Tim Hortons common shares to which section 3.2(h) of the plan of arrangement applies.

Notwithstanding section 190(5) of the CBCA, all written objections must be received by Tim Hortons on or prior to 5:00 p.m., Toronto time, on the second business day immediately prior to the date of the Tim Hortons special meeting (as it may be adjourned or postponed from time to time). It is important that Tim Hortons shareholders strictly comply with this timing requirement, which is different from the statutory dissent provisions of the CBCA that would permit a written objection to be provided at or prior to the Tim Hortons special meeting.

The filing of a written objection does not deprive a registered Tim Hortons shareholder of the right to vote at the Tim Hortons special meeting; however, a registered Tim Hortons shareholder who has submitted a written objection and who votes in favor of the arrangement resolution will no longer be considered a dissenting shareholder with respect to such holder's Tim Hortons common shares voted in favor of the arrangement resolution. If such dissenting shareholder votes in favor of the arrangement resolution in respect of a portion of the Tim Hortons common shares he, she or it holds as an intermediary on behalf of any one beneficial owner, such vote approving the arrangement resolution will be deemed to apply to the entirety of the Tim Hortons common shares held in the name of that beneficial owner, given that section 190 of the CBCA provides there is no right of partial dissent. A vote against the arrangement resolution will not constitute a written objection for purposes of exercising dissent rights.

On the filing of a demand for payment (and in any event upon the effective time of the arrangement), a dissenting Tim Hortons shareholder ceases to have any rights in respect of its Tim Hortons common shares, other than the right to be paid the fair value of its Tim Hortons common shares as determined pursuant to section 190 of the CBCA and the interim order and the final order, except where, prior to the date at which the arrangement becomes effective: (i) the dissenting Tim Hortons shareholder withdraws its demand for payment before Tim Hortons makes an offer to pay to the dissenting Tim Hortons shareholder; (ii) an offer to pay is not made and the dissenting shareholder withdraws its demand for payment; or (iii) the Tim Hortons board of directors revokes the arrangement resolution, in which case Tim Hortons will reinstate the dissenting Tim Hortons shareholder's rights in respect of its Tim Hortons common shares as of the date the demand for payment was sent. Pursuant to the plan of arrangement, in no case will Tim Hortons, Holdings, Amalgamation Sub or any other person be required to recognize any dissenting Tim Hortons shareholder as the holder of any Tim Hortons common shares in respect of which dissent rights have been validly exercised after the effective time of the arrangement, and the names of such Tim Hortons shareholders will be deleted from the list of registered Tim Hortons shareholders at the effective time of the arrangement. In addition to any other restrictions under section 190 of the CBCA, none of

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the following shall be entitled to exercise dissent rights: (i) holders of securities convertible or exercisable for Tim Hortons common shares (including holders of Tim Hortons stock options or other equity awards); and (ii) Tim Hortons shareholders who voted (or have instructed a proxyholder to vote) in favor of the arrangement resolution.

The above is only a summary of the provisions of the CBCA pertaining to dissent rights, as modified by the interim order and the plan of arrangement, which are technical and complex. If you are a Tim Hortons shareholder and wish to directly or indirectly exercise dissent rights, you should seek your own legal advice as failure to strictly comply with the provisions of the CBCA, as modified by the interim order and the plan of arrangement, may prejudice your dissent rights.

Regulatory Approvals Required

U.S. Regulatory Approvals

Under the HSR Act, and the rules and regulations promulgated thereunder by the FTC, the transactions cannot be consummated until notifications have been submitted and certain information has been furnished to the Antitrust Division and the FTC, and the specified waiting period requirements have been satisfied.

Burger King Worldwide and Tim Hortons filed pre-merger notification and report forms pursuant to the HSR Act with the Antitrust Division and the FTC on or before September 17, 2014. Early termination of the waiting period under the HSR Act with respect to the transactions was granted on September 26, 2014.

Canadian Regulatory Approvals

Competition Act (Canada)

Part IX of the Competition Act (Canada), as amended, including the regulations promulgated thereunder, which we refer to in this joint information statement/circular as the “Competition Act (Canada),” requires that the parties to certain transactions that exceed the thresholds set out in sections 109 and 110 of the Competition Act (Canada), which are referred to in this joint information statement/circular as “notifiable transactions,” provide the Commissioner of Competition, which person is referred to in this joint information statement/circular as the “commissioner,” with pre-closing notification of the transaction consisting of prescribed information.

Subject to certain limited exceptions, the parties to a notifiable transaction cannot complete the transaction until an applicable waiting period has expired or been terminated or an appropriate waiver has been provided by the commissioner. The waiting period is 30 days after the day on which the parties to the notifiable transaction have submitted their respective notifications. The parties are entitled to complete their notifiable transaction at the end of the 30-day period, unless the commissioner notifies the parties, pursuant to subsection 114(2) of the Competition Act (Canada), that the commissioner requires additional information that is relevant to the commissioner’s assessment of the notifiable transaction, which is referred to in this joint information statement/circular as a “supplementary information request”. In the event that the commissioner provides the parties with a supplementary information request, the notifiable transaction cannot be completed until 30 days after compliance with such supplementary information request, provided that there is no order issued by the Competition Tribunal in effect prohibiting completion at the relevant time. The commissioner’s substantive assessment of a notifiable transaction may extend beyond the statutory waiting period.

In addition or as an alternative to filing notifications containing the prescribed information, a party to a notifiable transaction may comply with Part IX of the Competition Act (Canada) by applying to the commissioner for: (i) an advance ruling certificate issued by the commissioner pursuant to section 102 of the Competition Act (Canada), which is referred to in this joint information statement/circular as an “advance ruling certificate;” or (ii) a no-action letter from the commissioner advising that he does not have grounds, at the time, on which to initiate proceedings before the Competition Tribunal under section 92 of the Competition Act

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(Canada) to challenge the transactions and seek an order in respect of the transactions which is referred to in this joint information statement/circular as a “no-action letter,” and an exemption from the pre-merger notification obligation under paragraph 113(c) of the Competition Act (Canada).

The transactions contemplated by the arrangement agreement (including the arrangement and the merger) are notifiable transactions under the Competition Act (Canada), and as such, the parties must comply with the merger notifications provisions of Part IX of the Competition Act (Canada).

On September 19, 2014, the parties filed with the commissioner a request for an advance ruling certificate or no-action letter and their notifications. The statutory waiting period under Part IX of the Competition Act (Canada) expired on October 20, 2014, and the commissioner issued a no-action letter in respect of the transactions contemplated by the arrangement agreement on October 27, 2014.

Canada Transportation Act

Under the Canada Transportation Act, a transaction subject to pre-merger notification under the Competition Act (Canada) which involves a transportation undertaking cannot be completed until certain information has been provided to the Minister of Transport and either the Minister of Transport notifies the parties that she is of the opinion that the transaction does not raise issues with respect to the public interest or the transaction is approved by the Governor in Council.

Pursuant to the arrangement agreement, Canada Transportation Act approval will be obtained if the Minister of Transport provides (a) notice under subsection 53.1(4) of the Canada Transportation Act that the Minister of Transport is of the opinion that the transactions contemplated by the arrangement agreement do not raise issues with respect to the public interest as it relates to national transportation or (b) approval of the transactions contemplated by the arrangement agreement under subsection 53.2(7) of the Canada Transportation Act.

On September 19, 2014, the parties filed an application with the Minister of Transport for a notice confirming that the transactions contemplated by the arrangement agreement do not raise issues with respect to the public interest as relates to national transportation, and the Minister of Transport provided the parties with such notice on October 24, 2014.

Investment Canada Act

Under the Investment Canada Act, certain transactions involving the “acquisition of control” of a Canadian business by a non-Canadian are subject to review and cannot be implemented unless the Minister of Industry of Canada, who we refer to as the “Minister of Industry”, is satisfied that the transaction is likely to be of “net benefit” to Canada. Such a transaction is referred to in this joint information statement/circular as a “reviewable transaction.” The transactions contemplated by the arrangement agreement constitute a reviewable transaction under the Investment Canada Act.

The submission of an application for review triggers an initial review period of up to 45 days. If the Minister of Industry has not completed the review within 45 days, the Minister of Industry may unilaterally extend the review period by up to a further 30 days and he may seek additional extensions with the consent of the applicant.

The prescribed factors to be considered by the Minister of Industry in determining whether a reviewable transaction is likely to be of “net benefit” to Canada include, among other things, (i) the effect of the investment on the level and nature of economic activity in Canada (including the effect on employment, capital investment, resource processing, utilization of Canadian products and services and exports), (ii) the degree and significance of participation by Canadians in the acquired business, (iii) the effect of the investment on productivity, industrial efficiency, technological development, product innovation, product variety and competition in Canada, (iv) the effect of the investment on competition within an industry in Canada, (v) the compatibility of the investment with

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national and provincial industrial, economic and cultural policies, and (vi) the contribution of the investment to Canada's ability to compete in world markets. The Minister of Industry will also consider, among other things, the views of the provincial governments where Tim Hortons carries on business and any written undertakings offered to Her Majesty in right of Canada in determining whether a reviewable transaction is likely to be of "net benefit" to Canada.

If, following his review, the Minister of Industry is satisfied that a reviewable transaction is likely to be of "net benefit" to Canada, the Minister of Industry is required to send a notice to that effect. If the Minister of Industry does not send notice of his approval within the initial 45-day period or the extended period, as the case may be, the Minister of Industry is deemed to be satisfied that the reviewable transaction is likely to be of "net benefit" to Canada and shall send a notice to that effect.

If, following his review, the Minister of Industry is not satisfied that a reviewable transaction is likely to be of "net benefit" to Canada, the Minister of Industry is required to send a notice to that effect, advising of the right to make further representations and submit (additional) undertakings within 30 days from the date of such notice or any further period that may be agreed to by the applicant and the Minister of Industry.

Within a reasonable time after the expiry of the period for making representations and submitting undertakings as described above, the Minister of Industry shall send notice to the applicant that either the Minister of Industry is satisfied that the investment is likely to be of "net benefit" to Canada or confirmation that the Minister of Industry is not satisfied that the investment is likely to be of "net benefit" to Canada. In the latter case, the reviewable transaction may not be implemented.

Pursuant to the arrangement agreement, Investment Canada Act approval will be obtained if the responsible minister under the Investment Canada Act is satisfied or deemed to be satisfied that the transactions contemplated by the arrangement agreement are likely to be of "net benefit" to Canada pursuant to the Investment Canada Act and such approval has not been modified or withdrawn.

An application for review was filed with the Investment Review Division of Industry Canada on September 11, 2014. As of the date of this joint information statement/circular, the review of the transactions contemplated by the arrangement agreement under the Investment Canada Act is ongoing with an extension notice provided on October 27, 2014, and the Investment Canada Act approval required pursuant to the arrangement agreement has not been obtained.

Court Approval of the Arrangement

Interim Order

Tim Hortons intends to seek the interim order from the Ontario court shortly before this joint information statement/circular is declared effective, which will provide for the calling and the holding of the Tim Hortons special meeting and other procedural matters related to the arrangement. [See the interim order, which is attached as Annex L to this joint information statement/circular.] ^{FN}

Final Order

As required under the CBCA, the arrangement requires approval by the Ontario court. Subsequent and subject to the approval of the arrangement resolution by Tim Hortons shareholders at the Tim Hortons special meeting in accordance with the interim order, the hearing in respect of the final order of the Ontario court approving the arrangement will be scheduled. At the hearing of the application for the final order, the Ontario court will consider, among other things, the fairness and reasonableness of the arrangement, both from a

^(FN) A copy of the interim order will be included as an annex hereto once obtained from the Ontario court but prior to effectiveness.

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substantive and procedural point of view. The Ontario court may approve the arrangement, either as proposed or amended, in any manner the Ontario court may direct, subject to compliance with any terms and conditions, if any, as the Ontario court deems fit.

Participation in the hearing on the final order, including who may participate and present evidence or argument and the procedure for doing so, will be subject to the terms of the interim order. Any Tim Hortons shareholder who wishes to participate, to appear, to be represented, and to present evidence or arguments at the hearing, must serve and file a notice of appearance, which is referred to in this joint information statement/circular as a “notice of appearance”, and satisfy the other requirements of the Ontario court, as outlined in the interim order. In the event that the hearing on the final order is postponed, adjourned or rescheduled then, subject to further direction of the Ontario court, only those persons having previously served a notice of appearance in compliance with the interim order will be given notice of the new date.

Assuming the final order is granted and the conditions to closing contained in the arrangement agreement are satisfied or waived, then the articles of arrangement of Tim Hortons in respect of the arrangement that are required by the CBCA to be sent to the Director appointed pursuant to section 260 of the CBCA, which is referred to in this joint information statement/circular as the “CBCA Director”, after the final order is made which shall be in form and substance satisfactory to each of Tim Hortons and Burger King Worldwide, acting reasonably, which is referred to in this joint information statement/circular as the “articles of arrangement”, will be filed with the CBCA Director and a certificate of arrangement pursuant to section 192(7) of the CBCA will be issued to give effect to the arrangement.

[See the notice of application for the final order, which is attached as Annex M to this joint information statement/circular.] ^(FN)

Stock Exchange Listing of Holdings Common Shares and Partnership Exchangeable Units; Deregistration of Burger King Worldwide Common Stock and Tim Hortons Common Shares after the Transactions

It is a mutual condition to the completion of the arrangement that the Holdings common shares be approved for listing on the NYSE and conditionally approved for listing on the TSX. It is also a mutual condition to the completion of the arrangement that the exchangeable units be conditionally approved for listing on the TSX. Holdings has or will apply to list the Holdings common shares to be issued or made issuable pursuant to the arrangement and the merger on the NYSE and the TSX. Listing will be subject to Holdings fulfilling all of the listing requirements of the NYSE and TSX. Partnership has applied to list the exchangeable units to be issued or made issuable pursuant to the merger on the TSX. Listing will be subject to Partnership fulfilling all of the listing requirements of the TSX.

Burger King Worldwide and Tim Hortons have agreed to cooperate with each other to delist the Burger King Worldwide common stock from the NYSE and Tim Hortons common shares from the NYSE and the TSX, to cause Tim Hortons to cease to be a reporting issuer in Canada and to terminate registration of the Tim Hortons common shares and Burger King Worldwide common stock under the Exchange Act. Such delisting and termination will not be effective until after the effective time of the arrangement with respect to Tim Hortons common shares and after the effective time of the merger with respect to Burger King Worldwide common stock.

Description of Preliminary Steps Prior to the Arrangement

Prior to the arrangement, and in each case in accordance with the terms and conditions of the arrangement agreement:

- Holdings will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons;

^(FN)A copy of the notice of application will be included as an annex hereto once obtained from the Ontario court but prior to effectiveness.

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- the certificate of incorporation of Holdings in effect immediately prior to the arrangement will be amended and restated to be in the form attached as Annex D to this joint information statement/circular and, as so amended, will be the certificate of incorporation of Holdings until thereafter amended in accordance with applicable law and such certificate of incorporation of Holdings;
- the bylaws of Holdings will be amended and restated to be in the form attached as Annex E to this joint information statement/circular and, as so amended, will be the bylaws of Holdings until thereafter amended in accordance with applicable law, the certificate of incorporation of Holdings and such Holdings bylaws;
- Partnership will be renamed as mutually agreed between Burger King Worldwide and Tim Hortons;
- the partnership agreement of Partnership will be amended and restated to be substantially in the form of Annex F to this joint information statement/circular and, as so amended and restated, will be the partnership agreement of Partnership until thereafter amended in accordance with applicable law and such partnership agreement; and
- Tim Hortons will, upon request by Burger King Worldwide and subject to applicable laws, effect such reorganizations of its business, operations and assets or such other transactions as Burger King Worldwide may reasonably request including, but not limited to, the distribution by Tim Hortons US of its common shares of The TDL Group Co. to Tim Hortons Delaware Limited Partnership in liquidation of Tim Hortons US.

Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration; Dissenter's Rights; Withholding Rights

Election Materials and Procedures

An election form and letter of transmittal will be mailed to each holder of record of Tim Hortons common shares as of the close of business on the Tim Hortons record date, along with this joint information statement/circular. Tim Hortons will make available one or more letters of transmittal and election forms as may reasonably be requested from time to time by all persons who become record holders or beneficial owners of Tim Hortons common shares between the Tim Hortons record date and the close of business on the business day prior to the election deadline.

Each election form and letter of transmittal will permit the holder to specify the number of such holder's Tim Hortons common shares with respect to which such holder makes a (y) cash election or (z) shares election. Any Tim Hortons common shares with respect to which the arrangement exchange agent has not received an effective, properly completed election form and letter of transmittal on or before the election deadline will be deemed to be "no election shares," and the holders of such no election shares will receive the arrangement mixed consideration. Both the cash election and the shares election are subject to the proration procedure to cause the total amount of cash paid and the total number of Holdings common shares issued in the arrangement to the holders of Tim Hortons common shares, as a whole, to equal as nearly as practicable the total amount of cash and number of shares that would have been paid and issued if all such Tim Hortons common shares were converted into the arrangement mixed consideration.

Any duly completed election form and letter of transmittal, once deposited with the arrangement exchange agent, will be irrevocable and may not be withdrawn by a Tim Hortons shareholder. Subject to the terms of the arrangement agreement and the election form and letter of transmittal, the arrangement exchange agent has the reasonable discretion to determine whether any election has been properly or timely made and to disregard immaterial defects in the letters of transmittal and election forms, and any good faith decisions of the arrangement exchange agent regarding such matters will be binding and conclusive. None of Tim Hortons, Burger King Worldwide, Holdings or the arrangement exchange agent shall be under any obligation to notify any person of any defect in an election form and letter of transmittal.

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Proration Procedures

The total amount of cash that is available to be paid to holders of Tim Hortons common shares who make a cash election, which we refer to as the available cash election amount, is equal to:

- the product of (i) the aggregate number of outstanding Tim Hortons common shares (other than any Tim Hortons common shares held by Amalgamation Sub) as of immediately prior to the exchange of Tim Hortons stock options for Holdings stock options pursuant to the plan of arrangement *multiplied by* (ii) C\$65.50; *minus*
- the aggregate amount of cash to be paid in respect of all mixed election shares and no election shares; *minus*
- the product of (i) the aggregate number of Tim Hortons common shares, measured as of the election deadline, in respect of which dissent rights have been validly exercised and not withdrawn *multiplied by* (ii) C\$88.50.

If a Tim Hortons shareholder elects cash, and if the product of the number of cash election shares multiplied by the arrangement cash consideration of C\$88.50 (such product, the “cash election amount”) is greater than the available cash election amount, then such shareholder will receive, for each Tim Hortons common share for which such shareholder makes a cash election:

- an amount of cash (without interest) equal to the product of (i) C\$88.50 *multiplied by* (ii) a fraction, rounded to six decimal places, the numerator of which is the available cash election amount and the denominator of which is the cash election amount (such fraction, the “cash fraction”); provided, that the cash fraction may not be less than zero; *and*
- a number of Holdings common shares equal to the product of (i) 3.0879 *multiplied by* (ii) a fraction equal to one minus the cash fraction.

If a Tim Hortons shareholder makes a shares election, and the available cash election amount is greater than the cash election amount, such shareholder will receive, for each Tim Hortons common share for which such shareholder makes a shares election:

- an amount of cash (without interest) equal to the amount of such excess divided by the number of share elections shares; *and*
- a number of Holdings common shares equal to the product of (i) 3.0879 *multiplied by* (ii) a fraction, the numerator of which is the difference between C\$88.50 minus the amount of cash calculated in the immediately preceding bullet and the denominator of which is C\$88.50.

Set forth below are illustrative examples of how the proration procedures will work in the event there is an oversubscription of the cash election or the share election.

Example A—Oversubscription of Cash Election . For purposes of this example, assume the following:

- there are 133 million outstanding Tim Hortons common shares;
- Tim Hortons shareholders make the mixed election with respect to 19,950,000 (or 15%) of Tim Hortons common shares;
- Tim Hortons shareholders make the cash election with respect to 106,400,000 (or 80%) of Tim Hortons common shares;
- Tim Hortons shareholders make the share election with respect to the remaining 6,650,000 (or 5%) of Tim Hortons common shares; *and*
- no Tim Hortons shareholders exercise their dissent rights.

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In this example, without proration, the cash election would be oversubscribed because the cash election amount would be approximately C\$9.4 billion (the product of the total number of Tim Hortons common shares for which the cash election has been made multiplied by the arrangement cash consideration), an amount that is greater than the available cash election amount, which would be approximately C\$7.4 billion (the difference between (a) the product of the cash component of the arrangement mixed consideration multiplied by the total number of Tim Hortons common shares, minus (b) the product of the total number of Tim Hortons common shares for which the mixed election has been made or prescribed by the plan of arrangement multiplied by the cash component of the arrangement mixed consideration). To adjust for the oversubscription, the consideration received for a Tim Hortons common share for which a cash election is made will be adjusted so that it is equal to:

- C\$69.59 in cash (which is equal to the product of the arrangement cash consideration of C\$88.50 and the cash fraction (the available cash election amount divided by the cash election amount)); and
- 0.6597 Holdings common shares (which is equal to the product of (i) the arrangement shares consideration of 3.0879 and (ii) one minus the cash fraction).

Example B—Oversubscription of Shares Election. For purposes of this example, assume the following:

- there are 133 million outstanding Tim Hortons common shares;
- Tim Hortons shareholders make the mixed election with respect to 13,300,000 (or 10%) of Tim Hortons common shares;
- Tim Hortons shareholders make the cash election with respect to 66,500,000 (or 50%) of Tim Hortons common shares;
- Tim Hortons shareholders make the share election with respect to the remaining 53,200,000 (or 40%) of Tim Hortons common shares; and
- no Tim Hortons shareholders exercise their dissent rights.

In this example, without proration, the shares election is oversubscribed because the available cash election amount (which is approximately C\$7.8 billion) is greater than the cash election amount (which is approximately C\$5.9 billion). To adjust for the oversubscription, the consideration received for a Tim Hortons common share for which a shares election is made will be adjusted so that it is equal to:

- 1.8056 Holdings common shares (which is equal to the arrangement shares consideration of 3.0879 multiplied by a fraction, the numerator of which is the difference between C\$88.50, and C\$36.75, the cash amount calculated in the following bullet, and the denominator of which is the arrangement cash consideration of C\$88.50); and
- C\$36.75, which is the available cash election amount minus the cash election amount, divided by the number of share election shares.

The greater the oversubscription of the share election, the fewer Holdings common shares and more cash a Tim Hortons shareholder making the shares election will receive. Similarly, the greater the oversubscription of the cash election, the less cash and more Holdings common shares a Tim Hortons shareholder making the cash election will receive.

No Recommendation Regarding Elections

Neither Tim Hortons nor Burger King Worldwide is making any recommendation as to which election a Tim Hortons shareholder should make. If you are a Tim Hortons shareholder, you must make your own decision with respect to these elections and may wish to seek the advice of your own attorneys, accountants, financial advisor or tax advisor.

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Information About the Arrangement Consideration Elections

The mix of consideration payable to Tim Hortons shareholders who make the cash election or the shares election, after giving effect to the proration procedure described under the heading “— *Proration Procedures*”, will not be known until Holdings tallies the results of the elections made by Tim Hortons shareholders, which will not occur until shortly prior to the closing of the arrangement. See “*Risk Factors—Risks Related to the Transactions—Tim Hortons shareholders may receive a form of consideration different from what they elect*”.

Arrangement Exchange Agent

Prior to the effective time of the arrangement, Burger King Worldwide will designate a bank or trust company that is reasonably acceptable to Tim Hortons to act as the arrangement exchange agent. On or immediately prior to the date of the effective time of the arrangement, Amalgamation Sub will deposit, or cause to be deposited, with the arrangement exchange agent the aggregate amount of cash that the Tim Hortons shareholders (other than dissenting Tim Hortons shareholders) are entitled to receive under the arrangement, and Holdings will deposit, or cause to be deposited, with the arrangement exchange agent evidence of the Holdings common shares in book-entry form that the Tim Hortons shareholders (other than dissenting Tim Hortons shareholders) are entitled to receive under the arrangement. The arrangement exchange agent will receive reasonable and customary compensation for its services in connection with the arrangement, will be reimbursed for certain reasonable out-of-pocket expenses and will be indemnified against certain liabilities, including liabilities under securities laws and expenses in connection therewith.

Delivery of Arrangement Shares Consideration and Arrangement Cash Consideration

Subject to delivery of a duly completed and executed election form and letter of transmittal, and such additional documents and instruments as the arrangement exchange agent may reasonably require, each Tim Hortons shareholder, including holders of Tim Hortons common shares issued in respect of Tim Hortons equity awards (other than dissenting Tim Hortons shareholders), will be entitled to receive in exchange for his or her Tim Hortons common shares, and the arrangement exchange agent shall deliver to such holder as promptly as practicable following the effective time of the arrangement (less any amounts that are required to be deducted and withheld under the Tax Act or the Code), (i) the number of Holdings common shares which such holder is entitled to receive under the arrangement and (ii) a check for the arrangement cash consideration which such holder is entitled to receive pursuant to the arrangement. Promptly after the effective time of the arrangement, Holdings will send, or will cause the arrangement exchange agent to send, to each Tim Hortons shareholder (other than dissenting Tim Hortons shareholders or any Tim Hortons shareholder who has previously irrevocably deposited with the arrangement exchange agent a duly completed and executed election form and letter of transmittal) an election form and letter of transmittal (with such appropriate changes to reflect that each such shareholder has been deemed to have elected to receive the arrangement mixed consideration).

Notwithstanding the foregoing, if it appears to Holdings or Amalgamation Sub that it would be contrary to applicable laws to deliver, or cause to be delivered, Holdings common shares pursuant to the arrangement to a Tim Hortons shareholder that is not a resident of Canada or the United States, the Holdings common shares that otherwise would be issued to that person will be issued to the arrangement exchange agent for sale by the arrangement exchange agent on behalf of that person. The Holdings common shares so issued to the arrangement exchange agent will be pooled and sold as soon as practicable after the date of the effective time of the arrangement, on such dates and at such prices as the arrangement exchange agent determines in its sole discretion. The arrangement exchange agent will not be obligated to seek or obtain a minimum price for any of the Holdings common shares sold by it. Each such person will receive a pro rata share of the cash proceeds from the sale of the Holdings common shares sold by the arrangement exchange agent (less commissions, other reasonable expenses incurred in connection with the sale of the Holdings common shares and any amount withheld in respect of taxes) in lieu of the Holdings common shares themselves. None of Holdings, Amalgamation Sub or the arrangement exchange agent will be liable for any loss arising out of any such sales.

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Dissenter's Rights

Registered Tim Hortons shareholders are expected to be entitled to dissent from the arrangement resolution in the manner provided in section 190 of the CBCA, as expected to be modified by the interim order and the plan of arrangement. Anyone who is a beneficial owner of Tim Hortons common shares registered in the name of an intermediary and who wishes to dissent should be aware that only registered Tim Hortons shareholders are entitled to exercise dissent rights. A registered Tim Hortons shareholder who holds Tim Hortons common shares as an intermediary for one or more beneficial owners, one or more of whom wish to exercise dissent rights, must exercise such dissent rights on behalf of such holder(s).

All written objections to the arrangement resolution must be received by Tim Hortons at its office located at 874 Sinclair Road, Oakville, Ontario Canada L6K 2Y1 on or prior to 5:00 p.m., Toronto time, on the day that is two business days immediately preceding the date of the Tim Hortons special meeting (as it may be adjourned or postponed from time to time). It is important that Tim Hortons shareholders strictly comply with this requirement, which is different from the statutory dissent provisions of the CBCA which would permit a Dissent Notice to be provided at or prior to the Tim Hortons special meeting.

For additional information about dissent rights upon completion of the arrangement, see “*The Transactions—Appraisal / Dissent Rights*”.

No Fractional Shares and Rounding of Cash Consideration

In no event shall any fractional Holdings common shares be issued under the arrangement. Where the aggregate number of Holdings common shares to be issued to a Tim Hortons shareholder as consideration under the arrangement would result in a fraction of a Holdings common share being issuable, then the number of Holdings common shares to be delivered to such Tim Hortons shareholder shall be rounded down to the closest whole Holdings common share and, in lieu of the delivery of a fractional Holdings common share, Holdings will pay to each such holder a cash payment (rounded down to the nearest cent) determined by reference to the average of the closing sales prices of the Tim Hortons common shares on the TSX for each of the ten consecutive trading days ending with the second complete trading day prior to the date of the effective time of the arrangement (not counting the date of the effective time of the arrangement).

If the aggregate cash amount which a Tim Hortons shareholder is entitled to receive would otherwise include a fraction of C\$0.01, then the aggregate cash amount to which such Tim Hortons shareholder shall be entitled to receive shall be rounded down to the nearest whole C\$0.01.

Withholding Rights

Each of Holdings, Amalgamation Sub, Tim Hortons, the arrangement exchange agent and any other person that has a withholding obligation pursuant to the arrangement (without duplication) shall be entitled to deduct and withhold from the arrangement consideration or any amount otherwise payable to any holder of Tim Hortons common shares or Tim Hortons equity awards pursuant to the plan of arrangement such amounts as are required to be deducted and withheld with respect to the making of such payment under any applicable tax law. To the extent that amounts are so withheld, such withheld amounts shall be treated as having been paid to the holder of the Tim Hortons common shares or Tim Hortons equity awards in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate taxing authority. To the extent that the amount so required to be deducted or withheld from any payment to a holder exceeds any cash component of the consideration otherwise payable to the holder, each of Holdings, Amalgamation Sub, Tim Hortons and the arrangement exchange agent (and any such other person that has a withholding obligation pursuant to the plan of arrangement) is authorized to sell such portion of the share component of consideration otherwise payable to the holder as is necessary to provide sufficient funds to Holdings, Amalgamation Sub, Tim Hortons or the arrangement exchange agent (or any such other person that has a withholding obligation pursuant to the plan of arrangement), as the case may be, to enable it to comply with such deduction or withholding requirements.

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Ownership in Holdings

Holdings common shares issuable in the arrangement will be direct registration system shares and will not be represented by certificates after the arrangement is effected. As such, ownership of Holdings common shares will be recorded in book entry form by Holdings' transfer agent (if a Tim Hortons shareholder is a registered holder) or by a Tim Hortons shareholder's broker (if such shareholder is a beneficial holder), with no need for any additional action on the part of any Tim Hortons shareholder.

Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock

Prior to the election deadline, each Burger King Worldwide stockholder may make an exchangeable election. If a Burger King Worldwide stockholder makes an exchangeable election, each share of Burger King Worldwide common stock for which such election was made will be converted into the right to receive one Partnership exchangeable unit in exchange for each share of Burger King Worldwide common stock, subject to proration as set forth below.

Exchangeable Election Procedures

In addition to this joint information statement/circular, an election form and other appropriate and customary transmittal materials will be mailed to each holder of record of Burger King Worldwide common stock as of the election deadline. Each election form will specify that delivery will be effected, and risk of loss and title to the Burger King Worldwide common stock represented by certificates or non-certificated Burger King Worldwide common shares represented by book entry ("book entry shares") representing shares of Burger King Worldwide common stock will pass, only upon proper delivery of such certificates to the merger exchange agent, upon adherence to the procedures set forth in the transmittal materials. Any record holder of Burger King Worldwide stock (or the beneficial owner through appropriate and customary documentation) who makes an exchangeable election agrees to receive Partnership exchangeable units, and will be deemed to have executed the partnership agreement and agreed to the terms and conditions of the Partnership exchangeable units, including as set forth in the voting trust agreement. Each election form will permit the holder (or the beneficial owner through appropriate and customary documentation and instructions) to specify the number of shares of such holder's Burger King Worldwide common stock with respect to which such holder makes an exchangeable election (and, if relevant, the specific lot of Burger King Worldwide common stock to which such election relates). Any share of Burger King Worldwide common stock with respect to which the merger exchange agent has not received an effective, properly completed election form on or before 5:00 p.m., New York time, on the business day that is three business days prior to the closing (which date will be publicly announced by Burger King Worldwide as soon as reasonably practicable but in no event less than five business days prior to the anticipated closing date) or such other time and date as Burger King Worldwide may specify as the election deadline, will be deemed a "non-election share". If the closing date is delayed to a subsequent date, the election deadline shall be similarly delayed to a subsequent date, and Burger King Worldwide will promptly announce any such delay and, when determined, will announce the rescheduled election deadline, which will be at the discretion of Burger King Worldwide. Burger King Worldwide must provide at least one business day's advance notice of any rescheduled election deadline.

Any person submitting an election form may revoke or change such election form by submitting written notice to the merger exchange agent on or prior to the election deadline. If an election form is revoked on or prior to the election deadline, the Burger King Worldwide common stock represented by such election form will become non-election shares and any certificates representing such Burger King Worldwide common stock or book entry shares will be promptly returned without charge to the person submitting the election form upon such revocation or written request. Any Burger King Worldwide stockholder who has revoked its election form may subsequently make an exchangeable election in accordance with the instructions set forth in this section. If the arrangement agreement is terminated, all exchangeable elections will automatically be revoked and all certificates representing Burger King Worldwide common stock and book entry shares will be promptly returned without charge.

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Subject to the terms of the arrangement agreement and the election form, the merger exchange agent, in consultation with Burger King Worldwide, will have reasonable discretion to determine whether any election, revocation or change has been properly or timely made and to disregard immaterial defects in the election forms. Any good faith decisions of the merger exchange agent regarding such matters will be binding and conclusive. None of the parties to the arrangement agreement or the merger exchange agent are under any obligation to notify any person of any defect in an election form.

Merger Consideration Received in Connection with an Exchangeable Election

At or prior to the effective time of the merger, Holdings or Partnership, as applicable, will deposit (or cause to be deposited) with the merger exchange agent, for the benefit of the holders of Burger King Worldwide common stock, for exchange in accordance with the arrangement agreement through the merger exchange agent, evidence of the Holdings common shares and Partnership exchangeable units in book entry form that the holders of Burger King Worldwide common stock are entitled to receive under the merger.

Promptly following the effective time of the merger, Holdings will send, or will cause the merger exchange agent to send, to each record holder of Burger King Worldwide common stock at the effective time of the merger (other than any record holder of Burger King Worldwide common stock who has previously made (and not revoked) a valid exchangeable election with respect to all of such holder's Burger King Worldwide common stock) a letter of transmittal together with instructions thereto (which will specify that delivery shall be effected, and risk of loss and title to the certificates will pass, only upon delivery of the certificates to the merger exchange agent (or an affidavit of loss with respect thereto) or, in the case of Burger King Worldwide book entry shares, upon adherence to the procedures set forth in the letter of transmittal). Because the election deadline is five business days prior to the closing, Burger King Worldwide stockholders who submit their letters of transmittal and surrender their shares of Burger King Worldwide common stock after the closing will not have the ability to elect to receive Partnership exchangeable units, and all such stockholders will receive the merger consideration applicable to stockholders who have not made an exchangeable election.

Each holder of Burger King Worldwide common stock will be entitled to receive in exchange for its Burger King Worldwide common stock the merger consideration described in the section “ *The Transactions—Effect of the Transactions* ” into which such Burger King Worldwide common stock has been converted at the following time: (x) in the case of Burger King Worldwide common stock with respect to which an exchangeable election has been made, promptly following the effective time of the merger and (y) in the case of all other shares: (i) with respect to Burger King Worldwide common stock represented by a certificate, upon the surrender of such certificate (or an affidavit of loss with respect thereto) for cancellation to the merger exchange agent, or (ii) with respect to Burger King Worldwide book entry shares, upon the merger exchange agent's receipt of an “agent's message”, in each case together with a letter of transmittal, duly completely and validly executed in accordance with the instructions thereto, and such other documents as may reasonably be required by the merger exchange agent; provided that, in either case, any Partnership exchangeable units will be delivered directly by Partnership to the holder of Burger King Worldwide common stock. In the event of a transfer of ownership of Burger King Worldwide common stock that is not registered in the transfer records of Burger King Worldwide, the merger consideration may be issued to a transferee if the certificate (or affidavit of loss with respect thereto) representing such Burger King Worldwide common stock (or, with respect to Burger King Worldwide book entry shares, proper evidence of such transfer) is presented to the merger exchange agent, accompanied by all documents required to evidence and effect such transfer and by evidence that any applicable stock transfer taxes have been paid. Until surrendered, each share of Burger King Worldwide common stock will be deemed at any time from and after the effective time of the merger to represent only the right to receive upon such surrender the merger consideration such holder of Burger King Worldwide common stock is entitled to receive in respect of such shares pursuant to the arrangement agreement.

From and after the effective time of the merger, there shall be no further registration of transfers on the stock transfer books of Burger King Worldwide of Burger King Worldwide common stock that were outstanding

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immediately prior to the effective time of the merger. If, after the effective time of the merger, any certificates (or affidavits of loss with respect thereto) formerly representing Burger King Worldwide common stock or Burger King Worldwide book entry shares are presented to Holdings or the merger exchange agent for any reason, they will be cancelled and exchanged for the merger consideration applicable to stockholders who have not made an exchangeable election.

No interest or other distribution will be paid or will accrue for the benefit of holders of Burger King Worldwide common stock on the merger consideration or on any other cash payable to holders of Burger King Worldwide common stock.

Proration

The number of exchangeable units that may be issued to holders of Burger King Worldwide common stock will not exceed the number of such exchangeable units that would cause the fair market value of Holdings' interest in Partnership to be less than 50.1% of the fair market value of all equity interests in Partnership as of the date on which the transactions are completed (each number of exchangeable units, the "exchangeable unit election number"). The exchangeable unit election number will be determined as of the closing date, taking into account the fair market value of all common units and preferred units in Partnership to be held by Holdings as of immediately after the effective time of the merger, but disregarding any contingent interests in Partnership attributable to any options issued by Holdings, all as reasonably determined by Holdings. If the aggregate number of exchangeable units that would otherwise be issued to Burger King Worldwide stockholders and the aggregate number of exchangeable elections exceeds the exchangeable unit election number, then the Burger King Worldwide common stock will be prorated in the following manner:

A unit proration factor (the "exchangeable unit proration factor") will be determined by dividing the exchangeable unit election number by the total number of exchangeable units, if such units were not subject to proration (i.e. the non-prorated exchangeable units).

Each holder of Burger King Worldwide common stock will receive (i) a number of exchangeable units equal to the product of (x) the exchangeable unit proration factor multiplied (y) such Burger King Worldwide stockholder's number of non-prorated exchangeable units (i.e., the prorated exchangeable units) and (ii) a number of additional Holdings common shares equal to (x) such Burger King Worldwide stockholder's number of non-prorated exchangeable units minus (y) such Burger King Worldwide stockholder's number of prorated exchangeable units.

Withholding Rights

Each of Burger King Worldwide, Holdings, Partnership, Merger Sub and the merger exchange agent and any other person that has a withholding obligation pursuant to the merger (without duplication) shall be entitled to deduct and withhold from the merger consideration otherwise payable to any holder of Burger King Worldwide common stock pursuant to the arrangement agreement such amounts as are required to be deducted and withheld with respect to the making of such payment under any applicable tax law. To the extent that amounts are so withheld, such withheld amounts shall be treated as having been paid to the holder of Burger King Worldwide common stock in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate taxing authority. To the extent that the amount so required to be deducted or withheld from any payment to a holder exceeds the cash component of the consideration otherwise payable to the holder, each of Burger King Worldwide, Holdings, Partnership, Merger Sub and the merger exchange agent (and any such other person that has a withholding obligation pursuant to the arrangement agreement) is authorized to sell such portion of the share component of consideration otherwise payable to the holder as is necessary to provide sufficient funds to Burger King Worldwide, Holdings, Partnership, Merger Sub or the merger exchange agent (or any such other person that has a withholding obligation pursuant to the plan of arrangement), as the case may be, to enable it to comply with such deduction or withholding requirements.

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Ownership in Holdings and Partnership

Holdings common shares and Partnership exchangeable units issuable in the merger will be direct registration system shares and units and will not be represented by certificates after the merger is effected. As such, ownership of Holdings common shares and Partnership exchangeable units, as applicable, will be recorded in book entry form by Holdings' transfer agent (if a Burger King Worldwide stockholder is a registered holder) or by a Burger King Worldwide stockholder's broker (if such stockholder is a beneficial holder), with no need for any additional action on the part of any Burger King Worldwide stockholder.

Distributions with respect to Unexchanged Tim Hortons Common Shares and Shares of Burger King Worldwide Common Stock

No dividends or other distributions with respect to Holdings common shares or Partnership exchangeable units with a record date after the effective time of the merger will be paid to the holder of any unsurrendered Burger King Worldwide common stock or Tim Hortons common shares until such Burger King Worldwide common stock or Tim Hortons common shares is surrendered in accordance with the arrangement agreement. Following surrender of any such Burger King Worldwide common stock or Tim Hortons common shares, the merger exchange agent or arrangement exchange agent, as applicable, will pay to such holder, without interest promptly after such surrender, in addition to the merger consideration or arrangement consideration, as applicable, at the time of surrender, the amount of dividends or other distributions with a record date on or after the date of the effective time of the transactions and a payment date on or prior to the date of this surrender and not previously paid.

Fractional Shares

Holdings will not issue any fractional Holdings common shares in connection with the arrangement or the merger and Partnership will not issue any fractional Partnership exchangeable units in connection with the merger. Instead, each holder of Tim Hortons common shares who would otherwise be entitled to receive a fraction of a Holdings common share (after taking into account all Tim Hortons common shares owned by such holder at the effective time of the arrangement and any proration pursuant to the plan of arrangement) will receive cash (without interest) equal to such fractional amount multiplied by the average of the closing sale prices of the Tim Hortons common shares on the TSX as reported by the TSX for each of the ten consecutive trading days ending with the second complete trading day prior to the effective time of the arrangement (not counting the date on which the arrangement becomes effective). Each holder of Burger King Worldwide common stock who would otherwise be entitled to receive a fraction of a Holdings common share or a fraction of a Partnership exchangeable unit in connection with the merger (after taking into account all Burger King Worldwide common stock owned by such holder at the effective time of the merger and any proration pursuant to the arrangement agreement) will receive cash (without interest) equal to such fractional amount multiplied by the average of the closing sale prices of Burger King Worldwide common stock on the NYSE as reported in the Wall Street Journal for each of the ten consecutive trading days ending with the second complete trading day prior to the effective time of the merger (not counting the date on which the merger becomes effective).

Lost, Stolen or Destroyed Certificates

If a Burger King Worldwide common stock certificate is lost, stolen or destroyed, the holder of such certificate must deliver an affidavit of that fact prior to receiving any merger consideration and, if required by Holdings or the exchange agent, may also be required to provide an indemnity bond (in such reasonable amount as may be directed by Holdings or the exchange agent) prior to receiving the arrangement consideration or the merger consideration, as applicable. No physical share certificates have been issued to holders of Tim Hortons common shares.

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Financing for the Transactions

Burger King Worldwide anticipates that the total funds needed to complete the acquisition, including the funds needed to:

- pay Tim Hortons shareholders (and holders of its other equity-based interests) the amounts due to them under the arrangement agreement and pay related expenses, which would be approximately \$8,628.6 million based upon the number of common shares of Tim Hortons (and its other equity-based interests) outstanding as of [•], 2014; and
- refinance certain indebtedness of Burger King Worldwide and Tim Hortons at the closing of the transactions, which, as of June 30, 2014, was approximately \$4,086.9 million;

will be funded through a combination of:

- \$3 billion in equity contributed by Berkshire;
- \$6.75 billion of term loans under the senior secured credit facilities (along with a \$500 million revolving credit facility that will not be drawn to fund the transactions); and
- the issuance of \$2.25 billion aggregate principal amount of senior secured second lien notes.

Equity Financing

Holdings has entered into a securities purchase agreement with Berkshire dated August 26, 2014, as amended by an amendment agreement dated [•], 2014, (the “securities purchase agreement”) pursuant to which, on the terms and subject to the conditions set forth therein, Berkshire has agreed to purchase preferred shares and a warrant to purchase common shares in Holdings simultaneously with the closing of the transactions for an aggregate purchase price of \$3 billion to fund a portion of the aggregate consideration payable in the transactions together with related fees and expenses. The warrant may be exercised until the fifth anniversary of the closing of the transactions. Berkshire has informed Holdings that it intends to exercise the warrant promptly following the closing of the transactions.

Berkshire’s obligations under the securities purchase agreement are subject to the satisfaction of certain conditions, including the satisfaction of the conditions to the consummation of the transactions contemplated by the arrangement agreement, the satisfaction of the conditions precedent to the funding of the debt financing pursuant to the terms and conditions of the debt commitment letter or any alternative financing that Holdings is required to accept from alternate sources pursuant to the arrangement agreement, and the concurrent receipt by Holdings of the proceeds of such financing in an amount that, together with the proceeds from the equity purchase by Berkshire and Burger King Worldwide cash, is sufficient to fund all amounts required for the consummation of the transactions contemplated by the arrangement agreement, including related fees and expenses.

Berkshire has agreed in the securities purchase agreement that until the fifth anniversary of the original issuance date of the preferred shares that it may not transfer them without the consent of the holders of at least 25% of the Holdings common shares (except to a subsidiary in which it directly or indirectly owns at least 80% of the equity interests). On or after such fifth anniversary, Berkshire (or any such subsidiary) may transfer the preferred shares provided that any such transfer must be in minimum increments of at least \$600,000,000 of aggregate liquidation value.

For additional information regarding the rights and preferences of the preferred shares purchased by Berkshire, please refer to “*Post-Transactions Organizational Structure—Description of Holdings Share Capital*”.

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Registration Rights Agreement

In connection with the arrangement, we expect Holdings to enter into a registration rights agreement with Berkshire. Pursuant to the registration rights agreement, Berkshire can cause Holdings to register its common shares under the Securities Act and, if requested, to maintain a shelf registration statement effective with respect to such shares. Berkshire will be entitled to participate on a pro rata basis in such registration. Berkshire will also be entitled to participate on a pro rata basis in any registration of Holdings common shares under the Securities Act that it may undertake, whether or not caused by Berkshire, subject to certain limitations and exceptions.

Debt Financing

On October 27, 2014, certain subsidiaries of Holdings entered into a credit agreement (the “credit agreement”) with JPMorgan Chase Bank, N.A. (“JPMCB”), Wells Fargo Bank, National Association (“Wells Fargo”) and other lenders, to provide the following to certain subsidiaries of Holdings subject to the conditions set forth in the credit agreement:

- up to \$7.25 billion of senior secured facilities (not all of which is expected to be drawn at the closing of such facilities and \$6.75 billion of which has been funded into escrow pending consummation of the transactions) for the purpose of financing the transactions, refinancing certain existing indebtedness of Burger King Worldwide and its subsidiaries and Tim Hortons and its subsidiaries, paying fees and expenses incurred in connection with the arrangement agreement, the arrangement, the merger and the other transactions contemplated by the arrangement agreement and for providing ongoing working capital and for other general corporate purposes of the co-borrowers and their subsidiaries

On October 8, 2014, certain newly formed subsidiaries of Holdings entered into the Indenture in connection with the issuance and sale by such subsidiaries to Wells Fargo Securities, LLC, J.P. Morgan Securities LLC and certain other initial purchasers. Proceeds from the issuance of the \$2.25 billion aggregate principal amount of 6.00% Second Lien Senior Secured Notes due 2022 (the “Notes”) were deposited into escrow and upon their release in connection with the closing of the transactions will be used to finance a portion of the transactions and to pay related fees and expenses.

It is expected that the closing of the transactions will constitute a “Change of Control Triggering Event” under the indenture governing Tim Hortons outstanding C\$300 million aggregate principal amount of 4.20% Senior Unsecured Notes, Series 1 due June 1, 2017 (the “2017 Notes”), its C\$450 million aggregate principal amount of 4.52% Senior Unsecured Notes, Series 2 due December 1, 2023 (the “2023 Notes”) and its C\$450 million aggregate principal amount of 2.85% Senior Unsecured Notes, Series 3 due April 1, 2019 (the “2019 Notes” and, together with the 2017 Notes and the 2023 Notes, the “TH notes”) requiring Tim Hortons to offer to repurchase the TH notes from holders thereof at an offer price equal to 101% of the outstanding principal amount plus accrued and unpaid interest. To the extent any TH notes remain outstanding following such offer, Tim Hortons will grant a security interest in favor of the holders whereby the TH notes will be secured equally and ratably with Tim Hortons obligations under the new financing.

The commitment of the arrangers with respect to the senior secured facilities and the bridge facility expires upon the earliest to occur of (i) the termination of the arrangement agreement in accordance with its terms prior to the closing of the arrangement and the related transactions, (ii) the consummation of the arrangement with or without the funding of the senior secured facilities and the bridge facility and (iii) February 26, 2015 (as such date may be extended, at Burger King Worldwide’s option, to May 26, 2015). If any portion of the debt financing becomes unavailable on the terms and conditions contemplated in the debt commitment letter, Burger King Worldwide must use its reasonable best efforts to arrange and obtain alternative financing from alternative sources in an amount sufficient to consummate the transactions on terms that are not less favorable to Burger King Worldwide (in the reasonable judgment of Burger King Worldwide) than as contemplated by the debt commitment letter.

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Although the debt financing described in this document is not subject to a due diligence or “market out,” such financing may not be considered assured. The obligation of the arrangers to release the funds from escrow is subject to a number of conditions. There is a risk that one or more of these conditions will not be satisfied and the debt financing may not be funded when required. As of the date of this statement, no alternative financing arrangements or alternative financing plans have been made in the event the debt financing described in this statement is not available.

Accounting Treatment of the Transactions

The holding company acquisition will be accounted for as a business combination of Tim Hortons using the acquisition method of accounting in accordance with ASC 805, Business Combinations, and, accordingly, will generally result in the recognition of Tim Hortons assets acquired and liabilities assumed at fair value. However, as of the date of this joint information statement/circular, we have not performed the valuation studies necessary to estimate the fair values of the assets we will acquire and the liabilities we will assume necessary to reflect the allocation of purchase price to the fair value of such amounts. The excess of the consideration transferred over the net assets acquired reflected in the unaudited pro forma condensed consolidated financial statements has been allocated to intangible assets (*i.e.* , indefinite-lived trade names and definite-lived franchise agreements) and goodwill. A final determination of these fair values will reflect appraisals prepared by independent third-parties and will be based on the actual tangible and intangible assets and liabilities that existed as of the acquisition-date. The actual allocation of the consideration transferred will differ from the allocation assumed in these unaudited pro forma condensed consolidated financial statements and may result in adjustments to the unaudited pro forma condensed consolidated financial information.

Burger King Worldwide agreed to acquire Tim Hortons pursuant to the arrangement agreement in a transaction that will result in Burger King Worldwide and Tim Hortons being indirect subsidiaries of Holdings and Partnership. Holdings and Partnership are newly formed entities without significant pre-combination activities. Upon the closing of the transaction, we estimate that former Tim Hortons shareholders will own approximately 22% of the common equity of the combined company through ownership of Holdings common shares and former Burger King Worldwide stockholders will own approximately 76% of the combined company through ownership of both Holdings common shares and Partnership exchangeable units, in each case, on a fully exchanged and fully-diluted basis. Additionally, former Burger King Worldwide board members will hold a majority of board seats in the combined entity. Based on the foregoing, Burger King Worldwide will be the acquirer in the transactions for accounting purposes.

In the post-combination entity, Holdings will be the general partner of Partnership and will own a majority interest (by vote and value) in Partnership which will be represented by common units and preferred units of Partnership. The investment of Holdings in Partnership will eliminate fully in consolidation. The balance of the partnership units of Partnership will initially be held by former holders of Burger King Worldwide common stock in the form of newly issued Partnership exchangeable units. The Partnership exchangeable units are designed to have distribution and voting rights that are substantially equivalent to those of the Holdings common shares. Specifically, pursuant to the terms of the partnership agreement of Partnership each Partnership exchangeable unit will be entitled to distributions from Partnership in an amount equal to any dividends or distributions that have been declared and are payable in respect of a Holdings common share. In addition, holders of partnership exchangeable units are entitled to one vote per unit (through a special voting share of Holdings, held in trust for the unit holders) and vote together with the Holdings common shares and the preferred shares as a single class. Accordingly, the Partnership exchangeable units are reflected in the pro forma financial information in the same manner as the Holdings common shares.

Material Tax Considerations for the Transactions

The discussion under the caption “ *The Transactions—Material U.S. Federal Income Tax Consequences of the Arrangement to U.S. Holders* ”, “ *The Transactions—Material U.S. Federal Income Tax Consequences of the Merger to U.S. Holders* ” and “ *The Transactions—Material U.S. Federal Income Tax Considerations to Non-U.S.* ”

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Holders ” below describes the material U.S. federal income tax considerations with respect to the transactions and the subsequent ownership and disposition of Holdings common shares and Partnership units by U.S. holders and non-U.S. holders (each as defined below).

The discussion under the caption “ *The Transactions—Material Canadian Federal Income Tax Consequences of the Transactions* ” addresses various Canadian tax considerations for holders of Burger King Worldwide common stock and holders of Tim Hortons common shares with respect to the transactions and the subsequent ownership and disposition of Holdings common shares and Partnership units.

The discussion below is not a substitute for your own analysis of the tax considerations for the transactions and the subsequent ownership and disposition of Holdings common shares or Partnership units. We urge you to consult your own tax advisor regarding the U.S. (federal, state and local), Canadian (federal, provincial and local) and other non-U.S. tax considerations for these matters in light of your particular circumstances.

Material U.S. Federal Income Tax Considerations

In General

Subject to the limitations set forth below, the following discussion of the material U.S. federal income tax considerations to holders of Burger King Worldwide common stock and holders of Tim Hortons common shares with respect to the transactions and the subsequent ownership and disposition of Holdings common shares and Partnership units received by such holders in the transactions is the opinion of Wachtell, Lipton, Rosen & Katz, to the extent described below in the section entitled “ *The Transaction—Material U.S. Federal Income Tax Consequences of the Arrangement to U.S. Holders* ”, and is the opinion of Paul, Weiss, Rifkind, Wharton & Garrison LLP and the opinion of KPMG LLP, to the extent related to all other tax considerations, in each case insofar as it represents conclusions as to the application of U.S. federal income tax law. This discussion does not address any aspect of U.S. taxation other than U.S. federal income taxation, is not a complete analysis or listing of all potential U.S. federal income tax considerations with respect to the transactions or subsequent ownership and disposition of Holdings common shares and Partnership units received in the transactions, and does not address all tax considerations that may be relevant to stockholders of Burger King Worldwide or shareholders of Tim Hortons or any such particular stockholder or shareholder in light of its particular circumstances. In addition, this summary does not address the U.S. federal 3.8% Medicare tax imposed on certain net investment income, the U.S. federal alternative minimum, U.S. federal estate and gift, U.S. state and local, or non-U.S. tax consequences of the transactions or the ownership and disposition of Holdings common shares or Partnership units received in the transactions. This discussion is limited to holders of Burger King Worldwide common stock who exchange their Burger King Worldwide common stock for Holdings common shares and Partnership units pursuant to the merger and holders of Tim Hortons common shares who exchange their Tim Hortons common shares for Holdings common shares and/or cash in the arrangement and persons who hold their Burger King Worldwide common stock or Tim Hortons common shares, and will hold their Holdings common shares or Partnership units, solely as “capital assets” within the meaning of section 1221 of the Code (generally, property held for investment). The discussion below generally does not address any tax considerations for Burger King Worldwide stockholders or Tim Hortons shareholders who are subject to special rules under U.S. federal income tax laws, such as:

- banks, financial institutions, underwriters, or insurance companies;
- tax-exempt entities, qualified retirement plans, individual retirement accounts, or other tax-deferred accounts;
- persons who hold shares as part of a straddle, synthetic security, hedge or other integrated transaction, conversion transaction or other integrated investment;
- persons who have been, but are no longer, citizens or residents of the United States or former long-term residents of the United States;
- controlled foreign corporations or passive foreign investment companies;

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- persons holding shares through a partnership (including any entity or arrangement treated as a partnership for U.S. federal income tax purposes), S corporation, or other fiscally transparent entity;
- dealers or traders in securities, commodities or currencies;
- grantor trusts;
- U.S. persons whose “functional currency” is not the U.S. dollar;
- regulated investment companies and real estate investment trusts;
- persons who received shares through the exercise of incentive options or through the issuance of restricted stock under an equity incentive plan or through a tax-qualified retirement plan; or
- persons who own (directly or through attribution) 5% or more of the total combined voting power of all classes of Holdings shares entitled to vote.

This discussion is based on the Code, the Treasury Regulations promulgated thereunder, which we refer to in this joint information statement/circular as the Treasury Regulations, judicial and administrative interpretations thereof and the Convention Between the United States of America and Canada with Respect to Taxes on Income and on Capital, which we refer to in this joint information statement/circular as the U.S.-Canada Tax Treaty, in each case, as in effect and available on the date of this joint information statement/circular. Each of the foregoing is subject to change, potentially with retroactive effect, and any such change could affect the U.S. federal income tax considerations described below. Neither Burger King Worldwide nor Tim Hortons will request a ruling from the IRS as to the U.S. federal income tax consequences of the transactions or any other matter and, thus, there can be no assurance that the IRS will not challenge the U.S. federal income tax treatment described below or that, if challenged, such treatment will be sustained by a court.

For purposes of this discussion, a “U.S. holder” is a beneficial owner of Burger King Worldwide common stock or Tim Hortons common shares or, after the completion of the transactions, Holdings common shares or Partnership units, that for U.S. federal income tax purposes is:

- an individual citizen or resident alien of the United States;
- a corporation (or other entity taxable as a corporation for such purposes) created or organized in or under the laws of the United States or any state thereof or the District of Columbia;
- an estate, the income of which is subject to U.S. federal income taxation regardless of its source; or
- a trust, if such trust validly has elected to be treated as a U.S. person for U.S. federal income tax purposes or if (i) a U.S. court can exercise primary supervision over its administration and (ii) one or more U.S. persons have the authority to control all of the substantial decisions of such trust.

A “non-U.S. holder” is a beneficial owner of Burger King Worldwide common stock or Tim Hortons common shares or, after the completion of the transactions, Holdings common shares or Partnership units, other than a U.S. holder or a partnership or an entity or arrangement treated as a partnership for U.S. federal income tax purposes, which we refer to in this joint information statement/circular as a partnership.

If a partnership is a beneficial owner of Burger King Worldwide common stock or Tim Hortons common shares, or, after the completion of the transactions, Holdings common shares or Partnership units, the tax treatment of a partner in that partnership will generally depend on the status of the partner and the activities of the partnership. Holders of Burger King Worldwide common stock or Tim Hortons common shares or, after the completion of the transactions, Holdings common shares or Partnership units, that are partnerships, and partners in such partnerships, should consult their own tax advisors regarding the U.S. federal income tax considerations for them with respect to the transactions and the subsequent ownership and disposition of Holdings common shares or Partnership units.

U.S. Tax Residence of Holdings and Partnership

Holdings, which is and will continue to be a Canadian corporation at the time of the transactions and Partnership, which is and will continue to be an Ontario Limited Partnership at the time of the transactions, generally would be classified as a non-U.S. corporation and a non-U.S. partnership, respectively, (and, therefore, as a non-U.S. tax resident), under general rules of U.S. federal income taxation. Section 7874 of the Code, however, contains rules that can cause a non-U.S. corporation to be taxed as a U.S. corporation for U.S. federal income tax purposes. The Treasury Regulations apply these same rules to non-U.S. publicly traded partnerships, such as Partnership. The rules described in this paragraph are relatively new, their application is complex and there is little guidance regarding their application.

Under section 7874 of the Code, a corporation and certain partnerships created or organized outside the U.S. (*i.e.* , a non-U.S. corporation or non-U.S. traded partnership) will nevertheless be treated as a U.S. corporation for U.S. federal income tax purposes (and, therefore, a U.S. tax resident and subject to U.S. federal income tax on its worldwide income) if each of the following three conditions are met (i) the non-U.S. corporation or non-U.S. partnership acquires, directly or indirectly, or is treated as acquiring under applicable Treasury Regulations, substantially all of the assets held, directly or indirectly, by a U.S. corporation, (ii) after the acquisition, the former stockholders of the acquired U.S. corporation hold at least 80% (by vote or value) of the shares of the non-U.S. corporation or non-U.S. partnership by reason of holding shares of the U.S. acquired corporation (the “80% Ownership Test”), and (iii) after the acquisition, the non-U.S. corporation’s or non-U.S. partnership’s expanded affiliated group does not have substantial business activities in the non-U.S. corporation’s or non-U.S. partnership’s country of organization or incorporation when compared to the expanded affiliated group’s total business activities. For this purpose, “expanded affiliated group” means a group of corporations where (i) the non-U.S. corporation or non-U.S. partnership owns stock representing more than 50% of the vote and value of at least one member of the expanded affiliated group, and (ii) stock representing more than 50% of the vote and value of each member is owned by other members of the group. The definition of an “expanded affiliated group” includes partnerships where one or more members of the expanded affiliated group own more than 50% (by vote and value) of the interests of the partnership. Treasury Regulations promulgated under section 7874 of the Code provide that for purposes of section 7874 of the Code, a non-U.S. publicly traded partnership will be treated as a non-U.S. corporation that is organized in the foreign country in which, or under the law of which, the non-U.S. publicly traded partnership was created or organized if such non-U.S. publicly traded partnership would be treated as corporation under the publicly traded partnership rules without regard to the qualifying income exception (described below under “ *Treatment of Partnership* ”). Under those rules, a publicly traded partnership generally means, in relevant part (and without taking into account the qualifying income exception), any partnership if interests in such partnership are traded on an established securities market. Because interests in Partnership will be listed and traded on the TSX, we believe that Partnership should be treated as a publicly traded partnership for purposes of section 7874 of the Code. Accordingly, Partnership should be treated as a member of Holdings’ expanded affiliated group so long as Holdings holds more than 50% in vote and value of the interests in Partnership. Pursuant to the terms of the arrangement agreement, such ownership test should be satisfied at the closing of the transactions.

80% Ownership Test

Pursuant to the transactions, (i) Holdings and Partnership should be treated as indirectly acquiring all of the assets of Burger King Worldwide and (ii) after the transactions, the former stockholders of Burger King Worldwide should own, in the aggregate, less than 80% (by vote and value) of the Holdings common shares and Partnership units by reason of their ownership of Burger King Worldwide common stock (based on the rules for determining share ownership under section 7874 of the Code and certain factual assumptions). As a result, under current law, Holdings and Partnership are expected to be treated as non-U.S. entities for U.S. federal income tax purposes because the transactions should not meet the 80% Ownership Test. However, whether the 80% Ownership Test has been satisfied must be finally determined after the completion of the combination, by which time there could be adverse changes to the relevant facts and circumstances.

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Substantial Business Activities Test

The Holdings and Partnership expanded affiliated group, including, after the closing of the transactions, Burger King Worldwide and Tim Hortons and each of their respective greater than 50% owned subsidiaries, should be treated as having substantial business activities in Canada, Holdings' and Partnership's country of formation.

Treasury Regulations section 1.7874-3T provides that an expanded affiliated group will be treated as having substantial business activities in the relevant foreign country when compared to its total business activities if, in general, at least 25% of the expanded affiliated group's employees (by number and compensation), asset value and gross income are based, located and derived, respectively, in the relevant foreign country, which we refer to in this joint information statement/circular as the "Substantial Business Activities Test." Specifically, (i) the number of "group employees" based in the relevant foreign country must be at least 25% of the total number of group employees on the applicable date, which is either the date of the closing of the transaction or the last day of the month immediately preceding the closing of the transaction (to be applied consistently for purposes of the Substantial Business Activities Test), (ii) the "employee compensation" incurred with respect to group employees based in the relevant foreign country must be at least 25% of the total employee compensation incurred with respect to all group employees during the testing period, which is the one-year period ending on the applicable date (as described in clause (i) above), (iii) the value of the "group assets" (generally, tangible and real property, including certain leases thereof) located in the relevant foreign country must be at least 25% of the total value of all group assets on the applicable date, and (iv) the "group income" (generally, gross income from unrelated customers) derived in the relevant foreign country must be at least 25% of the total group income during the testing period (as described in clause (ii) above).

A substantial proportion of the operations of Tim Hortons occur in Canada, and some of the operations of Burger King Worldwide occur in Canada. If, as expected, the Holdings and Partnership expanded affiliated group continues these substantial Canadian business activities through the closing date of the transactions and thereafter, the Holdings and Partnership expanded affiliated group should satisfy the Substantial Business Activities Test and, therefore, neither Holdings nor Partnership should be treated as a U.S. corporation for U.S. federal income tax purposes or subject to any limitations under section 7874 of the Code. We caution, however, that the satisfaction of the Substantial Business Activities Test is determined as of the closing of the transactions, and there could be adverse changes to the relevant facts and circumstances.

Although the 80% Ownership Test is not expected to be met as a result of the transactions and Holdings and Partnership are expected to satisfy the Substantial Business Activities Test described above and therefore not to be treated as U.S. corporations, changes to the rules in section 7874 of the Code or the Treasury Regulations promulgated thereunder, or other changes in law, could adversely affect Holdings' and/or Partnership's status as a non-U.S. entity for U.S. federal income tax purposes, their effective tax rate or future planning for the combined company that is based on current law, and any such changes could have prospective or retroactive application to Holdings and/or Partnership, Burger King Worldwide, their respective stockholders, shareholders and affiliates, and/or the transactions. For example, recent legislative proposals have aimed to expand the scope of section 7874 of the Code, or otherwise to address certain perceived issues arising in connection with so-called inversion transactions. It is presently uncertain whether any of such legislative proposals will be enacted into law and, if so, what impact such legislation would have on Holdings and/or Partnership and whether such legislation would be retroactive. In addition, the U.S. Treasury has indicated that it is considering possible regulatory action in connection with so-called inversion transactions, including, most recently, in the Notice. The timing and substance of any such action is presently uncertain. Any such change of law or regulatory action could adversely impact Holdings' and/or Partnership's tax position as well as their financial position and results in a material manner. It is not expected that the promulgation of any of the Treasury Regulations described in the Notice will have any such material adverse impact, nor are they expected to materially change the U.S. federal income tax consequences of the transactions as described herein. However, the precise scope and application of the regulatory proposals will not be clear until proposed Treasury Regulations are actually issued, and, accordingly, until such regulations are promulgated and fully understood, we cannot be certain that there will be no such impact. In any case, no such change of law or regulatory action would be grounds for terminating the transactions.

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Moreover, the U.S. Congress, the Organization for Economic Co-operation and Development and other Government agencies in jurisdictions where Holdings and its affiliates do business have had an extended focus on issues related to the taxation of multinational corporations. Specific attention has been paid to “base erosion and profit shifting”, where payments are made between affiliates from a jurisdiction with high tax rates to a jurisdiction with lower tax rates. As a result, the tax laws in the U.S. and other countries in which Holdings and its affiliates do business could change on a prospective or retroactive basis, and any such change could adversely affect Holdings, including by reducing the economic benefits expected to be generated by the common ownership of the two businesses.

Regardless of the application of section 7874 of the Code, Holdings and Partnership are expected to be treated as a Canadian resident company and a specified investment flow-through partnership, respectively, for Canadian tax purposes.

The remaining discussion assumes that (i) Holdings will be treated as a Canadian corporation for purposes of section 7874 of the Code and that (ii) Partnership will be treated as an Ontario Limited Partnership that is a publicly traded partnership and therefore a Canadian corporation solely for purposes of section 7874 of the Code, and that therefore neither Holdings nor Partnership will be subject to tax as a U.S. corporation by reason of section 7874 of the Code. As noted, however, the rules under section 7874 of the Code and the Treasury Regulations thereunder are relatively new, complex, and have not been the subject of significant guidance. Accordingly, there can be no assurance that the IRS will not challenge all or part of such treatment in a manner that could adversely affect Holdings, Partnership or their holders or affiliates now or in the future, or that such challenge would not be sustained by a court.

Potential Limitation on the Utilization of Burger King Worldwide’s (and its US Affiliates’) Tax Attributes

Following the acquisition of a U.S. corporation by a non-U.S. corporation or certain non-U.S. publicly traded partnerships (as described above), section 7874 of the Code can limit the ability of the acquired U.S. corporation and its U.S. affiliates to utilize U.S. tax attributes (including net operating losses and certain tax credits) to offset U.S. taxable income resulting from certain transactions. Specifically, if (i) the non-U.S. corporation or non-U.S. partnership acquires, directly or indirectly, or is treated as acquiring under the applicable Treasury Regulations, substantially all of the assets held, directly or indirectly, by a U.S. corporation, (ii) after the acquisition, the former stockholders of the acquired U.S. corporation hold at least 60% (by vote or value) of the shares of the non-U.S. corporation or non-U.S. partnership by reason of holding shares of the U.S. acquired corporation and (iii) the non-U.S. corporation or non-U.S. partnership does not satisfy the Substantial Business Activities Test, the taxable income of the U.S. corporation (and any person related to the U.S. corporation) for any given year, within a ten-year period beginning on the last date the U.S. corporation’s properties were acquired, will be no less than that person’s “inversion gain” for that taxable year. A person’s inversion gain includes gain from the transfer of shares or any other property (other than property held for sale to customers) and income from the license of any property that is either transferred or licensed as part of the acquisition, or, if after the acquisition, is transferred or licensed to a foreign related person.

For purposes of section 7874 of the Code, (i) Holdings and Partnership should be treated as indirectly acquiring all of the assets of Burger King Worldwide pursuant to the transactions and (ii) after the transactions, the former stockholders of Burger King Worldwide should be treated as owning at least 60% (but less than 80%) (by vote and value) of the aggregate Holdings common shares by reason of their ownership of Burger King Worldwide common stock. However, as discussed above, Holdings and Partnership are expected to satisfy the Substantial Business Activities Test. Accordingly, under current law, the limitations on the utilization of certain tax attributes described above are not expected to apply to Burger King Worldwide and its U.S. affiliates. However, as cautioned above, the satisfaction of the Substantial Business Activities Test generally is determined at the closing of the transactions and there could be adverse changes to the relevant facts and circumstances. If the Substantial Business Activities Test is not met at the closing of the transactions for any reason or, if changes in applicable law adversely affect the application of the above rules to Holdings, Burger King Worldwide and its

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U.S. affiliates could be limited in their ability to utilize their U.S. tax attributes, if any, to offset their inversion gain, if any. However, neither Burger King Worldwide nor its U.S. affiliates expect to recognize any inversion gain as part of the proposed transaction, nor do they currently intend to engage in any transaction in the near future that would generate inversion gain. In addition, it is currently not expected that Burger King Worldwide or its U.S. affiliates will have significant U.S. net operating losses or tax credits and, Burger King Worldwide expects that it will be able to utilize substantially all of its U.S. net operating losses and tax credits prior to their expiration, to offset U.S. taxable income generated after the proposed transaction through ordinary business operations.

Material U.S. Federal Income Tax Consequences of the Arrangement to U.S. Holders

Subject to the limitations set forth above under “—*The Transactions—Material U.S. Federal Income Tax Considerations—In General*,” the discussion in this section entitled “*The Transactions – Material U.S. Federal Income Tax Consequences of the Arrangement to U.S. Holders*” constitutes the opinion of Wachtell, Lipton, Rosen & Katz as to the material U.S. federal income tax consequences of the arrangement to U.S. holders (as defined above) of Tim Hortons common shares that exchange such shares for Holdings common shares and/or cash pursuant to the arrangement. Although the matter is not free from doubt, it is intended that the arrangement, taken together with the merger, will qualify as a transaction described in section 351 of the Code for U.S. federal income tax purposes. However, there is some uncertainty regarding whether the arrangement, taken together with the merger, will qualify for such treatment because there is no authority directly on point with respect to a transaction involving the same facts as the arrangement and the merger. In addition, neither the obligation of Tim Hortons nor the obligation of Holdings to complete the arrangement is conditioned upon the receipt of an opinion from its counsel confirming whether the arrangement, taken together with the merger, will so qualify. Moreover, none of Holdings, Partnership, Tim Hortons or Burger King (or any of their affiliates) intends to request a ruling from the IRS regarding the U.S. federal income tax treatment of the arrangement. Consequently, no assurance can be given that the IRS will not challenge the qualification of the arrangement, taken together with the merger, as a transaction described in section 351 of the Code or that a court would not sustain such challenge.

Tax Consequences of the Arrangement if the Arrangement, Taken Together with the Merger, Does Not Qualify as a Transaction Described in Section 351 of the Code.

If the arrangement, taken together with the merger, does not qualify as a transaction described in section 351 of the Code for U.S. federal income tax purposes, then a U.S. holder of Tim Hortons common shares that exchanges such Tim Hortons common shares for Holdings common shares and/or cash pursuant to the arrangement generally will be required to recognize gain or loss equal to the difference, if any, between (i) the sum of the cash (including any cash received in lieu of a fractional Holdings common share) and the fair market value of the Holdings common shares received by such U.S. holder in the arrangement and (ii) such U.S. holder’s adjusted tax basis in the Tim Hortons common shares exchanged therefor. Any gain or loss so recognized would generally be treated as described below in “—*Treatment of Gain or Loss Recognized*”. A U.S. holder would have an aggregate tax basis in any Holdings common shares received in the arrangement that is equal to the fair market value of such Holdings common shares as of the effective date of the arrangement, and the holding period of such Holdings common shares would begin on the date after the arrangement.

Tax Consequences of the Arrangement if the Arrangement, Taken Together with the Merger, Qualifies as a Transaction Described in Section 351 of the Code.

If the arrangement, taken together with the merger, qualifies as a transaction described in section 351 of the Code for U.S. federal income tax purposes, then, subject to the discussion below under “—*Treatment of ‘Five Percent Transferee Shareholders* , ’” the material U.S. federal income tax consequences of the arrangement to U.S. holders of Tim Hortons common shares will be as follows:

- In the case of a U.S. holder who receives solely cash in exchange for Tim Hortons common shares pursuant to the arrangement, such U.S. holder generally will recognize gain or loss in an amount equal

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to the difference between the amount of cash received and such U.S. holder's adjusted tax basis in the Tim Hortons common shares exchanged.

- In the case of a U.S. holder who receives a combination of cash (including any cash received in lieu of a fractional Holdings common share) and Holdings common shares pursuant to the arrangement, if the sum of the cash and the fair market value of the Holdings common shares received by a U.S. holder in the arrangement in exchange for such U.S. holder's Tim Hortons common shares is greater than such U.S. holder's adjusted tax basis in such U.S. holder's Tim Hortons common shares, then such U.S. holder will recognize gain equal to the lesser of: (i) the amount, if any, by which the sum of the cash and the fair market value of the Holdings common shares received by such U.S. holder exceeds such U.S. holder's adjusted tax basis in such U.S. holder's Tim Hortons common shares; and (ii) the amount of cash received by such U.S. holder in the arrangement.
- In the case of a U.S. holder who receives a combination of cash (including any cash received in lieu of a fractional Holdings common share) and Holdings common shares pursuant to the arrangement, if the sum of the cash and the fair market value of the Holdings common shares received by a U.S. holder in the arrangement in exchange for such U.S. holder's Tim Hortons common shares is less than such U.S. holder's adjusted tax basis in such U.S. holder's Tim Hortons common shares, such U.S. holder will not recognize a loss.
- The aggregate tax basis of the Holdings common shares received by a U.S. holder in the arrangement will be the same as the aggregate tax basis of such U.S. holder's Tim Hortons common shares exchanged therefor, decreased by the cash received in the arrangement (including any cash received in lieu of a fractional Holdings common share) and increased by the amount of any gain recognized with respect to such U.S. holder's Tim Hortons common shares.
- The holding period of any Holdings common share received by a U.S. holder in the arrangement generally will include the holding period of the Tim Hortons common shares exchanged for such Holdings common shares.

If a U.S. holder acquired Tim Hortons common shares at different times or at different prices, any gain or loss will be determined separately with respect to each block of Tim Hortons common shares, and a loss realized (but not recognized) on the exchange of one block of Tim Hortons common shares cannot be used to offset a gain realized on the exchange of another block of Tim Hortons common shares. Any such holder should consult its tax advisor regarding the manner in which cash and Holdings common shares received pursuant to the arrangement should be allocated among different blocks of Tim Hortons common shares and with respect to identifying the bases or holding periods of particular Holdings common shares received pursuant to the arrangement. With respect to the cash received in the arrangement, the U.S. dollar amount of the cash is determined by reference to the spot exchange rate in effect on the effective date of the arrangement or, if the cash is received on a different date and the U.S. holder is a cash basis taxpayer or an electing accrual basis taxpayer, the spot exchange rate in effect on such later date.

Treatment of "Five Percent Transferee Shareholders"

In accordance with Treasury Regulations under section 367(a) of the Code, a U.S. holder of Tim Hortons common shares who is a "five percent transferee shareholder" of Holdings after the transactions will generally qualify for the treatment described above only if the "five percent transferee shareholder" timely files a gain recognition agreement with the IRS. A "five percent transferee shareholder" who fails to file a gain recognition agreement with the IRS will not qualify for the treatment described above, and instead will recognize gain (but not loss) in the arrangement in the amount, if any, by which the value of the cash and Holdings shares received by the "five percent transferee shareholder" exceeds the shareholder's adjusted tax basis in its Tim Hortons common shares exchanged therefor. Any gain so recognized would generally be treated as described below under "*Treatment of Gain or Loss Recognized*".

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Any U.S. holder of Tim Hortons common shares that will be a “five percent transferee shareholder” of Holdings is urged to consult its own tax advisor concerning the decision to file a gain recognition agreement and the procedures to be followed in connection with such filing.

Treatment of Gain or Loss Recognized

Any gain or loss recognized by a U.S. holder on the exchange of such holder’s Tim Hortons common shares pursuant to the arrangement should be treated as gain or loss from the sale or exchange of such Tim Hortons common shares. Any such gain or loss generally should be treated as capital gain or loss and will constitute long-term capital gain or loss if such U.S. holder has held its Tim Hortons common shares for more than one year as of the effective date of the arrangement. Long-term capital gains of certain non-corporate U.S. holders (including individuals) will be subject to U.S. federal income tax at preferential rates. The deductibility of capital losses is subject to limitations. Any gain or loss recognized by a U.S. holder on the transfer of Tim Hortons common shares will be treated as U.S. source gain or loss.

Dissenting U.S. Holders

U.S. holders of Tim Hortons common shares who dissent with respect to the arrangement as described in “*The Transactions—Appraisal / Dissent Rights—Tim Hortons*” , and who receive cash in respect of their Tim Hortons common shares generally will recognize capital gain or loss equal to the difference between the amount of cash received and their adjusted tax basis in their Tim Hortons common shares. Any gain or loss so recognized would generally be treated as described above in “*—Treatment of Gain or Loss Recognized*” .

Material U.S. Federal Income Tax Consequences of the Merger to U.S. Holders

In the merger, all Burger King Worldwide stockholders will receive at least 1% of their total consideration in the form of Partnership units. Burger King Worldwide stockholders may elect to receive a greater portion of their consideration in Partnership units, subject to overall limitations on the issuance of Partnership units as provided in the arrangement agreement. To the extent that U.S. holders of Burger King Worldwide common stock receive Partnership units in the merger, the merger should be treated as a transfer of such stockholder’s Burger King Worldwide stock in whole or in part in exchange for Partnership units, and in the case of those not receiving all consideration in the form of Partnership units, in part in exchange for Holdings common shares, in proportion to the relative fair market values, as of the date of the merger, of the consideration so received.

It is intended that, for U.S. federal income tax purposes, (i) the receipt of Partnership exchangeable units pursuant to the merger will qualify as an exchange within the meaning of section 721 of the Code and (ii) although the matter is not free from doubt, the receipt of Burger King Worldwide common stock pursuant to the merger, taken together with the arrangement, will qualify as a transaction within the meaning of section 351 of the Code. However, neither the obligation of Burger King Worldwide nor the obligation of Holdings to complete the merger is conditioned upon the receipt of an opinion from its counsel confirming whether the merger will qualify as an exchange within the meaning of section 721 of the Code or that the merger, taken together with the arrangement, will qualify as a transaction described in section 351 of the Code. In addition, none of Holdings, Partnership, Tim Hortons or Burger King Worldwide (or any of their affiliates) intends to request a ruling from the IRS regarding the U.S. federal income tax treatment of the merger. Consequently, no assurance can be given that the IRS will not challenge the treatment described above or that a court would not sustain such challenge.

Burger King Worldwide Stockholder Receiving Partnership Units

The tax consequences of the merger to Burger King Worldwide stockholders receiving Partnership exchangeable units depends in part upon whether Partnership exchangeable units received in the merger are treated as stock of Holdings for U.S. federal income tax purposes. Holdings, Partnership and Burger King Worldwide believe that Partnership exchangeable units should be treated as an interest in Partnership. This

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conclusion is based, among other things, on the facts that a Partnership unit holder cannot exchange the Partnership exchangeable units for Holdings common shares until one year following the date of the closing, that such unit holder must provide a duly executed exchange notice to Partnership not less than 15 business days nor more than 30 business days prior to an exchange and that Partnership can satisfy a Partnership unit holder's exchange request with cash rather than Holdings common shares. However, in light of the absence of any authority dealing with transactions similar to the merger or securities of a type similar to the Partnership units, there is significant uncertainty regarding this conclusion and no assurance can be given that the IRS or the courts will agree. If the Partnership exchangeable units received are treated as Holdings common shares, Burger King Worldwide stockholders receiving Partnership exchangeable units would be taxed the same way as Burger King Worldwide stockholders receiving Holdings common shares (see “*Burger King Worldwide Stockholders Receiving Holdings Common Shares*”).

If the Partnership exchangeable units are respected as interests in the Partnership and the receipt of Partnership exchangeable units in exchange for Burger King Worldwide stock pursuant to the merger qualifies under section 721 of the Code for U.S. federal income tax purposes, then, to the extent a Burger King Worldwide stockholder receives Partnership units, a U.S. holder should recognize gain in a taxable exchange in an amount equal to the excess, if any, of (i) the fair market value of the interest in the Holdings Voting Trust received in the exchange, over (ii) a pro rata portion (based on the relative values of the interests in the Holdings Voting Trust and Partnership units received by such holder) of the holder's aggregate adjusted tax basis in the Burger King Worldwide stock exchanged for Partnership units. The value of an interest in the voting trust established pursuant to the voting trust agreement is expected to be nominal.

Under the foregoing treatment, a U.S. holder's adjusted tax basis in Partnership units received in the merger should equal the aggregate adjusted tax basis in the Burger King Worldwide stock exchanged therefor (reduced by the basis of any shares of Burger King Worldwide common stock deemed exchanged for an interest in the Holdings Voting Trust), increased by the Partnership unit holder's allocable share of any Partnership liabilities. The holding period in Partnership units received should include the holding period in the Burger King Worldwide stock exchanged therefor.

Note that the foregoing assumes that Partnership will generally be treated as a partnership, and not as a corporation, for U.S. federal income tax purposes (see “*U.S. Tax Residence of Holdings and Partnership*,” “*Material U.S. Federal Income Tax Considerations for U.S. Holders of Holdings Common Shares or Partnership Units*,” “*Taxation of Holders of Partnership Units*,” and “*Treatment of Partnership*”). The foregoing also assumes that Partnership exchangeable units will be respected as interests in Partnership and not characterized as shares in Holdings. If Partnership or Partnership exchangeable units were not so treated, the consequences of the exchange of Burger King Worldwide stock for Partnership units would generally be the same as described below under “*Burger King Worldwide Stockholders Receiving Holdings Common Shares*”.

Burger King Worldwide Stockholders Receiving Holdings Common Shares

As discussed above and under “*The Transactions—Material U.S. Federal Income Tax Consequences of the Arrangement to U.S. Holders*”, although the matter is not free from doubt, it is intended that the merger, taken together with the arrangement, qualify as a transaction described in section 351 of the Code with respect to U.S. holders of Burger King Worldwide common stock receiving Holdings common shares in the merger. Even if the transaction does not so qualify, assuming that Partnership is treated as a partnership, and not as a corporation, for U.S. federal income tax purposes, the consequences to a U.S. holder of the exchange of Burger King Worldwide common stock for Holdings common shares in the merger should not differ from the consequences set forth below, except that such U.S. holder should, in such case, generally be able to recognize any loss that is realized on the exchange.

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If the merger, taken together with the arrangement, qualifies as a transaction described in section 351 of the Code, since, as discussed above, Holdings should be respected as a non-U.S. corporation, under special rules contained in section 367(a) of the Code and the Treasury Regulations promulgated thereunder, U.S. holders of Burger King Worldwide common stock that exchange their common stock of Burger King Worldwide for Holdings common shares pursuant to the merger should recognize gain, if any, but not loss on such exchange. When, as here, the transaction involves the transfer of stock of a U.S. corporation to a non-U.S. corporation, the rules of section 367 can apply to all U.S. holders rather than solely 5% transferee shareholders. An exception applies where (i) the U.S. holders receive stock representing 50% or less (by vote and value) of the non-U.S. corporation in the transaction, (ii) 50% or less (by vote and value) of the non-U.S. corporation is held by officers, directors, or 5% shareholders of the U.S. corporation immediately after the transaction, (iii) in the case of a 5% shareholder, a gain recognition agreement is filed, and (iv) the non-U.S. corporation satisfies a 36-month active trade or business test outside the United States. The Burger King Worldwide stockholders will receive more than 50% of the Holdings common shares (taking into account certain option attribution rules with respect to Partnership units for purposes of section 367 of the Code); consequently, U.S. holders of Burger King Worldwide stock will be required to recognize gain (but not loss) on their exchange of Burger King Worldwide stock for Holdings common shares in the merger. The amount of gain recognized should equal the excess, if any, of the sum of any cash received in lieu of fractional Holdings common shares and the fair market value of Holdings common shares received in the merger over the U.S. holder's adjusted tax basis in the Burger King Worldwide stock exchanged therefor. Such gain must be determined separately for separate blocks of Burger King Worldwide stock (i.e., stock acquired at different times or prices). Thus, if a U.S. holder transfers some Burger King Worldwide stock on which gains are realized and other Burger King Worldwide stock on which losses are realized, the U.S. holder may not net the losses against the gains to determine the amount of gain recognized.

Such recognized gain, if any, generally will be capital gain, and will be long term capital gain if the Burger King Worldwide stockholder's holding period in its Burger King Worldwide stock is more than one year on the closing date of the merger. Long-term capital gains of certain U.S. holders of Burger King Worldwide stock who are not corporations, including individuals, generally qualify for preferential rates of U.S. federal income taxation. Any gain recognized by a U.S. holder on the sale or other taxable disposition of Burger King Worldwide stock generally will be treated as U.S. source gain or loss. A U.S. holder that exchanges Burger King Worldwide stock for Holdings common shares should have an adjusted tax basis in the Holdings common shares it receives equal to the adjusted tax basis of the Burger King Worldwide stock exchanged therefor, increased by the amount of gain recognized in such exchange, if any.

U.S. holders are urged to consult their tax advisors as to the particular consequences of the exchange of Burger King Worldwide stock for Holdings common shares pursuant to the merger.

Tim Hortons, Burger King Worldwide and Holdings

Neither Tim Hortons nor Burger King Worldwide should be subject to U.S. federal income tax as a result of the transactions. In conjunction with the transactions, Tim Hortons, Burger King Worldwide and Holdings, and their respective subsidiaries may engage in certain intercompany transactions. This discussion does not address any tax considerations relating to such intercompany transactions.

THE FOREGOING IS A SUMMARY OF THE MATERIAL U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE TRANSACTIONS WITHOUT REGARD TO THE PARTICULAR FACTS AND CIRCUMSTANCES OF EACH TIM HORTONS SHAREHOLDER OR BURGER KING WORLDWIDE STOCKHOLDER. TIM HORTONS SHAREHOLDERS AND BURGER KING WORLDWIDE STOCKHOLDERS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS AS TO THE SPECIFIC TAX CONSEQUENCES TO THEM OF THE TRANSACTIONS, INCLUDING THE APPLICABILITY AND EFFECT OF U.S. FEDERAL, STATE, LOCAL, NON-U.S. AND OTHER TAX LAWS.

Material U.S. Federal Income Tax Considerations for U.S. Holders of Holdings Common Shares or Partnership Units***Taxation of Holders of Holdings Common Shares******Taxation of Distributions on Holdings Common Shares***

Subject to the discussion below under “— *Passive Foreign Investment Company Status*”, the gross amount of cash distributions on Holdings common shares will be taxable to U.S. holders as dividend income to the extent of Holdings’ earnings and profits (as determined for U.S. federal income purposes). With respect to non-corporate U.S. holders (including individuals), dividends received from a qualified foreign corporation will be subject to U.S. federal income tax at preferential rates, provided that certain holding period requirements and other conditions are satisfied. As long as Holdings’ common shares are listed on the NYSE (or certain other exchanges including the TSX) and/or Holdings qualifies for benefits under the U.S.-Canada Tax Treaty, Holdings will be treated as a qualified foreign corporation. This reduced rate will not be available in certain circumstances, and U.S. holders should consult their own tax advisors regarding the availability of the reduced rate based on their particular situation. U.S. corporate holders generally will not be eligible for the dividends received deduction with respect to dividends received from Holdings.

To the extent that the amount of any distribution exceeds Holdings’ earnings and profits, the distribution will first be treated as a tax-free return of capital (with a corresponding reduction in the adjusted tax basis of a U.S. holder’s Holdings common shares), and thereafter will be taxed as capital gain recognized on a taxable disposition.

Dividends received from a foreign corporation are generally foreign-source income. However, if more than 25% of the gross income of the foreign corporation during the three-year period preceding the declaration of the dividend is U.S. source income that was effectively connected with the conduct of a trade or business in the U.S., a portion of that dividend will be treated as U.S. source income.

Dividends paid in a currency other than U.S. dollars will be included in a U.S. holder’s gross income in a U.S. dollar amount based on the spot exchange rate in effect on the date of actual or constructive receipt, whether or not the payment is converted into U.S. dollars at that time. The U.S. holder will have a tax basis in such currency equal to such U.S. dollar amount, and any gain or loss recognized upon a subsequent sale or conversion of the foreign currency for a different U.S. dollar amount will be U.S. source ordinary income or loss. If the dividend is converted into U.S. dollars on the date of receipt, a U.S. holder generally should not be required to recognize foreign currency gain or loss in respect of the dividend income.

If the dividend received from Holdings is subject to withholding tax in Canada, the U.S. holder of the Holdings common shares may generally credit the Canadian withholding tax against the tax that would otherwise be imposed on the dividend income by the United States. The ability to claim the credit is subject to several limitations.

Taxation of Dispositions of Holdings Common Shares

Subject to the discussion below under “— *Passive Foreign Investment Company Status*”, for U.S. federal income tax purposes, a U.S. holder will recognize taxable gain or loss on any sale or other taxable disposition of Holdings common shares in an amount equal to the difference between the amount realized from such sale or other taxable disposition and the U.S. holder’s adjusted tax basis in such shares. Such recognized gain or loss generally will be capital gain or loss. Capital gains of non-corporate U.S. holders (including individuals) will be subject to U.S. federal income tax at preferential rates if the U.S. holder has held the Holdings common shares for more than one year as of the date of the sale or other taxable disposition. The deductibility of capital losses is subject to limitations. Any gain or loss recognized by a U.S. holder on the sale or other taxable disposition of Holdings common shares generally will be treated as U.S. source gain or loss.

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Taxation of Holders of Partnership Units

At the closing of the arrangement and the merger, Partnership should, except for purposes of section 7874 of the Code, be treated, for U.S. federal income tax purposes, as a partnership and not as an association or publicly traded partnership (within the meaning of section 7704 of the Code) subject to tax as a corporation. It must be emphasized that this is based on various assumptions relating to our current and future organization, operation, assets, activities and income, including that all actions described in this offering are completed in a timely fashion and that we will at all times operate in accordance with the method of operation described in our organizational documents and this offering.

Treatment of Partnership

While Partnership is organized as an Ontario limited partnership and intends to operate so that it will generally be treated for U.S. federal income tax purposes as a partnership, and not as an association or a publicly traded partnership taxable as a corporation, given the highly complex nature of the rules governing partnerships, the ongoing importance of factual determinations, and the possibility of future changes in circumstances, no assurance can be given that Partnership will so qualify for any particular year. Partnership's taxation as a partnership that is not a publicly traded partnership taxable as a corporation, provided that it is not treated as a U.S. corporation under section 7874 of the Code, will depend on its ability to meet, on a continuing basis, through actual operating results, the qualifying income exception (as described below). Accordingly, no assurance can be given that the actual results of Partnership's operations for any taxable year will satisfy the qualifying income exception.

If Partnership fails to satisfy the qualifying income exception (other than a failure which is determined by the IRS to be inadvertent and which is cured within a reasonable period of time after the discovery of such failure as discussed below), Partnership will be treated as if it had transferred all of its assets, subject to its liabilities, to a newly formed corporation, on the first day of the year in which it failed to satisfy the qualifying income exception, in return for stock of the corporation, and then distributed such stock to the holders of Partnership units in liquidation of their interests in Partnership. This contribution and liquidation would be taxable to U.S. holders of Partnership units, in whole or in part, in an amount not to exceed the excess of the fair market value of Partnership units over their adjusted basis in the hands of the U.S. holder (determined in the manner described below in "*Adjusted Tax Basis of Partnership Units*").

Under section 7704 of the Code, unless certain exceptions apply, if an entity that would otherwise be classified as a partnership for U.S. federal income tax purposes is a "publicly traded partnership" (as defined in the Code) it will be treated and taxed as a corporation for U.S. federal income tax purposes. An entity that would otherwise be classified as a partnership is a publicly traded partnership if (i) interests in the entity are traded on an established securities market or (ii) interests in the entity are readily tradable on a secondary market or the substantial equivalent thereof.

A publicly traded partnership will, however, be treated as a partnership, and not as a corporation for U.S. federal income tax purposes, if 90% or more of its gross income during each taxable year consists of "qualifying income" within the meaning of section 7704 of the Code and it is not required to register as an investment company under the Investment Company Act of 1940. We refer to this exception as the qualifying income exception. Qualifying income generally includes dividends, interest, capital gains from the sale or other disposition of stocks and securities and certain other forms of investment income. We estimate that Partnership will earn interest, dividends, capital gains and other types of qualifying income. No assurance can be given as to the types of income that will be earned in any given year.

While Partnership will be listed on the TSX and thus should be treated as a publicly traded partnership, it will, to the extent reasonably possible, manage its holdings so that it will satisfy the qualifying income exception. There can be no assurance, however, that it will do so or that the IRS would not challenge its compliance with the qualifying income requirements and, therefore, assert that it should be taxable as a corporation for U.S. federal income tax purposes.

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If at the end of any year Partnership fails to meet the qualifying income exception, it may still qualify as a partnership if it is entitled to relief under the Code for an inadvertent termination of partnership status. This relief will be available if (i) the failure to meet the qualifying income exception is cured within a reasonable time after discovery, (ii) the failure is determined by the IRS to be inadvertent, and (iii) Partnership and each Partnership unit holder (during the failure period) agree to make such adjustments or to pay such amounts as are required by the IRS. It is not possible to state whether Partnership would be entitled to this relief in any or all circumstances. It also is not clear under the Code whether this relief is available for Partnership's first taxable year as a publicly traded partnership. If this relief provision is inapplicable to a particular set of circumstances involving Partnership, Partnership will not qualify as a partnership for U.S. federal income tax purposes. Even if this relief provision applies and Partnership retains its partnership status, Partnership or Partnership unit holders (during the failure period) will be required to pay such amounts as are determined by the IRS.

Taxation of Holders of Partnership Units on Partnership's Profits and Losses

As a partnership for U.S. federal income tax purposes, Partnership is not a taxable entity. Instead, each U.S. holder in computing such holder's U.S. federal income tax liability for a taxable year will be required to report separately its allocable share of items of Partnership's income, gain, loss, deduction and credit for each of Partnership's taxable years ending with or within the taxable year of such U.S. holder, regardless whether the holder has received any distributions from Partnership. The characterization of an item of Partnership's income, gain, loss, deduction or credit generally will be determined at Partnership's (rather than at the holder's) level.

Distributions received by Partnership from certain corporate subsidiaries that are taxable as dividend income to the extent of such subsidiaries current and accumulated earnings and profits that are allocable to Partnership unit holders who are individuals generally will be subject to U.S. federal income tax at preferential rates provided that certain holding period and other requirements are satisfied.

Allocation of Profits and Losses

For each of Partnership's fiscal years, items of income, gain, loss, deduction or credit recognized by Partnership will be allocated among the holders of Partnership units in accordance with their allocable shares of Partnership's items of income, gain, loss, deduction and credit. A holder's allocable share of such items will be determined by the partnership agreement, provided such allocations either have "substantial economic effect" or are determined to be in accordance with the holder's interest in Partnership. If the allocations provided by the partnership agreement were successfully challenged by the IRS, the redetermination of the allocations to a particular holder for U.S. federal income tax purposes could be less favorable than the allocations set forth in the partnership agreement.

The character of any income, gain, loss, deduction, or credit allocated to each holder of Partnership units will be determined as though the income, gain, deduction, or credit was derived directly by the holder of Partnership units and derived in the manner in which it was derived by the partnership.

Partnership may derive taxable income that is not matched by a corresponding distribution of cash. This could occur, for example, if Partnership used cash to make an investment or to reduce debt instead of distributing profits. To the extent that there is a discrepancy between Partnership's recognition of income and Partnership's receipt of the related cash payment with respect to such income, income likely will be recognized prior to Partnership's receipt and distribution of cash. Accordingly, it is possible that the U.S. federal income tax liability of a U.S. holder with respect to its allocable share of Partnership's earnings in a particular taxable year could exceed the cash distributions to the U.S. holder for the year, thus giving rise to an out-of-pocket payment by the U.S. holder.

Section 706 of the Code provides that items of partnership income and deductions must be allocated between transferors and transferees of Partnership units. Partnership will apply certain assumptions and

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conventions in an attempt to comply with applicable rules and to report income, gain, loss, deduction and credit to holders in a manner that reflects such holders' beneficial shares of Partnership items. These conventions are designed to more closely align the receipt of cash and the allocation of income between holders of Partnership units, but these assumptions and conventions may not be in compliance with all aspects of applicable tax requirements. In addition, as a result of such allocation method, a holder may be allocated taxable income even if such holder does not receive any distributions.

If Partnership's conventions are not allowed by the Treasury Regulations (or only apply to transfers of less than all of a holder's shares) or if the IRS otherwise does not accept Partnership's conventions, the IRS may contend that Partnership's taxable income or losses must be reallocated among the holders of Partnership units. If such a contention were sustained, certain U.S. holders' respective tax liabilities would be adjusted to the possible detriment of certain other U.S. holders. The general partner of Partnership (i.e., Holdings) is authorized to revise Partnership's method of allocation between transferors and transferees (as well as among holders whose interests otherwise could vary during a taxable period).

Adjusted Tax Basis of Partnership Units

A U.S. holder's adjusted tax basis in its Partnership units will (a) be increased by the U.S. holder's allocable share of (i) items of Partnership's income and gain and (ii) increases in Partnership's liabilities, if any, and (b) decreased, but not below zero, by (i) distributions from Partnership, (ii) the U.S. holder's allocable share of items of Partnership's deductions and losses, and (iii) the U.S. holder's allocable share of the reduction in Partnership's liabilities, if any.

A U.S. holder is allowed to deduct its allocable share of Partnership's losses (if any) only to the extent of such U.S. holder's adjusted tax basis in Partnership units it is treated as holding at the end of the taxable year in which the losses occur. If the recognition of a U.S. holder's allocable share of Partnership's losses would reduce its adjusted tax basis for its Partnership units below zero, the recognition of the portion of the losses that would reduce the U.S. holder's adjusted tax basis below zero would be deferred to subsequent taxable years and will be allowed if and when such U.S. holder had sufficient tax basis so that such losses would not reduce such U.S. holder's adjusted tax basis below zero.

U.S. holders who purchase Partnership units in separate transactions must combine the basis of those Partnership units and maintain a single adjusted tax basis for all of those Partnership units. Upon a sale, exchange or other disposition of less than all of its Partnership units, a portion of that tax basis must be allocated to Partnership units sold.

Treatment of Distributions

Distributions of cash by Partnership generally will not be taxable to a U.S. holder for U.S. federal income tax purposes to the extent of such U.S. holder's adjusted tax basis (described above) in its Partnership units. Any cash distributions in excess of a U.S. holder's adjusted tax basis generally will be considered to be gain from the sale or exchange of Partnership units (as described below). Such amount would be treated as gain from the sale or exchange of its interest in Partnership. Such gain would generally be treated as capital gain and would be long-term capital gain if the U.S. holder's holding period for its interest exceeds one year (but see the discussion on split holding periods below). Long-term capital gains of non-corporate U.S. holders (including individuals) will be subject to U.S. federal income tax at preferential rates. A reduction in a U.S. holder's allocable share of Partnership's liabilities, and certain distributions of marketable securities, are treated similar to cash distributions for U.S. federal income tax purposes.

Treatment of Dispositions

A sale or other taxable disposition of all or a portion of a U.S. holder's interest in its Partnership units will result in the recognition of gain or loss in an amount equal to the difference, if any, between the amount realized

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on the disposition (including any amount realized in connection with the deemed assumption of partnership liabilities allocated to such U.S. holder) and the U.S. holder's adjusted tax basis in its Partnership units sold. A U.S. holder's adjusted tax basis will be adjusted for this purpose by its allocable share of Partnership's income or loss for the year of such sale or other disposition. Because the amount realized includes a U.S. holder's share of Partnership liabilities, the gain recognized on the sale of Partnership units could result in a tax liability in excess of any cash received from the sale. Except as described below, any gain or loss recognized with respect to such sale or other disposition generally will be treated as capital gain or loss and will be long-term capital gain or loss if the U.S. holder's holding period for its interest exceeds one year. A portion of such gain may be treated as ordinary income under the Code to the extent attributable to the U.S. holder's allocable share of unrealized gain or loss in Partnership's assets to the extent described in section 751 of the Code (generally, "unrealized receivables" and certain "inventory items"). Long-term capital gains of non-corporate U.S. holders (including individuals) will be subject to U.S. federal income tax at preferential rates. The deductibility of capital losses is subject to limitations. Any gain or loss recognized by a U.S. holder on the sale or other taxable disposition of Partnership units generally will be treated as U.S. source gain or loss.

U.S. holders who purchase Partnership units at different times and intend to sell all or a portion of Partnership units within a year of their most recent purchase are urged to consult their tax advisors regarding the application of certain "split holding period" rules and the treatment of any gain or loss as long-term or short term capital gain or loss. For example, a selling U.S. holder may use the actual holding period of the portion of his transferred Partnership units, provided its shares are divided into identifiable shares with ascertainable holding periods, the selling U.S. holder can identify the portion of Partnership units transferred, and the selling U.S. holder elects to use the identification method for all sales or exchanges of Partnership units.

The IRS has ruled that a partner who acquires interests in a partnership in separate transactions must combine those interests and maintain a single adjusted tax basis for all those interests. Upon a sale or other disposition of less than all of those interests, a portion of that tax basis must be allocated to the interests sold using an "equitable apportionment" method, which generally means that the tax basis allocated to the interest sold equals an amount that bears the same relation to the partner's tax basis in its entire interest in the partnership as the value of the interest sold bears to the value of the partner's entire interest in the partnership.

Treatment of Exchanges for Holdings Common Shares

Beginning one year following the closing, holders of Partnership exchangeable units may elect to exchange their Partnership exchangeable units for Holdings common shares, which exchange right may, at the option of Partnership, be satisfied in an amount of cash equal to the fair market value of the Holdings common shares into which Partnership exchangeable units are otherwise exchangeable (as such fair market value is determined under the partnership agreement). The U.S. federal income tax treatment of such exchanges will be the same as the U.S. federal income tax treatment discussed above in "*— Taxation of Holders of Partnership Units—Treatment of Dispositions*", with the amount realized on the exchange being equal to the fair market value of the Holdings common shares received (or the U.S. dollar amount of the cash equivalent) plus the amount of the U.S. holder's share of Partnership liabilities, if any. A U.S. holder's holding period in the Holdings common shares received in the exchange will begin on the day after the exchange.

Limitation on Deductibility of Capital Losses

Any capital losses generated by Partnership will be deductible by U.S. holders who are individuals only to the extent of such U.S. holders' capital gains for the taxable year plus up to \$3,000 of ordinary income (\$1,500 in the case of a married individual filing a separate return). Excess capital losses may be carried forward by individuals indefinitely. Any capital losses generated by Partnership will be deductible by corporate U.S. holders to the extent of such holders' capital gains for the taxable year. Corporations may carry capital losses back three years and forward five years. Prospective U.S. holders should consult their tax advisors regarding the deductibility of capital losses.

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Limitation on Deductibility of Partnership's Losses

A U.S. holder will be restricted from taking into account for U.S. federal income tax purposes its allocable share of any loss incurred by Partnership in excess of the adjusted tax basis of such U.S. holder's Partnership units. In addition, certain U.S. holders, including individuals, may be subject to various limitations on their ability to use their allocable share of deductions and losses of Partnership. Such limitations include those relating to "passive activity losses", amounts "at risk", capital losses and itemized deductions. U.S. holders may also be subject to limitations relating to "investment interest".

Dual consolidated loss restrictions also may apply to limit the deductibility by a corporate U.S. holder of losses incurred by Partnership. Corporate U.S. holders of partnership units are urged to consult their own tax advisors regarding the applicability and effect to them of dual consolidated loss restrictions.

The deductibility of a non-corporate U.S. holder's "investment interest expense" generally is limited to the amount of that taxpayer's "net investment income". For this purpose, investment interest expense includes, among other things, a U.S. holder's share of interest expense of Partnership attributed to portfolio income. The IRS has indicated that net passive income earned by a publicly traded partnership will be treated as net investment income to its unitholders. As a result, a U.S. holder's share of Partnership's portfolio income will be treated as investment income.

Limitation on Deduction of Certain Other Expenses

For individuals, estates and trusts, certain miscellaneous itemized deductions are deductible only to the extent that they exceed 2% of the adjusted gross income of the taxpayer. Partnership may have a significant amount of expenses that will be treated as miscellaneous itemized deductions. Moreover, an individual whose adjusted gross income exceeds specified threshold amounts is required to further reduce the amount of allowable itemized deductions.

U.S. holders are urged to consult their tax advisors regarding the deductibility of itemized expenses incurred by Partnership.

Tax-Exempt Holders

In light of the intended financing structure, Partnership may derive income that constitutes UBTI. Consequently, a holder of Partnership units that is a tax-exempt organization may be subject to "unrelated business income tax" to the extent that its allocable share of Partnership's income consists of UBTI. A tax-exempt partner of a partnership could be treated as earning UBTI if the partnership regularly engages in a trade or business that is unrelated to the exempt function of the tax-exempt partner, if the partnership derives income from debt-financed property or if the partnership interest itself is debt-financed. Tax-exempt entities face unique tax issues from owning Partnership units that may result in adverse tax consequences.

Prospective U.S. holders that are tax-exempt are urged to consult their tax advisors regarding the tax consequences of an investment in Partnership units.

Tax Matters Partner

Holdings will act as Partnership's "tax matters partner." Holdings will have the authority, subject to certain restrictions, to appoint another partner to act on Partnership's behalf in connection with an administrative or judicial review of Partnership's items of income, gain, loss, deduction or credit.

Tax Elections

Under section 754 of the Code, Partnership may elect to have the basis of Partnership's assets adjusted in the event of a distribution of property to a holder or in the event of a transfer of a Partnership units by sale or

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exchange, or as a result of the death of a holder. Pursuant to the terms of the partnership agreement, the general partner (i.e., Holdings), in its sole discretion, is authorized to direct Partnership to make such an election. Such an election, if made, can be revoked only with the consent of the IRS.

The calculations under section 754 of the Code are complex, and there is little legal authority concerning the mechanics of the calculations, particularly in the context of publicly traded partnerships. To help reduce the complexity of those calculations and the resulting administrative costs to Partnership, Partnership will apply certain conventions in determining and allocating basis adjustments. For example, Partnership may apply a convention in which Partnership deems the price paid by a Partnership unit holder to be the lowest quoted trading price of Partnership units during the month in which the purchase occurred irrespective of the actual price paid. Nevertheless, the use of such conventions may result in basis adjustments that do not exactly reflect a holder's purchase price for its Partnership units, including less favorable basis adjustments to a holder who paid more than the lowest quoted trading price of Partnership units for the month in which the purchase occurred. It is also possible that the IRS will successfully assert that the conventions Partnership utilizes do not satisfy the technical requirements of the Code or the Treasury Regulations and, thus, will require different basis adjustments to be made. If the IRS were to sustain such a position, a holder of Partnership units may have adverse tax consequences.

Information Returns

Partnership has agreed to use reasonable efforts to furnish Partnership unit holders tax information (including Schedule K-1 or substitute Schedule K-1) as promptly as possible, which describes a Partnership unit holder's allocable share of Partnership's income, gain, loss and deduction for Partnership's preceding taxable year. In preparing this information, Partnership will use various accounting and reporting conventions to determine a Partnership unit holder's allocable share of income, gain, loss and deduction. Delivery of this information by Partnership will be subject to delay in the event of, among other reasons, the late receipt of any necessary tax information from a subsidiary in which Partnership holds an interest. It is therefore possible that, in any taxable year, Partnership unit holders will need to apply for extensions of time to file their tax returns. The IRS may successfully contend that certain of these reporting conventions are impermissible, which could result in an adjustment to Partnership unit holders income or loss. If a Partnership unit holder is not a U.S. person there can be no assurance that this information will meet such non-U.S. person's jurisdiction's compliance requirements.

It is possible that Partnership may engage in transactions that subject Partnership and, potentially, the holders of Partnership units to other information reporting requirements with respect to an investment in Partnership. A Partnership unit holder may be subject to substantial penalties if it fails to comply with such information reporting requirements. Partnership unit holders should consult with their tax advisors regarding such information reporting requirements.

Partnership may be audited by the IRS. Adjustments resulting from an IRS audit may require Partnership to adjust a prior year's tax liability, and possibly may result in an audit of Partnership unit holder's tax return. Any audit of a Partnership unit holder's tax return could result in adjustments not related to Partnership's tax returns as well as those related to Partnership's tax returns.

Nominee Reporting

Persons who hold Partnership units as nominees for another person are required to furnish to Partnership (i) the name, address and taxpayer identification number of the beneficial owner and the nominee; (ii) whether the beneficial owner is (1) a person that is not a U.S. person, (2) a foreign government, an international organization or any wholly-owned agency or instrumentality of either of the foregoing, or (3) a tax exempt entity; (iii) the amount and description of Partnership units held, acquired or transferred for the beneficial owner; and (iv) specific information including the dates of acquisitions and transfers, means of acquisitions and transfers, and acquisition costs for purchases, as well as the amount of net proceeds from sales.

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Brokers and financial institutions are required to furnish additional information, including whether they are U.S. persons and specific information on Partnership units they acquire, hold or transfer for their own account. A penalty of \$50 per failure, up to a maximum of \$100,000 per calendar year, is imposed by the Code for failure to report that information to Partnership. The nominee is required to supply the beneficial owner of Partnership units with the information furnished to us.

Taxable Year

Partnership currently uses the calendar year as its taxable year for U.S. federal income tax purposes. Under certain circumstances which Partnership currently believes are unlikely to apply, a taxable year other than the calendar year may be required for such purposes.

Treatment of Amounts Withheld

If Partnership is required to withhold any U.S. tax on distributions made to any holder of Partnership units, Partnership will pay such withheld amount to the IRS. That payment, if made, will be treated as a distribution of cash to the holder of Partnership units with respect to whom the payment was made and will reduce the amount of cash to which such holder would otherwise be entitled.

Backup Withholding

For each calendar year, Partnership will report to Partnership unit holders and to the IRS the amount of distributions that Partnership pays, and the amount of tax (if any) that Partnership withholds on distributions. Under the backup withholding rules, Partnership unit holders may be subject to backup withholding tax (at the applicable rate, currently 28%) with respect to income derived through Partnership unless (i) such Partnership unit holder is a corporation or falls within another exempt category and appropriately demonstrates this fact when required or (ii) such Partnership unit holder provides a taxpayer identification number and certifies as to no loss of exemption from backup withholding tax (generally on IRS Form W-9) and otherwise complies with the applicable requirements of the backup withholding tax rules. If a Partnership unit holder is an exempt holder, it should indicate its exempt status on a properly completed applicable IRS Form. Backup withholding is not an additional tax; the amount of any backup withholding with respect to income derived by a Partnership unit holder through the Partnership will be allowed as a credit against its U.S. federal income tax liability and may entitle it to a refund.

If a Partnership unit holder does not timely provide Partnership with IRS Form W-8 or W-9, as applicable, or such form is not properly completed, Partnership may become subject to U.S. backup withholding taxes in excess of what would have been imposed had we received certifications from all holders. Such excess U.S. backup withholding taxes may be treated by Partnership as an expense that will be borne by all holders on a pro rata basis (where Partnership is or may be unable to cost efficiently allocate any such excess withholding tax cost specifically to the holders that failed to timely provide the proper U.S. tax certifications).

Uniformity of LP Units

Because Partnership cannot match transferors and transferees of Partnership units, Partnership must maintain uniformity of the economic and tax characteristics of Partnership units to a purchaser of Partnership units. In the absence of uniformity, Partnership may be unable to comply fully with a number of U.S. federal income tax requirements. A lack of uniformity can result from a literal application of certain Treasury Regulations to Partnership section 743(b) adjustments, a determination that Partnership's section 704(c) allocations are unreasonable, or other reasons. Section 704(c) allocations would be intended to reduce or eliminate the disparity between tax basis and the value of Partnership's assets in certain circumstances, including on the issuance of additional Partnership units. In order to maintain the fungibility of all Partnership units at all times, Partnership will seek to achieve the uniformity of U.S. tax treatment for all purchasers of Partnership units which are acquired at the same time and price (irrespective of the identity of the particular seller of Partnership

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units or the time when Partnership units are issued by Partnership), through the application of certain tax accounting principles that the general partner (i.e., Holdings) believes are reasonable for Partnership. However, the IRS may disagree with Partnership and may successfully challenge its application of such tax accounting principles. Any non-uniformity could have a negative impact on the value of Partnership units.

Passive Foreign Investment Company Status

Notwithstanding the foregoing, certain adverse U.S. federal income tax consequences could apply to a U.S. holder if Holdings is treated as a passive foreign investment company (“PFIC”) for any taxable year during which the U.S. holder holds Holdings common shares. A non-U.S. corporation, such as Holdings, will be classified as a PFIC for U.S. federal income tax purposes for any taxable year in which, after applying certain look-through rules, either (i) 75% or more of its gross income for such year consists of certain types of “passive” income or (ii) 50% or more of the value of its assets (determined on the basis of a quarterly average) during such year produce or are held for the production of passive income. In addition, direct or indirect foreign corporate subsidiaries of Partnership could be treated as PFICs. In such a case, U.S. holders of Partnership units would generally be treated as owning an indirect equity interest in any such subsidiary PFICs and could be subject to certain adverse tax consequences. Passive income generally includes dividends, interest, royalties, rents, annuities, net gains from the sale or exchange of property producing such income and net foreign currency gains. Holdings is not currently expected and does not expect any of its subsidiaries to be treated as a PFIC for U.S. federal income tax purposes for the taxable year of the combination or for foreseeable future taxable years. This conclusion is a factual determination, however, that must be made annually at the close of each taxable year and, thus, is subject to change. There can be no assurance that Holdings or any of its foreign corporate subsidiaries will not be treated as a PFIC for any taxable year.

If Holdings were to be treated as a PFIC, or if any direct or indirect foreign corporate subsidiary of Partnership were to be treated as a PFIC, U.S. holders of Holdings common shares or U.S. holders of Partnership units, as applicable, could be subject to certain adverse U.S. federal income tax consequences with respect to gain realized on a taxable disposition of such shares or units, as applicable, and certain distributions received on such shares or units, as applicable. In addition, dividends received with respect to Holdings common shares or with respect to the relevant foreign corporate subsidiary, as applicable, would not constitute qualified dividend income eligible for preferential tax rates if Holdings or the relevant foreign corporate subsidiary, as applicable, is treated as a PFIC for the taxable year of the distribution or for its preceding taxable year. Certain elections (including a mark-to-market election) may be available to U.S. holders to mitigate some of the adverse tax consequences resulting from PFIC treatment. Neither Holdings nor Partnership expects to provide U.S. holders with the information that is necessary to make a qualified electing fund election. U.S. holders should consult their tax advisors regarding the application of the PFIC rules to their investment in the Holdings common shares and Partnership exchangeable units.

Material U.S. Federal Income Tax Considerations for Non-U.S. Holders

The Transactions

A non-U.S. holder of Tim Hortons common shares or Burger King Worldwide common stock, as applicable, will not be subject to U.S. federal income tax on any gain realized on the transactions unless:

- the gain is effectively connected with a U.S. trade or business of such non-U.S. holder (or, if an income tax treaty applies, is attributable to a United States “permanent establishment”); or
- such non-U.S. holder is an individual who is present in the United States for 183 days or more in the taxable year of the disposition, and certain other conditions are met.

Gain recognized by a non-U.S. holder of Tim Hortons common shares or Burger King Worldwide common stock, as applicable, described in the first bullet point above will be subject to tax under the rules described above as if it were a U.S. holder of Tim Hortons common shares or Burger King Worldwide common stock, as applicable, and, in the case of a foreign corporation, might be subject to an additional “branch profits” tax equal

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to 30% of its effectively connected earnings and profits (or such lower rate as may be available under an applicable income tax treaty). An individual non-U.S. holder of Tim Hortons common shares or Burger King Worldwide stock, as applicable, described in the second bullet point above will be subject to a flat 30% tax on the gain, which may be offset by U.S. source capital losses realized in the same year, even though the individual is not considered a resident of the United States.

Non-U.S. holders would be required to recognize gain with respect to the merger in a manner similar to the treatment of a U.S. holder (as described above) if Burger King Worldwide were treated for U.S. federal income tax purposes as a “U.S. real property holding corporation” (“USRPHC”). Generally, Burger King Worldwide would be a USRPHC if the fair market value of its U.S. real property interests equaled or exceeded 50% of the sum of the fair market values of its worldwide real property interests and other assets used or held for use in a trade or business, all as determined under applicable Treasury Regulations. Based on the relatively insubstantial portion of Burger King Worldwide’s assets that is treated as U.S. real property interests, we believe that Burger King Worldwide has not been and will not be at the time of the merger a USRPHC for U.S. federal income tax purposes. However, even if Burger King Worldwide were a USRPHC, so long as its common stock at the time of the exchange is regularly traded on an established securities market, a non-U.S. holder would be subject to U.S. federal income tax on any gain in respect of the exchange of Burger King Worldwide common stock only if such non-U.S. holder actually or constructively owned more than 5% of Burger King Worldwide’s outstanding common stock at any time during the applicable period. You should consult your own tax advisor about the consequences that could result if Burger King Worldwide were a U.S. real property holding corporation.

A non-U.S. holder will not be subject to U.S. backup withholding tax if it provides a certification of exempt status (generally on an IRS Form W-8BEN or W-8BEN-E). Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a holder’s U.S. federal income tax liability provided the required information is timely furnished to the IRS.

Holding Holdings Shares

A non-U.S. holder generally should not be subject to U.S. federal income or withholding tax on dividends received from Holdings unless the dividends are effectively connected with the non-U.S. holder’s conduct of a trade or business in the United States (and, if an income tax treaty applies, the dividends are attributable to a permanent establishment or fixed place of business maintained by the non-U.S. holder in the United States).

In addition, a non-U.S. holder generally will not be subject to U.S. federal income or withholding tax on any gain recognized on the sale, exchange or other disposition of Holdings common shares unless: (i) such gain is effectively connected with the conduct by the non-U.S. holder of a trade or business within the United States (or, if an income tax treaty applies, is attributable to a permanent establishment or fixed place of business maintained by the non-U.S. holder in the United States); or (ii) in the case of certain capital gains recognized by a non-U.S. holder that is an individual, such individual is present in the United States for 183 days or more during the taxable year in which the capital gain is recognized and certain other conditions are met.

Holding Partnership Units

Special rules apply to non-U.S. holders of Partnership units. Non-U.S. holders are subject to U.S. withholding tax at a 30% rate on the gross amount of interest, dividends and other fixed or determinable annual or periodical income received or derived through a partnership from sources within the U.S. if such income is not treated as effectively connected with a trade or business within the U.S. The 30% rate may be reduced or eliminated under the provisions of an applicable income tax treaty between the United States and the country in which the non-U.S. holder resides or is organized. Whether a non-U.S. holder is eligible for such treaty benefits will depend upon the provisions of the applicable treaty as well as the treatment of Partnership under the laws of the non-U.S. holder’s jurisdiction. The 30% withholding tax rate does not apply to certain portfolio interest on obligations of U.S. persons allocable to certain non-U.S. persons. Moreover, non-U.S. holders generally are not subject to U.S. federal income tax on capital gains if (i) such gains are not effectively connected with the conduct

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of a U.S. trade or business of such non-U.S. holder; (ii) a tax treaty is applicable and such gains are not attributable to a permanent establishment in the United States maintained by such non-U.S. person; or (iii) such non-U.S. person is an individual and is not present in the United States for 183 or more days during the taxable year (assuming certain other conditions are met).

Non-U.S. holders treated as engaged in a U.S. trade or business are subject to U.S. federal income tax at the graduated rates applicable to U.S. persons on their net income that is considered to be effectively connected with such U.S. trade or business. Non-U.S. holders that are corporations may also be subject to a 30% branch profits tax on such effectively connected income. The 30% rate applicable to branch profits may be reduced or eliminated under the provisions of an applicable income tax treaty between the United States and the country in which the non-U.S. holder resides or is organized.

While it is expected that Partnership's method of operation will not result in a determination that the Partnership is engaged in a U.S. trade or business, there can be no assurance that the IRS will not assert successfully that Partnership is engaged in a U.S. trade or business, with the result that some portion of Partnership's income is properly treated as effectively connected income with respect to non-U.S. holders. If a non-U.S. holder were treated as being engaged in a U.S. trade or business in any year because of an investment in Partnership units in such year, such non-U.S. holder generally would be (i) subject to withholding on its distributive share of Partnership's income effectively connected with such U.S. trade or business, (ii) required to file a U.S. federal income tax return for such year reporting its allocable share, if any, of income or loss effectively connected with such trade or business and (iii) required to pay U.S. federal income tax at regular U.S. federal income tax rates on any such income. Moreover, a non-U.S. holder who is a corporation might be subject to a U.S. branch profits tax on its allocable share of its effectively connected income. Any amount so withheld would be creditable against such non-U.S. holder's U.S. federal income tax liability, and such non-U.S. holder could claim a refund to the extent that the amount withheld exceeded such non-U.S. holder's U.S. federal income tax liability for the taxable year. Finally, if Partnership were treated as being engaged in a U.S. trade or business, a portion of any gain recognized by a non-U.S. holder on the sale or exchange of its Partnership units could be treated for U.S. federal income tax purposes as effectively connected income, and hence such non-U.S. holder could be subject to U.S. federal income tax on the sale or exchange.

Non-U.S. holders may have to supply certain beneficial ownership statements to Partnership (which would be available to the IRS) in order to obtain reductions in U.S. federal withholding tax on interest and to obtain benefits under U.S. income tax treaties, to the extent applicable.

Generally, under the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA") provisions of the Code, non-U.S. persons are subject to U.S. tax in the same manner as U.S. persons on any gain realized on the disposition of an interest, other than an interest solely as a creditor, in U.S. real property. An interest in U.S. real property includes stock in a U.S. corporation (except for certain stock of publicly-traded U.S. corporations and partnerships) if interests in U.S. real property constitute 50% or more by value of the sum of the corporation's assets used in a trade or business, its U.S. real property interests and its interests in real property located outside the United States. Consequently, a non-U.S. person who invests directly in U.S. real estate, or indirectly by owning the stock of an entity that has been a USRPHC at any time during the shorter of the five year period ending on the date of disposition and such non-U.S. person's holding period of such stock, will be subject to tax under FIRPTA on the disposition of such investment. The FIRPTA tax will also generally apply if the non-U.S. person is a holder of an interest in a partnership that owns an interest in U.S. real property or an interest in a USRPHC. We believe that none of Partnership's U.S. subsidiaries is currently, and we do not anticipate that any of Partnership's U.S. subsidiaries will become in the future, a USRPHC. Furthermore, an exception exists under applicable Treasury Regulations if interests in a partnership are regularly traded on an established securities market, in which case a non-U.S. holder may not be subject to U.S. federal income tax on any gain in respect of the exchange of partnership interests if such non-U.S. holder actually or constructively owned 5% or less of the outstanding interests of such partnership. Non-U.S. holders are urged to consult with their tax advisors to determine whether or not this exception may apply to them at the time of their disposition of the Partnership units.

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In general, different rules from those described above apply in the case of non-U.S. holder subject to special treatment under U.S. federal income tax law, including a non-U.S. holder (i) who has an office or fixed place of business in the United States or is otherwise carrying on a U.S. trade or business; (ii) who is an individual present in the United States for 183 or more days or has a “tax home” in the United States for U.S. federal income tax purposes; or (iii) who is a former citizen or resident of the United States.

Prospective non-U.S. holders are urged to consult their tax advisors with regard to the U.S. federal income tax consequences to them of acquiring, holding and disposing of Partnership Units, as well as the effects of state, local and non-U.S. tax laws, as well as eligibility for any reduced withholding benefits.

FATCA

Pursuant to legislation commonly known as the Foreign Account Tax Compliance Act (“FATCA”), foreign financial institutions (which include most foreign hedge funds, private equity funds, mutual funds, securitization vehicles and other investment vehicles) and certain other foreign entities must comply with information reporting rules with respect to their U.S. account holders and investors or be subject to a withholding tax on certain U.S. source payments made to them (whether received as a beneficial owner or as an intermediary for another party). More specifically, a foreign financial institution or other foreign entity that does not comply with the FATCA reporting requirements will generally be subject to a 30% withholding tax with respect to any “withholdable payments.” For this purpose, withholdable payments include generally U.S.-source payments otherwise subject to nonresident withholding tax (*e.g.* , U.S.-source dividends) and also include the gross proceeds from the sale of any equity or debt instruments of U.S. issuers. The FATCA withholding tax will apply even if the payment would otherwise not be subject to U.S. nonresident withholding tax (*e.g.* , because it is capital gain). With respect to gross proceeds from the sale of equity and debt instruments, final Treasury Regulations and IRS guidance defer this withholding obligation until January 1, 2017. It is unclear under Canadian law whether Partnership is a Canadian financial institution under the Canada-United States Intergovernmental Agreement Under the Canada-United States Tax Convention. Therefore, there is uncertainty as to whether the requirements described above are applicable to the Partnership.

With respect to payments made to foreign entities that are not financial institutions, there is no withholding if the entity identifies its substantial U.S. owners or an exception applies.

Non-U.S. holders are urged to consult with their own tax advisors regarding the effect, if any, of the FATCA provisions to them based on their particular circumstances.

Information Reporting and Backup Withholding for U.S. Holders

U.S. holders of Tim Hortons common shares that own at least 5% (by vote or value) of Holdings common shares immediately after, the transactions will be required to file with the IRS certain information statements that apply to transfers under section 351 of the Code. Other information reporting, including with respect to certain U.S. holders on IRS Form 926 or IRS Form 8865, could also apply to the transactions, including the receipt of Partnership units. Burger King Worldwide stockholders and Tim Hortons shareholders should consult their own tax advisors about the information reporting requirements that could be applicable to the transactions and any potential penalties associated with a failure to satisfy such requirements.

In general, information reporting will apply to dividends in respect of Holdings common shares and the proceeds from the sale, exchange or redemption of Holdings common shares or Partnership units that are paid to holders within the United States (and in certain cases, outside the United States), unless the holder is an exempt recipient. A backup withholding tax (currently at a rate of 28%) may apply to such payments, if made by a U.S. paying agent or other U.S. intermediary, if a holder fails to provide a TIN or certification of exempt status or fails to report in full dividend and interest income. Any amounts withheld under the backup withholding rules will be allowed as a refund or a credit against a holder’s U.S. federal income tax liability provided the required information is timely furnished to the IRS. The IRS may impose a penalty upon any taxpayer that fails to provide the correct TIN.

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Certain U.S. holders of specified foreign financial assets with an aggregate value in excess of the applicable dollar threshold are required to report information relating to their Holdings common shares and Partnership units, subject to certain exceptions (including an exception for Holdings common shares or Partnership units held in accounts maintained by certain financial institutions), by attaching a completed IRS Form 8938 (Statement of Specified Foreign Financial Assets) with their tax return for each year in which they hold Holdings common shares or Partnership units. Holders are urged to consult their own tax advisors regarding information reporting requirements relating to the ownership of Holdings common shares and Partnership units.

Material Canadian Federal Income Tax Consequences of the Transactions

This summary is based on the current provisions of the Tax Act, and an understanding of the current administrative policies and practices of the Canada Revenue Agency (the “CRA”) published in writing prior to the date hereof. This summary takes into account all specific proposals to amend the Tax Act publicly announced by or on behalf of the Minister of Finance (Canada) prior to the date hereof (the “proposed amendments”) and assumes that all proposed amendments will be enacted in the form proposed. However, no assurances can be given that the proposed amendments will be enacted as proposed, or at all. This summary does not otherwise take into account or anticipate any changes in law or administrative policy practice whether by legislative, administrative or judicial action nor does it take into account tax legislation or considerations of any province, territory or foreign jurisdiction, which may differ from those discussed herein. The rights under the voting trust agreement by a holder of Partnership exchangeable units are assumed to have nominal value and, as such, the consequences of acquiring, holding and disposing of such rights under the Tax Act are not addressed in this summary. In addition, this summary does not address the application of alternative minimum tax to individuals.

This summary is not intended to be, nor should it be considered to be, legal or tax advice to any particular shareholder of Tim Hortons or Burger King Worldwide and no representation is made with respect to the income tax consequences to any such person. Accordingly, shareholders of Tim Hortons or Burger King Worldwide should consult their own tax advisors having regard to their particular circumstances.

For the purposes of the Tax Act, subject to certain exceptions (including where a taxpayer has made an election to compute its “Canadian tax results” in a currency other than Canadian currency), where an amount that is relevant in computing a taxpayer’s “Canadian tax results” is expressed in a currency other than Canadian dollars, the amount must be converted to Canadian dollars using the noon exchange rate quoted by the Bank of Canada for the day on which the amount arose.

Material Canadian Federal Income Tax Considerations to Tim Hortons Shareholders of the Arrangement

The following summary describes the principal Canadian federal income tax considerations in respect of the disposition of Tim Hortons common shares pursuant to the plan of arrangement generally applicable to a beneficial owner of Tim Hortons common shares who, at all relevant times, for purposes of the Tax Act (i) deals at arm’s length and is not affiliated with Tim Hortons, Amalgamation Sub and Holdings; and (ii) holds the Tim Hortons common shares as capital property (referred to in this portion of the summary as a “holder”). Generally, Tim Hortons common shares will be capital property to a holder provided the holder does not hold those Tim Hortons common shares in the course of carrying on a business or as part of an adventure or concern in the nature of trade. This summary does not address all issues relevant to shareholders who acquired their Tim Hortons common shares on the exercise of an employee stock option. Such shareholders should consult their own tax advisors.

For a discussion of the principal Canadian federal income tax considerations in respect of the holding or disposition of Holdings common shares received pursuant to the plan of arrangement, see the discussion under “*Material Canadian Federal Income Tax Considerations to Holders of Holdings Common Shares*” below.

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Holders Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act and any applicable income tax convention, is, or is deemed to be, resident in Canada (referred to in this portion of the summary as a “resident holder”). Certain resident holders may be entitled to make, or may have already made, the irrevocable election permitted by subsection 39(4) of the Tax Act to deem to be capital property any Tim Hortons common shares (and all other “Canadian securities”, as defined in the Tax Act) owned by such resident holder in the taxation year in which the election is made and in all subsequent taxation years. Resident holders whose Tim Hortons common shares might not otherwise be considered to be capital property should consult their own tax advisors concerning this election.

This portion of the summary is not applicable to (i) a resident holder that is a “specified financial institution”, (ii) a resident holder an interest in which is a “tax shelter investment”, (iii) a resident holder that is, for purposes of certain rules (referred to as the mark-to-market rules) applicable to securities held by financial institutions, a “financial institution”, (iv) a resident holder that reports its “Canadian tax results” in a currency other than Canadian currency, (v) a resident holder that enters into, with respect to its Tim Hortons common shares, a “derivative forward agreement”, as each such term is defined in the Tax Act, or (vi) a resident holder that is a corporation and is, or becomes as part of a transaction or event or series of transactions or events that includes the arrangement, controlled by a non-resident corporation for the purposes of the foreign affiliate dumping rules in section 212.3 of the Tax Act as modified by the proposed amendments released on August 29, 2014. Such resident holders should consult their tax advisors with respect to the consequences of the arrangement.

Disposition Pursuant to the Plan of Arrangement

Generally, a resident holder who disposes of Tim Hortons common shares pursuant to the plan of arrangement will realize a capital gain (or capital loss) equal to the amount, if any, by which the proceeds of disposition, net of any reasonable costs of disposition, exceed (or are less than) the adjusted cost base to the resident holder of the Tim Hortons common shares immediately before the disposition. Depending on whether or not a resident holder makes the cash election or the arrangement shares election, the proceeds of disposition to the resident holder will be equal, as the case may be, to (i) the sum of the aggregate amount of cash and the fair market value at the time of the disposition of the Holdings common shares received in exchange for such Tim Hortons common shares; (ii) the aggregate amount of the cash received in exchange for such Tim Hortons common shares; or (iii) the fair market value at the time of the disposition of the Holdings common shares received in exchange for such Tim Hortons common shares and any cash received in lieu of a fractional Tim Hortons common share.

Generally, a resident holder is required to include in computing its income for a taxation year one-half of the amount of any capital gain (referred to in this portion of the summary as a “taxable capital gain”) realized in the year. Subject to and in accordance with the provisions of the Tax Act, a resident holder is required to deduct one-half of the amount of any capital loss (referred to in this portion of the summary as an “allowable capital loss”) realized in a taxation year from taxable capital gains realized by the resident holder in the year and allowable capital losses in excess of taxable capital gains for the year may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year against net taxable capital gains realized in such years.

The amount of any capital loss realized by a resident holder that is a corporation on the disposition of a Tim Hortons share may be reduced by the amount of any dividends received (or deemed to be received) by the resident holder on such share (or another share where the Tim Hortons share has been acquired in exchange for such other share) to the extent and under the circumstances prescribed by the Tax Act. Similar rules may apply where a Tim Hortons share is owned by a partnership or trust of which a corporation, trust or partnership is a member or beneficiary. Resident holders to whom these rules may be relevant should consult their own tax advisors.

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A resident holder that is throughout the taxation year a “Canadian-controlled private corporation”, as defined in the Tax Act, is liable for tax, a portion of which may be refundable, on investment income, including taxable capital gains.

The cost to a resident holder of Holdings common shares received by that resident holder pursuant to the plan of arrangement will be equal to their fair market value at the time they are acquired by such resident holder.

Dissenting Shareholders

A resident holder who, as a result of the exercise of dissent rights, is entitled to be paid the fair value of its Tim Hortons common shares by Amalgamation Sub will be considered to have disposed of such resident holder’s Tim Hortons common shares for proceeds of disposition equal to the amount of the cash payment (other than any portion of the payment that is interest awarded by a court). Such resident holder will realize a capital gain (or capital loss) equal to the amount by which such proceeds of disposition, net of any reasonable costs of disposition, exceed (or are exceeded by) the adjusted cost base to such resident holder immediately before the disposition of its Tim Hortons common shares. See “*Disposition Pursuant to the Plan of Arrangement*” above for a general description of the treatment of capital gains and capital losses under the Tax Act. Interest awarded by a court to a resident holder who is a dissenting Tim Hortons shareholder will be included in computing such resident holder’s income for purposes of the Tax Act.

Holders Not Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act, is not, and is not deemed to be, resident in Canada and does not use or hold, and is not deemed to use or hold, the Tim Hortons common shares in a business carried on in Canada (referred to in this portion of the summary as a “non-resident holder”). Special rules, which are not discussed in this summary, may apply to certain holders that are insurers carrying on an insurance business in Canada and elsewhere.

Disposition Pursuant to the Plan of Arrangement

A non-resident holder will not be subject to tax under the Tax Act on any capital gain realized on a disposition of Tim Hortons common shares, unless the shares are “taxable Canadian property” to the non-resident holder for purposes of the Tax Act and the shares are not “treaty-protected property” of the non-resident holder for purposes of the Tax Act.

Generally, Tim Hortons common shares will not constitute taxable Canadian property to a non-resident holder at the time of disposition provided that the shares are listed at that time on a designated stock exchange (which includes the TSX), unless at any particular time during the 60-month period that ends at that time (i) one or any combination of (a) the non-resident holder, (b) persons with whom the non-resident holder does not deal at arm’s length, and (c) pursuant to the proposed amendments, partnerships in which the non-resident holder or a person described in (b) holds a membership interest directly or indirectly through one or more partnerships, has owned 25% or more of the issued shares of any class or series of the capital stock of Tim Hortons, and (ii) more than 50% of the fair market value of Tim Hortons common shares was derived directly or indirectly from one or any combination of: (i) real or immovable properties situated in Canada, (ii) “Canadian resource properties” (as defined in the Tax Act), (iii) “timber resource properties” (as defined in the Tax Act), and (iv) options in respect of, or interests in, or for civil law rights in, any of the foregoing property whether or not the property exists. Notwithstanding the foregoing, in certain circumstances set out in the Tax Act, Tim Hortons common shares could be deemed to be taxable Canadian property to a particular non-resident holder.

Even if Tim Hortons common shares are taxable Canadian property to a non-resident holder, a taxable capital gain resulting from the disposition of the shares will not be included in computing the non-resident holder’s taxable income earned in Canada for the purposes of the Tax Act if, at the time of the disposition, the

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shares constitute “treaty-protected property” of the non-resident holder for purposes of the Tax Act. Tim Hortons common shares will generally be considered “treaty-protected property” of a non-resident holder for purposes of the Tax Act at the time of the disposition if the gain from their disposition would, because of an applicable income tax treaty between Canada and the country in which the non-resident holder is resident for purposes of such treaty, be exempt from tax under the Tax Act.

Non-resident holders whose Tim Hortons common shares are taxable Canadian property should consult their own tax advisors for advice having regard to their particular circumstances, including whether their Tim Hortons common shares constitute treaty-protected property.

Dissenting Shareholders

A non-resident holder who, as a result of the exercise of dissent rights, is entitled to be paid the fair value of its Tim Hortons common shares by Amalgamation Sub will not be subject to income tax under the Tax Act on any capital gain realized on the disposition of its Tim Hortons common shares unless the shares are “taxable Canadian property” to the non-resident holder for purposes of the Tax Act and the shares are not “treaty-protected property” of the non-resident holder for purposes of the Tax Act. Any interest awarded by a court and paid or credited to such non-resident holder exercising its rights of dissent will not be subject to withholding taxes under the Tax Act, unless such interest constitutes “participating debt interest” (as defined in the Tax Act).

Material Canadian Federal Income Tax Considerations to Burger King Worldwide Stockholders of the Merger

The following summary describes the principal Canadian federal income tax considerations in respect of the disposition of Burger King Worldwide common stock on the merger applicable to a beneficial owner of Burger King Worldwide common stock who, at all relevant times, for purposes of the Tax Act (i) deals at arm’s length and is not affiliated with Burger King Worldwide, Holdings, Partnership and Merger Sub; and (ii) holds Burger King Worldwide common stock as capital property (referred to in this portion of the summary as a “holder”). Generally, Burger King Worldwide common stock will be capital property to a holder provided the holder does not hold Burger King Worldwide common stock in the course of carrying on a business or as part of an adventure or concern in the nature of trade.

For a discussion of the principal Canadian federal income tax considerations in respect of the holding or disposition of Holdings common shares received on the merger, see the discussion under “*Material Canadian Federal Income Tax Considerations to Holders of Holdings Common Shares*” below.

Holders Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act and any applicable income tax convention, is, or is deemed to be, resident in Canada (referred to in this portion of the summary as a “resident holder”).

This portion of the summary is not applicable to (i) a resident holder an interest in which is a “tax shelter investment”, (ii) a resident holder that is, for purposes of certain rules (referred to as the mark-to-market rules) applicable to securities held by financial institutions, a “financial institution”, (iii) a resident holder that reports its “Canadian tax results” in a currency other than Canadian currency, each as defined in the Tax Act, (iv) a resident holder that has entered into, with respect to its Burger King Worldwide common stock, a “derivative forward agreement”, (v) a resident holder in respect of which Burger King Worldwide is a “foreign affiliate” as each such term is defined in the Tax Act, or (vi) a resident holder that is a corporation and is, or becomes as part of a transaction or event or series of transactions or events that includes the arrangement, controlled by a non-resident corporation for the purposes of the foreign affiliate dumping rules in section 212.3 of the Tax Act as modified by the proposed amendments released on August 29, 2014. Such resident holders should consult their tax advisors with respect to the consequences of the merger.

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Generally, a resident holder whose Burger King Worldwide common stock is exchanged as a result of the merger for Partnership exchangeable units or a combination of Partnership exchangeable units and Holdings common shares will realize a capital gain (or capital loss) equal to the amount, if any, by which the proceeds of disposition, net of any reasonable costs of disposition, exceed (or are less than) the adjusted cost base to the resident holder of the Burger King Worldwide common stock immediately prior to the merger. The proceeds of disposition to the resident holder in respect of its Burger King Worldwide common stock will be equal to the aggregate of (i) the fair market value of the Partnership exchangeable units at the time of the merger received in exchange for such Burger King Worldwide common stock; (ii) the fair market value at the time of the merger of any Holdings common shares received in exchange for such Burger King Worldwide common stock; and (iii) any cash received in lieu of a fractional Holdings common share or Partnership exchangeable unit.

Generally, a resident holder is required to include in computing its income for a taxation year one-half of the amount of any capital gain (referred to in this portion of the summary as a “taxable capital gain”) realized in the year. Subject to and in accordance with the provisions of the Tax Act, a resident holder is required to deduct one-half of the amount of any capital loss (referred to in this portion of the summary as an “allowable capital loss”) realized in a taxation year from taxable capital gains realized by the resident holder in the year and allowable capital losses in excess of taxable capital gains for the year may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year against net taxable capital gains realized in such years.

A resident holder that is throughout the taxation year a “Canadian-controlled private corporation”, as defined in the Tax Act, is liable for tax, a portion of which may be refundable, on investment income, including taxable capital gains.

The cost to a resident holder of Partnership exchangeable units and any Holdings common shares received by that resident holder on the merger will be equal to their fair market value at the time they are acquired by such resident holder.

Holders Not Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act, is not, and is not deemed to be, resident in Canada and does not use or hold, and is not deemed to use or hold, the Burger King Worldwide common stock in a business carried on in Canada (referred to in this portion of the summary as a “non-resident holder”). Special rules, which are not discussed in this summary, may apply to certain holders that are insurers carrying on an insurance business in Canada and elsewhere.

The following portion of the summary assumes that the Burger King Worldwide common stock is not “taxable Canadian property” to any particular non-resident holder at the effective time of the merger. Generally, the Burger King Worldwide common stock will not constitute taxable Canadian property to a non-resident holder at the effective time of the merger provided that the stock is listed at that time on a designated stock exchange (which includes the NYSE), unless at any particular time during the 60-month period that ends at that time (i) one or any combination of (a) the non-resident holder, (b) persons with whom the non-resident holder does not deal at arm’s length, and (c) pursuant to the proposed amendments, partnerships in which the non-resident holder or a person described in (b) holds a membership interest directly or indirectly through one or more partnerships, owned 25% or more of the issued shares of any class or series of the capital stock of Burger King Worldwide, and (ii) more than 50% of the fair market value of the Burger King Worldwide common stock was derived directly or indirectly from one or any combination of: (i) real or immovable properties situated in Canada, (ii) “Canadian resource properties” (as defined in the Tax Act), (iii) “timber resource properties” (as defined in the Tax Act), and (iv) options in respect of, or interests in, or for civil law rights in, any of the foregoing property whether or not the property exists.

A non-resident holder will not be subject to tax under the Tax Act on any capital gain realized on the exchange of Burger King Worldwide common stock on the merger for Partnership exchangeable units and any Holdings common shares.

Material Canadian Federal Income Tax Considerations to Holders of Holdings Common Shares

The following summary describes the principal Canadian federal income tax considerations in respect of the holding or disposition of Holdings common shares received pursuant to the plan of arrangement, on the merger or on the repurchase of Partnership exchangeable units generally applicable to a beneficial owner of Holdings common shares who, at all relevant times, for purposes of the Tax Act (i) deals at arm's length and is not affiliated with Holdings; and (ii) holds such Holdings common shares as "capital property" (referred to in this portion of the summary as a "holder"). Generally, Holdings common shares will be capital property to a holder provided the holder does not hold those Holdings common shares in the course of carrying on a business or as part of an adventure or concern in the nature of trade.

Holders Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act and any applicable income tax convention, is, or is deemed to be, resident in Canada (referred to in this portion of the summary as a "resident holder"). Certain resident holders may be entitled to make the irrevocable election permitted by subsection 39(4) of the Tax Act to deem to be capital property any Holdings common shares (and all other "Canadian securities", as defined in the Tax Act) owned by such resident holder in the taxation year in which the election is made and in all subsequent taxation years. Resident holders whose Holdings common shares might not otherwise be considered to be capital property should consult their own tax advisors concerning this election.

This portion of the summary is not applicable to (i) a resident holder that is a "specified financial institution", (ii) a resident holder an interest in which is a "tax shelter investment", (iii) a resident holder that is, for purposes of certain rules (referred to as the mark-to-market rules) applicable to securities held by financial institutions, a "financial institution", (iv) a resident holder that reports its "Canadian tax results" in a currency other than Canadian currency, (v) a resident holder that enters into, with respect to its Holdings common shares, a "derivative forward agreement" as each such term is defined in the Tax Act, or (vi) a resident holder that is a corporation and is, or becomes as part of a transaction or event or series of transactions or events that includes the arrangement, controlled by a non-resident corporation for the purposes of the foreign affiliate dumping rules in section 212.3 of the Tax Act as modified by the proposed amendments released on August 29, 2014. Such resident holders should consult their tax advisors with respect to the consequences of holding Holdings common shares.

Dividends

A resident holder will be required to include in computing its income for a taxation year any dividends received on the Holdings common shares. In the case of a resident holder that is an individual (other than certain trusts), such dividends will be subject to the gross-up and dividend tax credit rules applicable to taxable dividends received from taxable Canadian corporations, including the enhanced gross-up and dividend tax credit applicable to any dividends designated by Holdings as an eligible dividend in accordance with the provisions of the Tax Act. A dividend received by a resident holder that is a corporation will generally be deductible in computing the corporation's taxable income.

A resident holder that is a "private corporation", as defined in the Tax Act, or any other corporation controlled, whether because of a beneficial interest in one or more trusts or otherwise, by or for the benefit of an individual (other than a trust) or a related group of individuals (other than trusts), will generally be liable to pay a refundable tax of 33 $\frac{1}{3}$ % under Part IV of the Tax Act on dividends received (or deemed to be received) on Holdings common shares to the extent such dividends are deductible in computing the holder's taxable income for the taxation year.

Dispositions

Generally, on a disposition or deemed disposition of a Holdings common share, a resident holder will realize a capital gain (or capital loss) equal to the amount, if any, by which the proceeds of disposition, net of any

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reasonable costs of disposition, exceed (or are less than) the adjusted cost base to the resident holder of the Holdings common share immediately before the disposition or deemed disposition.

Generally, a resident holder is required to include in computing its income for a taxation year one-half of the amount of any capital gain (referred to in this portion of the summary as a “taxable capital gain”) realized in the year. Subject to and in accordance with the provisions of the Tax Act, a resident holder is required to deduct one-half of the amount of any capital loss (referred to in this portion of the summary as an “allowable capital loss”) realized in a taxation year from taxable capital gains realized by the resident holder in the year and allowable capital losses in excess of taxable capital gains for the year may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year against net taxable capital gains realized in such years.

The amount of any capital loss realized by a resident holder that is a corporation on the disposition of a Holdings common share may be reduced by the amount of any dividends received (or deemed to be received) by the resident holder on such share (or another share where the Holdings common share has been acquired in exchange for such other share) to the extent and under the circumstances prescribed by the Tax Act. Similar rules may apply where a Holdings common share is owned by a partnership or trust of which a corporation, trust or partnership is a member or beneficiary. Resident holders to whom these rules may be relevant should consult their own tax advisors.

Refundable Tax

A resident holder that is throughout the taxation year a “Canadian-controlled private corporation”, as defined in the Tax Act, is liable for tax, a portion of which may be refundable, on investment income, including taxable capital gains realized and dividends received or deemed to be received in respect of the Holdings common shares (but not dividends or deemed dividends that are deductible in computing taxable income).

Eligibility for Investment

Provided the Holdings common shares are listed on a designated stock exchange (which currently includes the NYSE and the TSX) at the time they are acquired by a resident holder under the plan of arrangement, on the merger or on the repurchase of Partnership exchangeable units, as the case may be, the Holdings common shares will be qualified investments under the Tax Act at that time for resident holders that are trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, deferred profit sharing plans, registered disability savings plans and tax-free savings accounts and, in the case of a registered retirement savings plan, a registered retirement income fund or a tax-free savings account, provided the annuitant of the registered retirement savings plan or registered retirement income fund or the holder of the tax-free savings account, as the case may be, does not have a “significant interest” (as defined in the Tax Act for purposes of the “prohibited investment” rules) in Holdings or in a corporation, partnership or trust that does not deal at arm’s length with Holdings, will not be a prohibited investment under the Tax Act for such registered retirement savings plans, registered retirement income funds or tax-free savings accounts. Holdings common shares will not be a “prohibited investment” if they are “excluded property” (as defined in the Tax Act for purposes of the “prohibited investment” rules).

Holders Not Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act, is not, and is not deemed to be, resident in Canada and does not use or hold, and is not deemed to use or hold, the Holdings common shares in a business carried on in Canada (referred to in this portion of the summary as a “non-resident holder”). Special rules, which are not discussed in this summary, may apply to certain holders that are insurers carrying on an insurance business in Canada and elsewhere.

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The following portion of the summary assumes that the Holdings common shares will not be “taxable Canadian property” to any particular non-resident holder at any time. Generally, the Holdings common shares will not constitute taxable Canadian property to a non-resident holder at a particular time provided that the shares are listed at that time on a designated stock exchange (which includes the TSX and the NYSE), unless at any particular time during the 60-month period that ends at that time (i) one or any combination of (a) the non-resident holder, (b) persons with whom the non-resident holder does not deal at arm’s length, and (c) pursuant to the proposed amendments, partnerships in which the non-resident holder or a person described in (b) holds a membership interest directly or indirectly through one or more partnerships, owned 25% or more of the issued shares of any class or series of the capital stock of Holdings, and (ii) more than 50% of the fair market value of Holdings common shares was derived directly or indirectly from one or any combination of: (i) real or immovable properties situated in Canada, (ii) “Canadian resource properties” (as defined in the Tax Act), (iii) “timber resource properties” (as defined in the Tax Act), and (iv) options in respect of, or interests in, or for civil law rights in, any of the foregoing property whether or not the property exists.

Dividends

Dividends paid or credited or deemed to be paid or credited on the Holdings common shares to a non-resident holder will be subject to Canadian withholding tax at the rate of 25%, subject to any reduction in the rate of withholding to which the non-resident holder is entitled under any applicable income tax convention.

Dispositions

A non-resident holder will not be subject to tax under the Tax Act on any capital gain realized on a disposition or deemed disposition of Holdings common shares.

Material Canadian Federal Income Tax Considerations to Holders of Partnership Exchangeable Units

The following summary describes the principal Canadian federal income tax considerations in respect of the holding or disposition of Partnership exchangeable units received on the merger which are generally applicable to a beneficial owner of Partnership exchangeable units who, at all relevant times, for purposes of the Tax Act (i) deals at arm’s length and is not affiliated with Partnership and Holdings; and (ii) holds the Partnership exchangeable units received on the merger as “capital property” (referred to in this portion of the summary as a “holder”). Generally, Partnership exchangeable units will be capital property to a holder provided the holder does not hold those Partnership exchangeable units in the course of carrying on a business or as part of an adventure or concern in the nature of trade. This portion of the summary assumes that not more than 50% of the fair market value of all Partnership units will be held by one or more persons who are “financial institutions” for the purposes of the Tax Act.

For a discussion of the principal Canadian federal income tax considerations in respect of the holding or disposition of Holdings common shares received on the repurchase of Partnership exchangeable units see the discussion under “*Material Canadian Federal Income Tax Considerations to Holders of Holdings Common Shares*” above.

Recognition of Partnership

The Tax Act does not define what constitutes a partnership but does describe the income tax consequences where one exists. The CRA has stated that, generally, a partnership is the relation that subsists between persons carrying on business in common with a view to profit and that whether a particular arrangement at a particular time constitutes a partnership is a matter determined by relevant provincial law. Partnership will be registered as a partnership under Ontario law, although formal registration as a partnership under applicable law is not in itself decisive.

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As discussed below under “*Holders Not Resident in Canada—Income of the Partnership*”, it is not expected that Partnership will be considered for the purposes of the Tax Act to have income from carrying on a business. However, the CRA has acknowledged that the level of activity required for purposes of qualifying as a partnership may be lower than that required for income to be regarded as income from a business rather than income from property, which is consistent with the relevant case law. The balance of this summary assumes that Partnership will be considered to be a partnership for purposes of the Tax Act.

SIFT Rules

Partnership will be a “SIFT partnership” for the purposes of the Tax Act. As a “SIFT partnership”, Partnership will be subject to partnership level taxation (“SIFT Tax”) on its “taxable non-portfolio earnings” (as defined in the Tax Act), which generally include (i) income from businesses carried on by Partnership in Canada, (ii) income (other than taxable dividends) from “non-portfolio property”, and (iii) taxable capital gains from dispositions of “non-portfolio property”. The SIFT Tax is applied to the above mentioned sources of income and gains at a rate similar to the federal and provincial rate generally applicable to a Canadian public corporation. If Partnership has “taxable non-portfolio earnings”, the excess of its “taxable non-portfolio earnings” over its tax payable for a taxation year is deemed to be a dividend received by Partnership in the taxation year from a taxable Canadian corporation, which deemed dividend will be allocated to holders of units of Partnership in accordance with the partnership agreement. The deemed dividend that is allocated to a non-resident holder (as defined below) will be subject to Canadian withholding tax and the deemed dividend that is allocated to a resident holder (as defined below) will qualify as an “eligible dividend” (as defined in the Tax Act). For a discussion of the taxation of dividends from a taxable Canadian corporation see the discussion above under “*Material Canadian Federal Income Tax Considerations to Holders of Holdings Common Shares*”.

It is expected that Partnership will not earn any income for the purposes of the Tax Act other than taxable dividends received from a wholly-owned subsidiary (referred to in this portion of the summary as “Canadian Subco”) of Partnership, which is a taxable Canadian corporation. As a result, it is expected that Partnership will not be liable for any SIFT Tax for any taxation year. This summary assumes that Partnership will not be liable to pay SIFT Tax in any taxation year on the basis that it is not expected to earn any “taxable non-portfolio earnings”. However, no assurance can be given in this regard.

Holders Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act and any applicable income tax convention, is, or is deemed to be, resident in Canada (referred to in this portion of the summary as a “resident holder”).

This portion of the summary is not applicable to (i) a resident holder that is a “specified financial institution”, (ii) a resident holder an interest in which is a “tax shelter investment”, (iii) a resident holder that is, for purposes of certain rules (referred to as the mark-to-market rules) applicable to securities held by financial institutions, a “financial institution”, (iv) a resident holder that reports its “Canadian tax results” in a currency other than Canadian currency, (v) a resident holder that enters into, with respect to its Partnership exchangeable units, a “derivative forward agreement” as each such term is defined in the Tax Act, (vi) a resident holder that has a “significant interest” in Partnership for the purposes of the partnership deferral rules in sections 34.2 and 34.3 of the Tax Act; or (vii) a resident holder that is a corporation and is, or becomes as part of a transaction or event or series of transactions or events that includes the arrangement, controlled by a non-resident corporation for the purposes of the foreign affiliate dumping rules in section 212.3 of the Tax Act as modified by the proposed amendments released on August 29, 2014. Such resident holders should consult their tax advisors with respect to the consequences of holding Partnership exchangeable units.

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Computation of Income or Loss

Partnership is not subject to tax under the Tax Act except in the circumstances discussed above under “SIFT Rules”. Each resident holder that holds Partnership exchangeable units will be a limited partner of Partnership and will be required to include in computing the resident holder’s income for a particular taxation year its share of the income or loss of Partnership, as the case may be, for its fiscal year ending in, or coincidentally with the end of, the resident holder’s taxation year, whether or not any of that income is distributed to the resident holder in the taxation year. For this purpose, the income or loss of Partnership will be computed for each fiscal year as if Partnership were a separate person resident in Canada. The fiscal year of Partnership generally will be the calendar year.

In computing the income or loss of Partnership, deductions may be claimed in respect of reasonable costs and expenses incurred by Partnership to earn income from Canadian Subco. The net income or loss of Partnership for a fiscal year will be allocated to the partners of Partnership in the manner set out in the partnership agreement, subject to the detailed rules in the Tax Act in that regard.

The income of Partnership for purposes of the Tax Act is expected to consist only of any taxable dividends received on the shares of Canadian Subco. A resident holder’s share of a taxable dividend received or deemed to be received by Partnership in a fiscal year on the shares of Canadian Subco will be treated as a dividend received by the resident holder and will be subject to the normal rules in the Tax Act applicable to such dividends, including the enhanced gross-up and dividend tax credit for eligible dividends when the dividend received by Partnership is designated as an “eligible dividend”. For a discussion of the taxation of dividends from a taxable Canadian corporation see the discussion above under “*Material Canadian Federal Income Tax Considerations to Holders of Holdings Common Shares*”.

Amounts received by Partnership from Canadian Subco as a return of paid-up capital on the shares of Canadian Subco will generally not be taxable to Partnership; however, the adjusted cost base to Partnership of its shares of Canadian Subco will be reduced by the amount of any such distribution received. To the extent the adjusted cost base of the shares of Canadian Subco would otherwise be a negative amount, Partnership will be deemed to have realized a capital gain equal to the absolute value of such negative amount at that time, and such adjusted cost base will be nil immediately after that time. One-half of any such capital gain in respect of the shares of Canadian Subco will be included in Partnership’s “taxable non-portfolio earnings” and subject to the SIFT Tax as described above under “SIFT Rules”.

Partnership will be deemed to be a non-resident person in respect of, among other things, dividends paid or credited by Canadian Subco. The rate of withholding tax imposed under Part XIII of the Tax Act in respect of dividends is 25%. Pursuant to the administrative policy of the CRA, Partnership will not be subject to withholding tax on the portion of the dividends allocable to resident holders.

If Partnership incurs losses for tax purposes, each resident holder will be entitled to deduct in the computation of its income for tax purposes its share of any such losses for any fiscal year ending in the resident holder’s taxation year to the extent that its investment in Partnership is “at risk” within the meaning of the Tax Act. In general, the amount “at risk” for a resident holder for any taxation year will be the adjusted cost base of the resident holder’s Partnership exchangeable units at the end of the year, plus any income of Partnership allocated to the resident holder for the year, less any amount owing by the resident holder (or a person with whom the resident holder does not deal at arm’s length) to Partnership (or to a person with whom Partnership does not deal at arm’s length) and less the amount of any benefit that a resident holder (or a person with whom the resident holder does not deal at arm’s length) is entitled to receive or obtain for the purpose of reducing, in whole or in part, any loss of the resident holder from the investment.

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Disposition of Partnership Exchangeable Units

The disposition by a resident holder of Partnership exchangeable units, including on a repurchase of Partnership exchangeable units for cash or Holdings common shares, will result in the realization of a capital gain (or capital loss) by such resident holder in the amount, if any, by which the proceeds of disposition of the Partnership exchangeable units, less any reasonable costs of disposition, exceed (or are exceeded by) the adjusted cost base of such Partnership exchangeable units. In general, the adjusted cost base of a resident holder's Partnership exchangeable units will be equal to: (i) the cost of such Partnership exchangeable units at the time of acquisition; plus (ii) its *pro rata* share of Partnership's income allocated to the resident holder for Partnership's fiscal years ending before the relevant time; less (iii) the aggregate of its *pro rata* share of Partnership's losses allocated to the resident holder (other than losses which cannot be deducted because they exceed the resident holder's "at-risk" amount) for Partnership's fiscal years ending before the relevant time; and less (iv) the distributions received by the resident holder from Partnership before the relevant time. However, where the resident holder has disposed of all of its remaining Partnership exchangeable units at a particular time so that it ceases to be a partner, the fiscal year of Partnership will be deemed to have ended shortly before that time for certain purposes relevant to the resident holder, including the computation of the adjusted cost base of such Partnership exchangeable units to the resident holder, so that such adjusted cost base will also be increased (or reduced) by the resident holder's *pro rata* share of any Partnership income (or loss) which is allocated to such holder for the Partnership fiscal year which commenced in the year of such disposition. On a repurchase of Partnership exchangeable units for Holdings common shares, the proceeds of disposition of the Partnership exchangeable units will be equal to the fair market value of the Holdings common shares received at the time of the repurchase. The cost to a resident holder of Holdings common shares received by that resident holder on such repurchase will be equal to their fair market value at the time they are acquired by such resident holder. For the purposes of determining the adjusted cost base to a resident holder of Holdings common shares at any time, the cost of such Holdings common shares will be averaged with the adjusted cost base of any other Holdings common shares owned by the resident holder as capital property at the time.

Where a resident holder disposes of all of its Partnership exchangeable units, it will no longer be a partner of Partnership. If, however, a resident holder is entitled to receive a distribution from Partnership after the disposition of all of its Partnership exchangeable units, then the resident holder will be deemed to dispose of the Partnership exchangeable units at the later of (i) the end of Partnership's fiscal year during which the disposition occurred; and (ii) the date of the last distribution made by Partnership to which the resident holder was entitled. Resident holders should consult their own tax advisors for advice with respect to the specific tax consequences to them of disposing of Partnership exchangeable units.

A resident holder will realize a deemed capital gain if, and to the extent that, the adjusted cost base of the resident holder's Partnership exchangeable units is negative at the end of any fiscal year of Partnership. In such a case, the adjusted cost base of the resident holder's Partnership exchangeable units will be nil at the beginning of Partnership's next fiscal year.

Generally, a resident holder is required to include in computing its income for a taxation year one-half of the amount of any capital gain (referred to in this portion of the summary as a "taxable capital gain") realized in the year. Subject to and in accordance with the provisions of the Tax Act, a resident holder is required to deduct one-half of the amount of any capital loss (referred to in this portion of the summary as an "allowable capital loss") realized in a taxation year from taxable capital gains realized by the resident holder in the year and allowable capital losses in excess of taxable capital gains for the year may be carried back and deducted in any of the three preceding taxation years or carried forward and deducted in any subsequent taxation year against net taxable capital gains realized in such years.

Special rules in the Tax Act may apply to disallow the one-half treatment on all or a portion of a capital gain realized on a disposition of Partnership exchangeable units to certain persons including a tax-exempt person or a non-resident person, so that the full amount of such capital gain would be included in the computation of its income. Resident holders should consult their own tax advisors in this regard.

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A resident holder that is throughout the taxation year a “Canadian-controlled private corporation”, as defined in the Tax Act, is liable for tax, a portion of which may be refundable, on investment income, including taxable capital gains.

Eligibility for Investment

Provided the Partnership exchangeable units are listed on a designated stock exchange (which currently includes the TSX) at the time they are acquired by a resident holder on the merger, the Partnership exchangeable units will be qualified investments under the Tax Act at that time for resident holders that are trusts governed by registered retirement savings plans, registered retirement income funds, registered education savings plans, deferred profit sharing plans, registered disability savings plans and tax-free savings accounts and, in the case of a registered retirement savings plan, a registered retirement income fund or a tax-free savings account, provided the annuitant of the registered retirement savings plan or registered retirement income fund or the holder of the tax-free savings account, as the case may be, does not have a “significant interest” (as defined in the Tax Act for purposes of the “prohibited investment” rules) in Partnership or in a corporation, partnership or trust that does not deal at arm’s length with Partnership, will not be a prohibited investment under the Tax Act for such registered retirement savings plans, registered retirement income funds or tax-free savings accounts. Partnership exchangeable units will not be a “prohibited investment” if they are “excluded property” (as defined in the Tax Act for purposes of the “prohibited investment” rules).

Holders Not Resident in Canada

This portion of the summary is generally applicable to a holder who, at all relevant times, for purposes of the Tax Act (a) is not, and is not deemed to be, resident in Canada, (b) does not use or hold, and is not deemed to use or hold, the Partnership exchangeable units in a business carried on in Canada, and (c) is not, and is not affiliated, with a person or partnership (other than a “designated entity” in respect of Holdings within the meaning of section 115.2 of the Tax Act): (i) more than 25% of the fair market value of the investments in which are owned by persons or partnerships (other than such “designated entities”) that are affiliated with Holdings, or (ii) that is affiliated with Holdings (referred to in this portion of the summary as a “non-resident holder”). Special rules, which are not discussed in this summary, may apply to certain holders that are insurers carrying on an insurance business in Canada and elsewhere.

The following portion of the summary assumes that the Partnership exchangeable units will not be “taxable Canadian property” to any particular non-resident holder at any time and that Partnership will at no time dispose of taxable Canadian property. It is expected that Partnership’s only material asset will be shares of Canadian Subco. Generally, a share that is not listed on a “designated stock exchange” or a partnership interest will not constitute taxable Canadian property to a non-resident holder unless at any particular time during the 60-month period that ends at that time more than 50% of the fair market value of the share or partnership interest, as the case may be, was derived directly or indirectly from one or any combination of: (i) real or immovable properties situated in Canada, (ii) “Canadian resource properties” (as defined in the Tax Act), (iii) “timber resource properties” (as defined in the Tax Act), and (iv) options in respect of, or interests in, or for civil law rights in, any of the foregoing property whether or not the property exists. Notwithstanding the foregoing, in certain circumstances set out in the Tax Act, shares and partnership interests could be deemed to be taxable Canadian property.

Income of the Partnership

A non-resident holder will not be subject to Canadian income tax under Part I of the Tax Act on its share of Partnership’s income from carrying on business outside Canada and of non-business income earned by Partnership. Generally, a non-resident holder is subject to Canadian income tax under Part I of the Tax Act only on its share of Partnership’s income from carrying on business in Canada. A person can be deemed to be carrying on business in Canada in certain circumstances including where it offers anything for sale in Canada through an agent or servant. The limited activities of Partnership contemplated in this Registration Statement including

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delivering Holdings common shares or cash on repurchases of Partnership exchangeable units may not be considered to result in non-resident holders of its exchangeable units carrying on or being deemed to carry on business in Canada. However, if the above deeming rule were to apply to Partnership, the safe harbour rule in section 115.2 of the Tax Act should apply such that the non-resident holders would not be considered to be carrying on business in Canada with respect to the activities of Partnership. The safe harbour rule in section 115.2 of the Tax Act provides that where non-resident holders otherwise would be considered to be carrying on business in Canada by virtue only of services which are “designated investment services” provided to Partnership in Canada by a “Canadian service provider” (such as Holdings) in respect of “qualified investments” (as such terms are defined in section 115.2 of the Tax Act), the non-resident holders will be considered to not be carrying on business in Canada with respect to the activities of Partnership.

The income of Partnership for purposes of the Tax Act is expected to consist only of any taxable dividends received on the shares of Canadian Subco. On this basis, Partnership should not be considered to have any income from carrying on business in Canada and a non-resident holder should not be subject to Canadian income tax under Part I of the Tax Act on its share of Partnership’s income but may be subject to Canadian withholding tax, as described below.

Partnership will be deemed to be a non-resident person in respect of, among other things, dividends paid or credited by Canadian Subco. The rate of withholding tax imposed under Part XIII of the Tax Act in respect of dividends is 25%. Pursuant to the administrative policy of the CRA, a non-resident holder may claim a reduced rate of withholding tax under an applicable income tax treaty in respect of the non-resident holder’s allocable share of the dividends paid or credited by Canadian Subco to Partnership. For non-resident holders that are resident in the United States for the purposes of, and entitled to the benefits of, the *Canada-United States Income Tax Convention 1980*, as amended, a reduced rate of withholding tax may not be available in respect of the non-resident holder’s share of the dividends from Canadian Subco as result of Article IV(7)(b) of such tax treaty. Such holders should consult their tax advisors with respect to the availability of benefits under the *Canada-United States Income Tax Convention 1980*, as amended.

Amounts received by Partnership from Canadian Subco as a return of paid-up capital on the shares of Canadian Subco and a subsequent distribution of such amounts to a non-resident holder will generally not be subject to withholding tax under the Tax Act.

Disposition of Partnership Exchangeable Units

A non-resident holder will not be subject to tax under the Tax Act on any capital gain realized on a disposition or deemed disposition of Partnership exchangeable units.

Filing and Regulatory Requirements

Provided the non-resident holder is not considered to be carrying on business in Canada by virtue of holding Partnership exchangeable units, the non-resident holder will not be required to file a Canadian income tax return as a result of its holding Partnership exchangeable units. If non-resident holders of Partnership exchangeable units are required to file a Canadian income tax return, the Partnership will use reasonable efforts to furnish Partnership exchangeable unit holders with requisite tax information on timely basis.

Canadian Securities Laws

Distribution and Resale of Holdings Common Shares and Partnership Exchangeable Units Received in Connection with the Transaction

Distributions of Holdings common shares to shareholders of Tim Hortons and stockholders of Burger King Worldwide in connection with the arrangement and the merger, respectively, and Partnership exchangeable units to stockholders of Burger King Worldwide in connection with the merger (and Holdings common shares to be

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issued upon an exchange of such exchangeable units) will be exempt from the prospectus requirements under applicable Canadian securities law and the rights and protections otherwise afforded under those requirements. Such Holdings common shares and Partnership exchangeable units may be resold without a prospectus or an exemption from the prospectus requirements under applicable Canadian securities law if:

- Holdings (or, for a resale of the exchangeable units, Partnership) is, at the time of that trade, and has been, for the four months immediately preceding the trade, a reporting issuer in a Canadian jurisdiction;
- that trade is not a “control distribution” under applicable Canadian securities law;
- no unusual effort is made to prepare the market or create a demand for the securities that are the subject of that trade;
- no extraordinary commission or consideration is paid in respect of that trade; and
- where the selling security holder is an insider or officer of Holdings (or Partnership, as applicable), the selling security holder has no reasonable grounds to believe that Holdings (or Partnership, as applicable) is in default of applicable Canadian securities law.

It is expected that both Holdings and Partnership will be entitled to include the period of time that Tim Hortons was a reporting issuer immediately prior to the transactions for purposes of satisfying the four month reporting history requirement in the first bullet above.

Each Tim Hortons shareholder and Burger King stockholder is urged to consult such holder’s professional advisors with respect to restrictions applicable to trades in Holdings common shares and/or Partnership exchangeable units under applicable Canadian securities law.

Continuous Disclosure Obligations

Upon completion of the transactions, Holdings will be a reporting issuer in each of the provinces and territories of Canada and will be subject to Canadian continuous disclosure and other reporting obligations under applicable Canadian securities laws. Among these reporting obligations is the requirement that its reporting insiders file reports with respect to, among other things, their beneficial ownership of, or control or direction over, securities of Holdings and their interests in, and rights and obligations associated with, related financial instruments. As Holdings will not be a foreign issuer under applicable Canadian securities law, it will generally not be entitled to satisfy its Canadian reporting obligations through periodic and current reports that it files with the SEC to satisfy its U.S. reporting obligations. However, as an SEC issuer, it will be permitted to prepare its financial statements in accordance with GAAP.

Upon completion of the transactions, Partnership is expected to become a reporting issuer in each of the provinces and territories of Canada. It is expected that Partnership will obtain relief from the Canadian securities regulators that will entitle Partnership to satisfy its Canadian continuous disclosure obligations by relying on the continuous disclosure documents filed by Holdings for so long as certain conditions are satisfied. Among these conditions are a requirement that Partnership concurrently send to all holders of exchangeable units all disclosure materials that Holdings sends to its shareholders and a requirement that Partnership separately report all material changes in respect of Partnership that are not also material changes in respect of Holdings. For so long as Partnership satisfies these conditions, it would also be exempt from audit committee requirements and corporate governance disclosure obligations under applicable Canadian securities laws.

THE ARRANGEMENT AGREEMENT

The following is a summary of certain material terms of the arrangement agreement and does not purport to be complete and may not contain all of the information about the arrangement agreement that is important to a particular shareholder of Tim Hortons or stockholder of Burger King Worldwide in connection with the transactions. This summary is qualified in its entirety by reference to the complete text of the arrangement agreement, which is incorporated into this joint information statement/circular by reference in its entirety and attached as Annex A to this joint information statement/circular. Burger King Worldwide and Tim Hortons urge you to read carefully this entire joint information statement/circular, including the Annexes and the documents incorporated by reference. You should also review the section entitled “ *Where You Can Find More Information.* ”

The arrangement agreement has been included to provide you with information regarding its terms, and Burger King Worldwide and Tim Hortons recommend that you read the arrangement agreement carefully and in its entirety. Except for its status as the contractual document that establishes and governs the legal relations among the parties with respect to the merger and arrangement, Burger King Worldwide and Tim Hortons do not intend for the arrangement agreement to be a source of factual, business or operational information about the companies. The arrangement agreement contains representations and warranties of the parties as of specific dates and may have been used for purposes of allocating risk between the parties rather than establishing matters as facts. Those representations and warranties are qualified in several important respects, which you should consider as you read them in the arrangement agreement. The representations and warranties are qualified in their entirety by certain information Burger King Worldwide and Tim Hortons filed with the SEC or Tim Hortons filed with the Canadian Securities Administrators prior to the date of the arrangement agreement, as well as by confidential disclosure letters that Burger King Worldwide and Tim Hortons delivered to each other in connection with the execution of the arrangement agreement, and are qualified by contractual standards of materiality that may differ from what shareholders consider to be material. Information concerning the subject matter of the representations and warranties may have changed since the date of the arrangement agreement and new information qualifying a representation or warranty may have been included in this joint information statement/circular. For the foregoing reasons, you should not rely on the representations and warranties contained in the arrangement agreement as statements of factual information.

Closing of the Arrangement and the Merger

Unless the arrangement agreement is terminated prior to such time (see “ *—Termination of the Arrangement Agreement* ”), the closing of the arrangement and the merger will occur on a date to be specified by Burger King Worldwide and Tim Hortons, which will be no later than the fifth business day following the satisfaction or waiver of all of the conditions set forth in the arrangement agreement (other than conditions that by their nature are to be satisfied at the closing, but subject to the satisfaction or waiver of those conditions). Notwithstanding the satisfaction or waiver of the conditions precedent to each party’s obligation to close, if the marketing period (as defined below) has not ended at the time of the satisfaction or waiver of such conditions (other than those conditions that by their nature are to be satisfied or waived at the closing), the closing will take place instead on the earlier to occur of (i) any business day during the marketing period to be specified by Burger King Worldwide to Tim Hortons on no less than three business days’ written notice to Tim Hortons and (ii) the business day immediately following the last day of the marketing period, but in each case subject to the satisfaction or waiver of the conditions precedent to each party’s obligation to close. For purposes of the arrangement agreement, “marketing period” is defined as the first period of 20 consecutive business days after the date of the arrangement agreement beginning on the first day on which (a) Burger King Worldwide has certain customary and required financial information, (b) the conditions precedent to each party’s obligation to close have been satisfied (other than those conditions that by their terms are to be satisfied at the closing) and (c) nothing has occurred and no condition exists that would cause certain conditions precedent for Burger King Worldwide’s benefit relating to Tim Hortons compliance with covenants, accuracy of representations and warranties and absence of a material adverse effect to fail to be satisfied. The marketing period will either end prior to December 19, 2014 or commence no earlier than January 5, 2015.

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The arrangement requires approval by the Ontario court under section 192 of the CBCA. Tim Hortons intends to seek the interim order from the Ontario court shortly before this joint information statement/circular is declared effective, which will provide for the calling and the holding of the Tim Hortons special meeting and other procedural matters related to the arrangement.

Subsequent and subject to the approval of the arrangement resolution by Tim Hortons shareholders at the Tim Hortons special meeting in accordance with the interim order, the hearing in respect of the final order of the Ontario court approving the arrangement, will be scheduled. At the hearing, the Ontario court will consider, among other things, the fairness and reasonableness of the arrangement, both from a procedural and substantive point of view. The Ontario court may approve the arrangement in any manner it may direct, subject to compliance with such terms and conditions, if any, as it deems fit.

Assuming the final order is granted and the conditions to closing contained in the arrangement agreement are satisfied or waived, then the articles of arrangement of Tim Hortons in respect of the arrangement that are required by the CBCA to be sent to the CBCA Director, which will be in form and substance satisfactory to each of Tim Hortons and Burger King Worldwide, acting reasonably, which is referred to in this joint information statement/circular as the “articles of arrangement”, will be filed with the CBCA Director to give effect to the arrangement.

As soon as practicable on the closing date following the filing of the articles of arrangement with the CBCA Director, Burger King Worldwide and/or Merger Sub will file the certificate of merger with the Secretary of State of the State of Delaware and make any and all other filings required under the Delaware General Corporate Law (the “DGCL”). On the terms and subject to the conditions of the arrangement agreement, at the effective time of the merger, Merger Sub will be merged with and into Burger King Worldwide and the separate existence of Merger Sub will cease. Burger King Worldwide will survive the merger as an indirect subsidiary of Holdings. For purposes of the arrangement agreement, Burger King Worldwide following the effective time of the merger is referred to as the “surviving corporation.”

Merger Consideration to Burger King Worldwide Stockholders

At the effective time of the merger, each share of Burger King Worldwide common stock outstanding immediately prior to the effective time of the merger will be converted into the right to receive (a) if no exchangeable election has been made, 0.99 newly issued Holdings common shares and 0.01 newly issued Partnership exchangeable units or (b) if the Burger King Worldwide stockholder makes an exchangeable election, one Partnership exchangeable unit in exchange for each share of Burger King Worldwide common stock, in each case subject to proration as set forth in the arrangement agreement, as described in “*The Transactions—Election and Proration Procedures; Exchange of Shares of Burger King Worldwide Common Stock—Proration*”.

Arrangement Consideration to Tim Hortons Shareholders

At the effective time of the arrangement, each holder of Tim Hortons common shares will be entitled to receive C\$65.50 in cash and 0.8025 newly issued Holdings common shares in exchange for each Tim Hortons common share held by such shareholder, other than shareholders who (a) make a cash election, who will be entitled to receive C\$88.50 in cash in exchange for each Tim Hortons common share held by such shareholder, or (b) make a shares election, who will be entitled to receive 3.0879 newly issued Holdings common shares in exchange for each Tim Hortons common share held by such shareholder, in each case subject to adjustment in accordance with the plan of arrangement, as described in “*The Transactions—Election and Proration Procedures; Procedures for Converting Tim Hortons Common Shares into Arrangement Consideration; Dissenter’s Rights ; Withholding Rights*”.

Treatment of Outstanding Burger King Worldwide Equity Awards

Each stock option to purchase Burger King Worldwide common stock under the Burger King Worldwide equity incentive plans, whether vested or unvested, that is outstanding immediately prior to the effective time of the merger will be exchanged for an option to acquire, on the same terms and conditions as were applicable under such option before the effective time of the merger (including with respect to vesting and exercise price), common shares from Holdings equal to the same number of Holdings common shares as were subject to the underlying Burger King Worldwide option immediately prior to the effective time of the merger, at an exercise price per share equal to the exercise price per share applicable to such option immediately prior to the effective time (rounded up to the nearest whole cent).

Each restricted stock unit in respect of Burger King Worldwide common stock that is outstanding immediately prior to the effective time of the merger under Burger King Worldwide's equity incentive plans will be exchanged for a restricted stock unit, subject to the same terms and conditions as were applicable under the award agreement issued in connection with such restricted stock unit before the effective time of the merger (including with respect to vesting), with respect to the same number of Holdings common shares as were subject to the underlying Burger King Worldwide restricted stock unit immediately prior to the effective time of the merger. Each of the current Burger King Worldwide equity incentive plans, the exchanged options and exchanged restricted stock units and the related award agreements will be assumed by Holdings as of the effective time of the merger.

Burger King Worldwide Bonus Swap Program

Prior to the effective time of the merger, Burger King Worldwide and Holdings will take such actions as necessary to provide that (i) any then-current investment period under a Burger King Worldwide bonus swap program will continue in effect in accordance with its terms following the effective time of the merger, provided that the Burger King Worldwide bonus swap participants' elected non-equity incentive compensation amounts will be used to purchase Holdings common shares and such participants will be granted stock options to purchase Holdings common shares, in each case, in accordance with the terms of the applicable bonus swap program and (ii) the conversion of Burger King Worldwide common stock purchased by Burger King Worldwide bonus swap participants pursuant to a Burger King Worldwide bonus swap program into merger consideration will not be deemed a "sale" of any such Burger King Worldwide common stock for purposes of such bonus swap program or any related Burger King Worldwide option award agreement.

Treatment of Outstanding Tim Hortons Equity Awards

Stock Options. Pursuant to the arrangement, each outstanding vested surrendered Tim Hortons stock option will be surrendered and transferred to Tim Hortons in consideration for the issuance of the number of Tim Hortons common shares, rounded down to the nearest whole share, equal in value to the in-the-money value of such surrendered Tim Hortons stock option. The in-the-money value of the Tim Hortons stock option is the amount by which the fair market value of a Tim Hortons common share exceeds the exercise price of the Tim Hortons stock option. The surrendered Tim Hortons stock options will be terminated at the time of their surrender and Tim Hortons common shares issued in respect of such surrendered stock options will be treated as described below.

Pursuant to the arrangement, each outstanding Tim Hortons stock option (and its tandem stock appreciation right), whether vested or unvested, that is not a surrendered Tim Hortons stock option will be exchanged for a stock option (with a tandem stock appreciation right) to acquire from Holdings a number of Holdings common shares equal to the product of: (a) the number of Tim Hortons common shares subject to such Tim Hortons stock option multiplied by (b) the exchange ratio of 3.0879 (and rounded down to the nearest whole number of Holdings common shares). The exercise price per Holdings common share of such Holdings stock option shall be

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equal to the quotient of: (a) the exercise price per Tim Hortons common share subject to the exchanged Tim Hortons stock option divided by (b) the exchange ratio of 3.0879 (with the aggregate exercise price being rounded up to the nearest whole cent), provided that the in-the-money value of such Holdings stock options immediately after the issuance of such Holdings stock options may not exceed the in-the-money value of the Tim Hortons stock options immediately prior to such issuance. Subject to the foregoing, each Holdings stock option will have the same terms and conditions as were applicable to the exchanged Tim Hortons stock option.

As the replacement awards have all the same material characteristics as the exchanged Tim Hortons stock option and tandem stock appreciation right being replaced, it is not expected that there will be a material difference between the fair value of the original award on the effective date of the arrangement and the fair value of the replacement award. We do not expect a material incremental expense to be recognized by Tim Hortons or Holdings as a result of the issuance of replacement awards.

Restricted Stock Units and Performance Stock Units. Pursuant to the arrangement, all outstanding Tim Hortons restricted stock units and performance stock units will vest, with the number of performance stock units vesting determined based on the maximum or highest level achievable, and Tim Hortons common shares will be issued in full settlement of such awards on the basis of one Tim Hortons common share for each restricted stock unit or performance stock unit.

Tim Hortons common shares issued in consideration for surrendered Tim Hortons stock options or in settlement of restricted stock unit awards and performance stock unit awards will be transferred to Amalgamation Sub pursuant to the arrangement and the holders of such Tim Hortons common shares will be entitled to make an election in respect of the arrangement consideration to be received in consideration for such transfer.

Deferred Stock Units. At the effective time of the arrangement, all outstanding Tim Hortons deferred stock units will ordinarily vest in accordance with the plan terms of the Tim Hortons deferred stock units, or DSUs. Each DSU will be settled for the value of C\$65.50 plus the value of 0.8025 newly issued common shares of Holdings (with the value determined based on the opening price of a common share of Holdings on the TSX on the first trading day following the effective time of the arrangement).

Governing Documents Following the Arrangement and the Merger

Surviving Corporation. The certificate of incorporation of the surviving corporation will be the certificate of incorporation of Merger Sub as in effect immediately prior to the effective time of the merger. The bylaws of the surviving corporation will be the bylaws of Merger Sub as in effect immediately prior to the effective time of the merger.

Holdings. Holdings has agreed to take, or cause to be taken, such actions as are necessary so that, effective as of at least one business day prior to the closing, the Holdings certificate of incorporation shall be amended and restated to be substantially in the form as set forth in Annex D to this joint information statement/circular. Holdings has agreed to take, or cause to be taken, such actions as are necessary so that, immediately prior to the filing of the articles of arrangement, the by-laws of Holdings will be amended and restated to be substantially in the form as set forth in Annex E to this joint information statement/circular.

Partnership. Partnership has agreed to take, or cause to be taken, such actions as are necessary so that, effective immediately prior to filing of the articles of arrangement, the partnership agreement of Partnership will be amended and restated to be substantially in the form as set forth in Annex F to this joint information statement/circular.

Exchange of Burger King Worldwide Stock Certificates Following the Merger

Prior to the effective time of the merger, Burger King Worldwide will appoint a bank or trust company reasonably acceptable to Tim Hortons to act as the merger exchange agent for the payment and delivery of the merger consideration.

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At or prior to the effective time of the merger, Holdings or Partnership, as applicable, will deposit or cause to be deposited with the merger exchange agent, for the benefit of the holders of certificates of Burger King Worldwide common stock and holders of record of non-certificated outstanding Burger King Worldwide common stock, (i.e., book-entry shares), for exchange through the merger exchange agent, (i) certificates representing the aggregate number of Holdings common shares to be issued as Holdings consideration (or if uncertificated Holdings common shares will be issued, Holdings will make appropriate alternative arrangements) and (ii) certificates representing the aggregate number of exchangeable units to be issued as exchangeable consideration (or if uncertificated exchangeable units will be issued, Partnership will make appropriate alternative arrangements).

Promptly following the effective time of the merger, Holdings will send, or will cause the merger exchange agent to send, to each record holder of Burger King Worldwide common stock at the effective time (other than any record holder of Burger King Worldwide common stock who has previously made (and not revoked) a valid exchangeable election with respect to all of such holder's Burger King Worldwide common stock) a letter of transmittal together with instructions thereto.

Holdings, Burger King Worldwide, Partnership, Merger Sub and the merger exchange agent will each be entitled to deduct and withhold from any amount payable as consideration to Burger King Worldwide stockholders such amounts as required with respect to making any payment for taxes, and such amounts withheld will be treated as having been paid to such stockholders.

The merger consideration issued and credited as fully paid upon conversion of any Burger King Worldwide common stock will be deemed to have been issued and paid in full satisfaction of all rights pertaining to such Burger King Worldwide common stock. From and after the effective time of the merger, there will be no further registration of transfers on the stock transfer books of the surviving company of Burger King Worldwide common stock that were outstanding immediately prior to the effective time of the merger. If, after the effective time of the merger, any certificates formerly representing Burger King Worldwide common stock or Burger King Worldwide book entry shares are presented to Holdings or the merger exchange agent for any reason, they will be cancelled and exchanged. If a certificate representing Burger King Worldwide common stock has been lost, stolen or destroyed, the merger exchange agent will issue to such stockholder the consideration described above in respect of the Burger King Worldwide common stock represented by such certificate only upon such stockholder making an affidavit regarding the loss, theft or destruction, and, if required by Holdings or the merger exchange agent, posting a bond in such reasonable and customary amount as Holdings or the merger exchange agent may direct as indemnity against any claim that may be made against Holdings or the merger exchange agent in respect of the certificate alleged to have been lost, stolen or destroyed.

Any portion of the consideration deposited with the merger exchange agent that has not been transferred to the holders of Burger King Worldwide common stock or Burger King Worldwide book entry shares for six months after the effective time of the merger will be delivered to Holdings or its designee and any former holders of Burger King Worldwide common stock or Burger King Worldwide book entry shares may thereafter only look to Holdings for payment of the merger consideration as unsecured creditors, without any interest thereon.

Representations and Warranties

Burger King Worldwide and Tim Hortons made representations and warranties in the arrangement agreement on behalf of themselves and their respective subsidiaries that are subject, in some cases, to specified exceptions and qualifications contained in the arrangement agreement (including qualifications by concepts of knowledge, materiality and/or dollar thresholds) and are further modified and limited by confidential disclosure letters delivered by Burger King Worldwide and Tim Hortons to each other. The representations and warranties made by Burger King Worldwide are also subject to and qualified by certain information included in Burger King Worldwide's filings made with the SEC (or incorporated by reference into such documents) and the representations and warranties made by Tim Hortons are also subject to and qualified by certain information

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included in Tim Hortons filings made with the SEC (or incorporated by reference into such documents) from December 31, 2012 until the date of the arrangement agreement, and certain information included in Tim Hortons filings on SEDAR, a website maintained by the Canadian Securities Administrators at www.sedar.com from December 31, 2012 until the date of the arrangement agreement.

The representations and warranties made by each of Burger King Worldwide and Tim Hortons relate to the following subject matters, among other things:

- corporate organization and similar corporate matters, including the qualification to do business under applicable law, corporate standing and corporate power;
- subsidiaries;
- capital structure and equity securities;
- authority to enter into the arrangement agreement and due execution and delivery of the arrangement agreement and the completion of the transactions contemplated thereby and board approval;
- the absence of the violation of applicable laws, organizational documents, material contracts or material permits as a result of the arrangement and the merger;
- (i) “reporting issuer” status under and compliance with applicable U.S. securities laws with respect to Burger King Worldwide, and “reporting issuer” status under and compliance with applicable U.S. securities laws and applicable Canadian securities laws and “foreign private issuer” status with respect to Tim Hortons; (ii) compliance with listing requirements; (iii) compliance with certain regulatory matters; (iv) certain financial statements; and (v) the absence of certain undisclosed liabilities;
- internal controls and disclosure controls, no off-balance sheet arrangements, no collateral benefits, and related party transactions;
- the absence of certain changes and events since December 29, 2013;
- litigation;
- material contracts, including the absence of violation or breach in any material respect of each such contract;
- possession of material permits required by applicable laws, and compliance with applicable laws, including franchise-related laws;
- labor and other employment matters;
- employee benefit matters;
- taxes;
- title to real property, absence of liens and leasehold interests, and leases of real property;
- intellectual property;
- environmental matters;
- insurance;
- franchise matters;
- quality and safety of food and beverage products;
- corrupt practices legislation;
- classification as non-Canadian under the Investment Canada Act with respect to Burger King Worldwide and not classification as a cultural business under the Investment Canada Act with respect to Tim Hortons;
- information supplied in this joint information statement/circular;
- required approvals, including shareholder approval;

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- absence of applicable takeover laws;
- brokers and finders; and
- opinion(s) from its financial advisor(s).

The representations and warranties made by Holdings relate to the following subject matters, among other things:

- corporate organization and similar corporate matters, corporate standing and corporate power;
- authority to enter into the arrangement agreement and due execution and delivery of the arrangement agreement and the completion of the transactions contemplated thereby;
- absence of the violation of applicable laws, organizational documents, material contracts or material permits as a result of the arrangement and the merger;
- absence of prior operations;
- capital structure and equity securities of Holdings, Partnership, Merger Sub and Amalgamation Sub; and
- availability of financing.

Under the arrangement agreement, Burger King Worldwide and Tim Hortons agreed that except for the representations and warranties expressly contained in the arrangement agreement, each party does not make any other representation or warranty.

Survival of Representations and Warranties

The representations and warranties of each of Burger King Worldwide, Tim Hortons and Holdings contained in the arrangement agreement will terminate and expire immediately following the closing of the transactions (or, if the arrangement agreement is earlier terminated, at the time of such termination). However, notwithstanding the termination of the arrangement agreement and the expiration of the representations and warranties, the parties to the arrangement agreement will be liable for any material breach of any covenant in the arrangement agreement or any intentional or willful breach of any covenants, representations or warranties contained in the arrangement agreement.

Material Adverse Effect

Several of the representations, warranties, covenants, closing conditions and termination provisions contained in the arrangement agreement are qualified by the concept of a “material adverse effect.”

For purposes of the arrangement agreement, a “material adverse effect” with respect to each of Burger King Worldwide or Tim Hortons means any fact, circumstance, change, effect, event or occurrence that individually or in the aggregate with all other changes, effects, events or occurrences, has had, or would reasonably be expected to have, a material and adverse effect on (i) the ability of the subject company to consummate the transactions contemplated by the arrangement agreement or (ii) the business, condition (financial or otherwise), assets, liabilities or results of operations of the subject company and its subsidiaries, taken as a whole, except for any fact, circumstance, change, effect, event or occurrence directly arising out of or directly resulting from any of the following (which shall not be deemed a material adverse effect):

- general economic, credit, capital or financial markets or political conditions in Canada or elsewhere in the world, including with respect to interest rates or currency exchange rates;
- any outbreak or escalation of hostilities, acts of war (whether or not declared), sabotage or terrorism;
- any hurricane, tornado, flood, volcano, earthquake or other natural or man-made disaster occurring after the date of the arrangement agreement;
- any change in applicable laws or GAAP (or authoritative interpretation or enforcement thereof) which is proposed, approved or corrected on or after the date of the arrangement agreement;

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- general conditions in the industries in which the subject company and its subsidiaries primarily operate;
- the failure, in and of itself, of the subject company to meet any internal or published projections, forecasts, estimates or predictions in respect of revenues, earnings or other financial or operating metrics, or changes in the market price or trading volume of the subject company's shares or the credit rating of the subject company (but the underlying facts giving rise or contributing to such failure or change may be taken into account in determining whether there has been a material adverse effect);
- the negotiation, execution, announcement, performance or pendency of the arrangement agreement or the consummation of the transactions contemplated thereby;
- any action taken by the subject company or its subsidiaries upon the written request of the other party or any other action taken by any party required by the arrangement agreement;
- any pandemic or widespread illness; or
- the identity of, or any facts or circumstances relating to the counterparties of the subject company to the arrangement agreement or their respective affiliates.

In the cases of the first five bullets above, such matter will not qualify as a material adverse effect except to the extent the subject company and its subsidiaries, taken as a whole, are disproportionately affected as compared with other participants in the industries in which the subject company and its subsidiaries primarily operate.

Covenants

Tim Hortons Interim Operating Covenants

Tim Hortons has undertaken covenants in the arrangement agreement relating to the conduct of its business prior to the completion of the arrangement or the earlier termination of the arrangement agreement. Unless Burger King Worldwide otherwise consents in writing (not to be unreasonably withheld, conditioned or delayed) or as expressly permitted or specifically contemplated by the arrangement agreement, plan of arrangement or confidential disclosure letters or as is otherwise required by applicable law or order, Tim Hortons:

- and each of its subsidiaries will conduct their respective businesses in the ordinary course;
- and each of its subsidiaries will use its commercially reasonable efforts to preserve intact its business organization, keep available the services of its officers and employees and preserve its relationships with significant franchisees, customers, suppliers, licensors, licensees, distributors, wholesalers, lessors and other persons having material business dealings with it and its subsidiaries;
- will not, and will not permit its subsidiaries to, directly or indirectly:
 - alter or amend their respective organizational documents;
 - make any distribution or payment or return of capital, or set any record date therefore, in respect of Tim Hortons common shares or the equity interests of any subsidiary of Tim Hortons that is not directly or indirectly wholly owned by Tim Hortons (and if Tim Hortons pays any such dividend or sets any such record date therefor prior to the effective time of the arrangement (other than quarterly cash dividends) with certain record dates or within certain ranges, then Tim Hortons and Burger King Worldwide will adjust in good faith the arrangement cash consideration payable to Tim Hortons shareholders);
 - split, divide, subdivide, consolidate, combine or reclassify Tim Hortons common shares or amend the material terms of any securities of Tim Hortons or its subsidiaries;
 - issue, deliver, grant, sell or pledge or authorize, or agree to issue, deliver, grant, sell or pledge any Tim Hortons common shares or other securities of Tim Hortons or its subsidiaries (including options or any equity-based or equity-linked awards such as restricted stock units or deferred stock units or phantom share plans), which are convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, Tim Hortons common shares, other than the issuance of

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Tim Hortons common shares issuable pursuant to the exercise or settlement of Tim Hortons equity awards outstanding on the date of the arrangement agreement, in accordance with their terms or as required to comply with any Tim Hortons benefit plan;

- redeem, purchase or otherwise acquire any outstanding Tim Hortons common shares or other securities convertible into or exchangeable or exercisable for Tim Hortons common shares, other than in transactions between two or more Tim Hortons wholly owned subsidiaries or between Tim Hortons and a Tim Hortons wholly owned subsidiary, the acquisition by Tim Hortons of Tim Hortons common shares in connection with the surrender of Tim Hortons common shares by holders of Tim Hortons stock options in order to pay the exercise price of the Tim Hortons stock options, the withholding of Tim Hortons common shares to satisfy tax obligations with respect to Tim Hortons equity awards, and the acquisition by Tim Hortons of Tim Hortons equity awards in connection with the forfeiture of such awards;
- except as required by applicable laws or any Tim Hortons benefit plan or agreement, (i) grant any increases in the compensation of any of its directors, executive officers or employees, except for increases in compensation in the ordinary course of business consistent with past practice or except for employees at the level below vice president; (ii) grant or increase any severance, change in control, termination or similar compensation or benefits payable to any director, officer or employee, accelerate the time of payment or vesting of, or the lapsing of restrictions with respect to, or fund or otherwise secure the payment of, any compensation or benefits under any Tim Hortons benefit plan or agreement, or enter into, terminate or amend any Tim Hortons benefit plan or agreement (or any plan, program, agreement, or arrangement that would constitute a Tim Hortons benefit plan if in effect on the date hereof), other than as would not increase costs to Tim Hortons or its affiliates by more than a de minimis amount; (iii) hire or terminate without cause any employee of Tim Hortons or any of its subsidiaries, other than the hiring or termination of employees at the level of vice president or below in the ordinary course of business consistent with past practice or to fill vacancies at the level of vice president or below; (iv) grant any equity or equity based awards; or (v) amend any performance targets with respect to any outstanding bonus or equity awards, except for calculation of the satisfaction or adjustments of performance targets in the ordinary course of business consistent with past practice;
- adopt a plan of liquidation or resolution providing for the liquidation or dissolution of Tim Hortons or any of its subsidiaries, or reorganize, amalgamate or merge, other than pursuant to the merger;
- make any material changes to any of its accounting policies or procedures (including by adopting any material new accounting policies or procedures), except as required by applicable laws or GAAP;
- sell, pledge, lease, license, transfer, dispose of, abandon, encumber or dispose of any assets or properties of Tim Hortons (including the shares or other equity securities of any subsidiary of Tim Hortons) or of any of its subsidiaries, except for sales of inventory, equipment and real property in the ordinary course of business, the non-exclusive licensing of intellectual property in the ordinary course of business or sales for equal to or less than C\$25 million in the aggregate;
- other than in the ordinary course of business, such as the purchase of supplies, equipment and inventory, acquire (by merger, amalgamation, consolidation, arrangement or acquisition of equity interests or assets or otherwise) any corporation, partnership, association or other business organization or division thereof or any property or asset, or make any investment by the purchase of securities, contribution of capital, property transfer, or purchase of any property or assets of any other person or entity that, together with all other such acquisitions, investments, contributions, transfers or purchases, has a value greater than C\$40 million in the aggregate;
- incur or assume any indebtedness, enter into any capital leases or similar purchase money indebtedness, issue or sell any debt securities, or assume, guarantee, endorse or otherwise as an

accommodation become responsible for any such indebtedness or debt securities of any other person or entity, except for indebtedness incurred in the ordinary course of business, indebtedness incurred in connection with the refinancing of any indebtedness existing on the date of the arrangement agreement or permitted to be incurred thereunder, or indebtedness incurred under Tim Hortons current facilities in an amount less than C\$40 million in the aggregate;

- make any loans or capital contributions to or investments in any other person or entity in excess of C\$50 million in the aggregate, other than to any subsidiary of Tim Hortons or as permitted by the arrangement agreement;
- enter into any material currency, commodity, interest rate or equity related hedge, derivative, swap or other financial risk management contract, other than in the ordinary course of business;
- pay, discharge or satisfy any claim, liability or obligation or voluntarily waive, release, assign, settle or compromise any claim, liability or obligation, other than the payment, discharge or satisfaction of liabilities reflected or reserved against in the Tim Hortons financial statements, or which do not exceed C\$5 million individually or C\$20 million in the aggregate or in any case would entail any non-monetary damages;
- enter into any new line of business, enterprise or other activity or enter into a new joint venture investment agreement or any material development agreement for multiple locations, in any geographic market in which Tim Hortons or any of its subsidiaries did not conduct operations as of the date of the arrangement agreement;
- expend or commit to expend any amounts with respect to capital expenses, where such expenditures or commitments exceed certain amounts by more than five percent;
- other than in the ordinary course of business or with respect to a restaurant, enter into any lease or sublease of real property with individual annual rents in excess of C\$200,000 or aggregate annual rents in excess of C\$500,000, or terminate, modify, amend or exercise any right to renew certain real property leases specified in the arrangement agreement, with individual annual rents in excess of C\$200,000 or aggregate annual rents in excess of C\$500,000, or acquire any interest in real property with a purchase price in excess of C\$1 million;
- other than in the ordinary course of business, enter into any contract that would, if entered into prior to the date of the arrangement agreement, be a Tim Hortons material contract, or materially modify, materially amend or terminate any Tim Hortons material contract or waive, release or assign any material rights or claims thereunder;
- other than as permitted by the arrangement agreement, enter into any agreement between Tim Hortons and any affiliate of Tim Hortons, other than an agreement solely between two or more wholly owned subsidiaries of Tim Hortons or solely between Tim Hortons and a wholly owned subsidiary of Tim Hortons;
- other than in the ordinary course of business, fail to use commercially reasonable efforts to maintain in full force and effect the existing material insurance policies covering Tim Hortons or its subsidiaries;
- other than in the ordinary course of business, make, change, revoke or rescind any material election relating to taxes, settle or compromise any material tax liability for an amount that exceeds the amount reserved against in the Tim Hortons financial statements, or make any material amendment with respect to any material tax return, request any rulings from or enter into any closing agreement with any tax authority (except in connection with a settlement of a tax liability for an amount that does not exceed the amount reserved against in the Tim Hortons financial statements), surrender any right to claim a material tax refund, change an annual accounting period for tax purposes, or change any material accounting method for tax purposes, except, in each case, for actions taken in the ordinary course of business;

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- take any action (including any merger, reorganization, restructuring or similar transaction involving Tim Hortons or any of its subsidiaries) that would reasonably be expected to prevent or significantly impede or materially delay the completion of the arrangement or the merger;
- make any material change to the terms of Tim Hortons or any of its subsidiaries' policies or procedures with respect to its relationships with any of its franchisees, including any material change to the terms of policies relating to franchisee rent, royalty or advertising funds, any new material program or plan, or any material modification to any existing program or plan providing any franchisee incentives or franchisee economic assistance, or any commitment to provide assistance with any single restaurant remodel to be completed later than one year following the date of the applicable commitment letter or in the aggregate for such single restaurant resulting in expenditures by Tim Hortons and its subsidiaries in excess of 50% of the "total expenditure" for any such single remodel;
- implement any employee layoffs not in compliance with the Worker Adjustment and Retraining Notification Act of 1988 or any similar law;
- take any action set forth in the commitments related to the Investment Canada Act set forth in the confidential Tim Hortons disclosure letter; or
- enter into any contract with respect to any of the foregoing or otherwise agree or announce an intention to do any of the foregoing.

Burger King Worldwide Interim Operating Covenants

Burger King Worldwide has undertaken covenants in the arrangement agreement relating to the conduct of its business prior to the completion of the arrangement or the earlier termination of the arrangement agreement. Unless Tim Hortons otherwise consents in writing (not to be unreasonably withheld, conditioned or delayed) or as expressly permitted or specifically contemplated by the arrangement agreement, plan of arrangement or confidential disclosure letters or as is otherwise required by applicable law or order, Burger King Worldwide:

- and each of its subsidiaries will conduct their respective businesses in the ordinary course;
- and each of its subsidiaries will use its commercially reasonable efforts to preserve intact its business organization, keep available the services of its officers and employees and preserve its relationships with significant franchisees, customers, suppliers, licensors, licensees, distributors, wholesalers, lessors and other persons having material business dealings with it and its subsidiaries;
- will not, and will not permit its subsidiaries to, directly or indirectly:
 - alter or amend their respective organizational documents;
 - declare, set aside or pay any dividend on or make any distribution or payment or return of capital, or set any record date therefore, in respect of Burger King Worldwide equity interests or the equity interests of any subsidiary of Burger King Worldwide that is not directly or indirectly wholly owned by Burger King Worldwide, other than quarterly cash dividends in accordance with the parameters set forth in the confidential Burger King Worldwide disclosure letter and dividends or distributions by a direct or indirect wholly owned subsidiary of Burger King Worldwide to its parent in the ordinary course of business;
 - split, divide, subdivide, consolidate, combine or reclassify Burger King Worldwide equity interests or amend the material terms of any securities of Burger King Worldwide or its subsidiaries;
 - issue, deliver, grant, sell or pledge or authorize, or agree to issue, deliver, grant, sell or pledge any Burger King Worldwide equity interests or other securities of Burger King Worldwide or its subsidiaries (including options or any equity-based or equity-linked awards such as restricted stock units or deferred stock units or phantom share plans), which are convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, Burger King

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Worldwide common stock, other than (i) the issuance of Burger King Worldwide common stock issuable pursuant to the exercise or settlement of Burger King Worldwide equity awards outstanding on the date of the arrangement agreement, in accordance with their terms or as required to comply with any Burger King Worldwide benefit plan, (ii) the issuance of restricted stock units to non-employee directors who elected to defer their retainer and committee fees for 2014, and (iii) the ordinary course issuance of discretionary options to employees, including in connection with Burger King Worldwide's bonus swap programs;

- redeem, purchase or otherwise acquire any outstanding Burger King Worldwide equity interests or other securities convertible into or exchangeable or exercisable Burger King Worldwide equity interests, other than in transactions between two or more Burger King Worldwide wholly owned subsidiaries or between Burger King Worldwide and a Burger King Worldwide wholly owned subsidiary, the acquisition by Burger King Worldwide of Burger King Worldwide common stock in connection with the surrender of Burger King Worldwide common stock by holders of Burger King Worldwide options in order to pay the exercise price of the Burger King Worldwide options, the withholding of Burger King Worldwide common stock to satisfy tax obligations with respect to Burger King Worldwide equity awards, and the acquisition by Burger King Worldwide of Burger King Worldwide equity awards in connection with the forfeiture of such awards;
- adopt a plan of liquidation or resolution providing for the liquidation or dissolution of Burger King Worldwide or any of its subsidiaries, or reorganize, amalgamate or merge, other than pursuant to the merger;
- make any material changes to any of its accounting policies or procedures (including by adopting any material new accounting policies or procedures), except as required by applicable laws or GAAP;
- sell, pledge, lease, license, transfer, abandon, encumber or dispose of any assets or properties of Burger King Worldwide (including the shares or other equity securities of any subsidiary of Burger King Worldwide) or of any of its subsidiaries, except for sales of inventory, equipment and real property in the ordinary course of business, the non-exclusive licensing of intellectual property in the ordinary course of business or sales for less than \$25 million in the aggregate;
- acquire (by merger, amalgamation, consolidation, arrangement or acquisition of shares or other equity securities or interests or assets or otherwise) any corporation, partnership, association or other business organization or division thereof or any property or asset, or make any investment by the purchase of securities, contribution of capital, property transfer, or purchase of any property or assets of any other person or entity (other than in the ordinary course of business, such as the purchase of supplies, equipment and inventory), or make any loans or capital contributions to, or investments in, any other person or entity, in each case, that, together with all other such acquisitions, investments, contributions, transfers or purchases, has a value greater than \$40 million in the aggregate;
- incur or assume any indebtedness, enter into any capital leases or similar purchase money indebtedness, issue or sell any debt securities, or assume, guarantee, endorse or otherwise as an accommodation become responsible for any such indebtedness or debt securities of any other person or entity, except for indebtedness incurred in the ordinary course of business, indebtedness incurred in connection with the refinancing of any indebtedness existing on the date of the arrangement agreement or permitted to be incurred thereunder, or indebtedness incurred under Burger King Worldwide's current facilities in an amount less than \$30 million in the aggregate;
- enter into any material new line of business, enterprise or other activity or enter into a new joint venture investment agreement, exclusive development agreement or similar agreement;
- enter into any agreement between Burger King Worldwide and any affiliate of Burger King Worldwide, other than an agreement solely between two or more wholly owned subsidiaries of Burger King Worldwide or solely between Burger King Worldwide and a wholly owned subsidiary of Burger King Worldwide;

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- take any action (including any merger, reorganization, restructuring or similar transaction involving Burger King Worldwide or any of its subsidiaries) that would reasonably be expected to prevent or significantly impede or materially delay the completion of the arrangement or the merger; or
- enter into any contract to do any of the foregoing.

Board Recommendations; Burger King Worldwide Written Consent and Tim Hortons Special Meeting

The Burger King Worldwide board of directors has unanimously adopted resolutions approving the arrangement agreement, recommending that the holders of Burger King Worldwide common stock vote to adopt the arrangement agreement. The Tim Hortons board of directors has adopted resolutions approving the arrangement agreement and recommending that the holders of Tim Hortons common shares vote to approve the arrangement. In furtherance thereof and subject to the requirements of applicable law, Tim Hortons has agreed to take all lawful action to call, give notice of, convene and hold a meeting of its shareholders, at which Tim Hortons shareholders will consider approving the arrangement, as promptly as practicable after the registration statement on Form S-4 of which this joint information statement/circular is a part, is declared effective. Within five business days after this joint information statement/circular has been declared effective, 3G will execute and deliver to Tim Hortons a written consent adopting and approving the arrangement agreement and the merger, in accordance with the Burger King Worldwide voting agreement. See “*Burger King Worldwide Voting Agreement and Written Consent of Certain Burger King Worldwide Stockholders*” for more information.

The general partner of Partnership, the sole shareholder of Amalgamation Sub, and the respective boards of directors of each of Holdings and Merger Sub have unanimously approved the arrangement agreement, the arrangement, the merger and the other transactions contemplated by the arrangement agreement.

Under the arrangement agreement, subject to the exceptions set forth below, the Burger King Worldwide board of directors agreed to recommend that Burger King Worldwide stockholders vote in favor of the adoption of the arrangement agreement, and the Tim Hortons board of directors agreed to recommend that Tim Hortons shareholders vote in favor of the approval of the arrangement resolution. The arrangement agreement provides that the Tim Hortons board of directors may, under certain circumstances and subject to certain provisions of the arrangement agreement, withdraw or modify its recommendation.

Third Party Acquisition Proposals

Subject to the exceptions described below, Tim Hortons has agreed that it will not, and will cause its subsidiaries not to, and will not permit any of its and their representatives to, directly or indirectly:

- initiate, solicit, assist, seek or knowingly facilitate or encourage or promote any inquiries or the making of any acquisition proposal (as defined below) or proposal that would reasonably be expected to lead to an acquisition proposal;
- engage in, continue or otherwise participate in any discussions or negotiations regarding, or furnish to any other person or entity any non-public information in connection with or for the purpose of encouraging, facilitating or responding to, any acquisition proposal;
- approve, endorse or recommend, or agree to or propose publicly to agree to approve, endorse or recommend, any acquisition proposal;
- accept or enter into or publicly propose to accept or enter into any letter of intent, memorandum of understanding, agreement in principle, undertaking, acquisition agreement or similar agreement related to any acquisition proposal (other than a confidentiality agreement that is not materially less favorable in the aggregate to Burger King Worldwide than the confidentiality agreement between Tim Hortons and Burger King Worldwide); or
- waive or release any other person or entity from, forebear in the enforcement of, or amend any standstill agreement or standstill provision or the shareholder rights plan (unless in each case the Tim

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Hortons board of directors, after consultation with its financial advisors and outside legal counsel, determines that failure to take such actions would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable law).

Following the execution of the arrangement agreement, Tim Hortons is obligated to, and to cause its subsidiaries and their respective representatives to, immediately cease and terminate all solicitations, discussions, negotiations or activities with any person or entity that may have been ongoing with respect to any acquisition proposal or potential acquisition proposal, and immediately cease to provide any person or entity with access to information concerning Tim Hortons or its subsidiaries in respect of any acquisition proposal or potential acquisition proposal.

If Tim Hortons receives an acquisition proposal from any person, it and its representatives may contact such person solely to clarify the terms and conditions of the proposal. Also, if, prior to the Tim Hortons special meeting, Tim Hortons receives a bona fide written acquisition proposal that did not arise from a breach of the provisions of the non-solicitation covenant of the arrangement agreement and the Tim Hortons board of directors determines in good faith, after consultation with its financial advisors and outside legal counsel, that such acquisition proposal constitutes or would reasonably be expected to lead to a "superior proposal" and failure to take action would reasonably be expected to be inconsistent with its fiduciary duties under applicable law, then Tim Hortons may:

- furnish, pursuant to a confidentiality agreement that is not materially less favorable in the aggregate to Burger King Worldwide than the confidentiality agreement between Tim Hortons and Burger King Worldwide, information (including non-public information) with respect to and afford access to the business, properties, assets, books, records and personnel of Tim Hortons and its subsidiaries, to the person or group of persons who has made such acquisition proposal; provided that Tim Hortons promptly (and in any event within 24 hours) provides or makes available to Burger King Worldwide any information concerning Tim Hortons or its subsidiaries that is provided or made available to any person given such access which was not previously provided to Burger King Worldwide or its representatives; and
- engage in, continue or otherwise participate in discussions or negotiations with and otherwise cooperate with or assist such person making such acquisition proposal.

For purposes of the arrangement agreement, an "acquisition proposal" is defined as any bona fide proposal, offer, inquiry or indication of interest with respect to (a) any acquisition by any person, entity or group of persons (other than the parties to the arrangement agreement) of Tim Hortons voting equity securities or securities convertible into or exercisable or exchangeable for Tim Hortons voting equity securities representing 20% or more of its voting equity securities then outstanding, whether in a single transaction or a series of related transactions, (b) any acquisition by any person or group of persons (other than the parties to the arrangement agreement) of any assets of Tim Hortons and/or its subsidiaries which assets individually or in the aggregate contribute 20% or more of the consolidated revenue or representing 20% or more of the assets of Tim Hortons and its subsidiaries taken as a whole (or any lease, license, royalty, long-term supply agreement or other arrangement having a similar economic effect), in each case of subclauses (a) and (b), whether in a single transaction or a series of related transactions, and whether by plan of arrangement, amalgamation, merger, consolidation, recapitalization, liquidation, dissolution or other business combination, sale of assets, joint venture, take-over bid, tender offer or otherwise, in each case excluding the transactions contemplated by the arrangement agreement, or (c) any combination of the foregoing.

For purposes of the arrangement agreement, a "superior proposal" is defined as, in general terms, an unsolicited (or solicited in accordance with the arrangement agreement) bona fide written acquisition proposal for Tim Hortons, involving an acquisition of its securities or assets at the 50% level, made by a third party or third parties acting jointly (other than Burger King Worldwide or its affiliates) that the Tim Hortons board of directors determines in good faith and in the proper discharge of its fiduciary duties (after consultation with its financial advisors and outside legal counsel) (i) is reasonably likely to be consummated in accordance with its

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terms and (ii) is more favorable to Tim Hortons shareholders from a financial point of view than the transactions contemplated by the arrangement agreement, taken as a whole, in each case taking into account all financial, legal, financing, regulatory and other aspects of such acquisition proposal (including the identity of the person or group making the acquisition proposal) and of the arrangement agreement (including any changes to the terms of the arrangement agreement proposed by Burger King Worldwide).

Tim Hortons will provide to Burger King Worldwide (first orally and then as soon as practicable thereafter in writing) notice of Tim Hortons or any of its subsidiaries or their respective representatives having received any request in connection with an acquisition proposal or potential acquisition proposal for (i) discussions or negotiations with, or access to a list of, Tim Hortons shareholders, or non-public information of Tim Hortons or any of its subsidiaries, (ii) representation on the Tim Hortons board of directors or (iii) information relating to Tim Hortons or any of its subsidiaries. Tim Hortons must also provide to Burger King Worldwide an unredacted copy of any written acquisition proposal, a summary of the material terms and conditions of any acquisition proposal not made in writing and the identity of the person or entity making the acquisition proposal. Tim Hortons will keep Burger King Worldwide reasonably informed of any significant developments regarding any acquisition proposal on a reasonably prompt basis, and within 24 hours of the occurrence of any change in any price or other material term.

Subject to the exceptions noted below, the Tim Hortons board of directors may not:

- fail to include its unanimous recommendation that Tim Hortons shareholders vote in favor of the arrangement resolution (the “Tim Hortons recommendation”) in this joint information statement/circular,
- change, qualify, withhold or withdraw, in a manner adverse to Burger King Worldwide, the Tim Hortons recommendation,
- fail to promptly recommend against any tender or exchange offer or take-over bid relating to the securities of Tim Hortons and publicly reaffirm the Tim Hortons recommendation,
- adopt, approve or recommend to Tim Hortons shareholders an acquisition proposal,
- fail to reaffirm publicly the Tim Hortons recommendation upon the disclosure of an acquisition proposal or at any other time following the reasonable request in writing by Burger King Worldwide, or
- authorize, cause or permit Tim Hortons or any of its subsidiaries to enter into any alternative acquisition agreement.

For purposes of the arrangement agreement, the actions described in the preceding bullet points (other than the final bullet point) are referred to as a “Tim Hortons adverse recommendation change.”

Tim Hortons may, prior to the Tim Hortons special meeting, terminate the arrangement agreement to enter into an agreement in respect of an acquisition proposal or recommend an acquisition proposal if:

- such acquisition proposal did not result from a breach of Tim Hortons non-solicitation covenants under the arrangement agreement;
- the Tim Hortons board of directors has determined in good faith, after consultation with its financial advisors and outside legal counsel, that failure to take such action would reasonably be expected to be inconsistent with the directors’ fiduciary duties under applicable laws and that such acquisition proposal constitutes a superior proposal;
- the Tim Hortons board of directors has given at least three business days’ prior written notice to Burger King Worldwide of its intention to take such action, including unredacted copies of any agreements (including financing commitments) related to any superior proposal and a written summary of any material terms not made in writing;
- following the end of such notice period, during which time the Tim Hortons board of directors will have negotiated in good faith with Burger King Worldwide with respect to any proposed revisions or other proposal to the extent Burger King Worldwide wished to do so, the Tim Hortons board of

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directors will have considered in good faith any proposed revisions to the arrangement agreement proposed in writing by Burger King Worldwide and determined that the superior proposal continues to constitute a superior proposal (taking such proposed revisions into account) and that failure to take such action would be reasonably expected to be inconsistent with the directors' fiduciary duties under applicable laws; and

- if the Tim Hortons board of directors determines to terminate the arrangement agreement to enter into any agreement in respect of a superior proposal, it terminates the arrangement agreement and pays the termination fee as required under the arrangement agreement.

Prior to the approval of the arrangement resolution by Tim Hortons shareholders, the Tim Hortons board of directors may take certain actions constituting a Tim Hortons adverse recommendation change in response to any occurrence that does not relate to a superior proposal and is not known to the Tim Hortons board of directors as of the date of the arrangement agreement, if (i) the Tim Hortons board of directors has determined in good faith that failure to take such action would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable laws, (ii) prior to taking such action, the Tim Hortons board of directors has given Burger King Worldwide at least three business days' notice of such action, and (iii) following the end of such three business day period, Tim Hortons will have considered in good faith any revisions to the arrangement agreement proposed by Burger King Worldwide and will have determined in good faith that failure to effect such Tim Hortons adverse recommendation change would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable laws. A Tim Hortons adverse recommendation change made pursuant to the conditions described in this paragraph will not give rise to any termination right for Tim Hortons.

Regulatory Approvals

Each party to the arrangement agreement is obligated to, or to cause its subsidiaries to, file:

- within 15 business days after the date of the arrangement agreement, notifications under the HSR Act;
- as promptly as practicable, but no later than 20 business days after the date of the arrangement agreement, an application for review under the Investment Canada Act, which includes the minimum commitments set out in the confidential Tim Hortons disclosure letter which will be reflected in Burger King Worldwide's written undertakings to Her Majesty the Queen in right of Canada;
- as promptly as practicable, but no later than 20 business days after the date of the arrangement agreement, any and all notifications and an application, to be prepared by Burger King Worldwide for an advance ruling certificate or no-action letter under the Competition Act (Canada);
- as promptly as practicable, any necessary filings or submissions to obtain approval under the Canada Transportation Act, if applicable, as may be appropriate and advisable; and
- as promptly as practicable after the date of the arrangement agreement, any other filings or notifications under any other applicable federal, provincial, state or foreign laws required to complete the transactions contemplated by the arrangement agreement.

Other than with respect to the Investment Canada Act, Burger King Worldwide and its affiliates that are parties to the arrangement agreement agreed to take all actions necessary, proper or advisable to obtain any waivers, consents, clearances and approvals required in connection with the consummation of the transactions contemplated under the arrangement agreement under the HSR Act, the Competition Act (Canada) and the Canada Transportation Act (to the extent required) prior to the outside date (as defined below). Burger King Worldwide and its affiliates that are parties to the arrangement agreement will further take, or cause to be taken, all other actions and do, or cause to be done, all other things necessary, proper or advisable to avoid, oppose, or seek to have lifted or rescinded, any application for, or any resulting injunction or restraining or other order seeking to stop, or that otherwise adversely affects the ability to consummate the transactions contemplated by the arrangement agreement. Notwithstanding anything to the contrary contained in the arrangement agreement,

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Burger King Worldwide and its affiliates that are parties to the arrangement agreement are not required to take any action, or do or cause to be done anything, pursuant to the arrangement agreement that would, individually or in the aggregate, reasonably be expected to cause a burdensome impact.

With respect to the Investment Canada Act, Burger King Worldwide will submit to the Director of Investments under the Investment Canada Act and enter into written undertakings with Her Majesty the Queen in right of Canada which, at a minimum, will reflect all of the commitments set out in a schedule filed with the arrangement agreement. Burger King Worldwide will further agree to include enhanced and/or additional commitments if and as required to secure approval under the Investment Canada Act, provided that such enhanced and/or additional commitments would not reasonably be expected to, individually or in the aggregate, cause a burdensome impact.

“Burdensome impact”, for purposes of the arrangement agreement, is defined a direct (and not consequential or indirect) reduction in Tim Hortons (assuming for this purpose that it remained a stand-alone enterprise) full calendar year adjusted EBITDA (less capital expenditures), relative to what such adjusted EBITDA (less capital expenditures) would have been absent such direct (and not consequential or indirect) reduction, of greater than C\$140 million, for any of the full calendar years ended December 31, 2015, December 31, 2016 or December 31, 2017, except that (i) the cost of the commitments set out in the confidential Tim Hortons disclosure letter will not either alone or in combination be taken into account in determining whether there has been, or would reasonably be expected to be, any burdensome impact; (ii) the expenditures and costs of any matters and related amounts included in Tim Hortons current strategic plan will not either alone or in combination be taken into account in determining whether there has been, or would reasonably be expected to be, any burdensome impact; and (iii) for purposes of this definition, if any undertaking or commitment is not expressed as an annualized commitment, but, rather, is expressed to be satisfied over the applicable term of such undertaking or commitment, the related expenditure or cost will be divided on an equal annualized basis over such applicable term.

Additional Agreements

The arrangement agreement contains certain other covenants, including covenants relating to cooperation between Burger King Worldwide and Tim Hortons in the preparation of this joint information statement/circular, other filings to be made with the SEC and other governmental filings, obtaining consents, access to information, performing their respective obligations regarding public announcements, causing certain acquisitions and dispositions of Burger King Worldwide or Tim Hortons common shares to be exempt under Rule 16b-3 of the Exchange Act, using reasonable best efforts to cause the Holdings common shares to be approved for listing on the NYSE and conditionally approved for listing on the TSX and for the exchangeable units to be conditionally approved for listing on the TSX, cooperation between Burger King Worldwide and Tim Hortons in causing the Burger King Worldwide common stock to be delisted from the NYSE and Tim Hortons common shares to be delisted from the TSX and cooperation between Burger King Worldwide and Tim Hortons regarding any litigation related to the transactions.

Employee Matters

Under the arrangement agreement Holdings agrees, subject to applicable legal requirements, that:

- employees of Tim Hortons or its subsidiaries who continue as employees of Holdings or its subsidiaries after the effective time of the arrangement, who are referred to in this joint information statement/circular as the “affected employees,” will receive, during the one year period following the effective time of the arrangement, base compensation and cash incentive opportunities that, in each case, are no less favorable than was provided to the affected employee as of immediately prior to the effective time, and all other compensation and employee benefits (excluding equity-based compensation), in the aggregate, that are no less favorable than the value of such compensation and employee benefits (excluding any value attributable to equity-based compensation) provided to the affected employee as of immediately prior to the effective time of the arrangement;

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- affected employees who experience a termination of employment during the one year period following the effective time under circumstances that would have entitled such affected employee to severance benefits under either a severance plan or policy of Tim Hortons or its affiliates applicable to such affected employee immediately prior to the effective time or a severance plan or policy of Holdings or its affiliates applicable to similarly situated employees of Holdings and its affiliates at the time of such termination, will receive severance benefits at a level at least equal to the greater of those that would have been provided under the either such severance plan or policy;
- affected employees will have the opportunity (subject to the terms of the applicable bonus plan, which will be no less favorable than the terms applicable to similarly situated employees of Holdings and its affiliates) to earn a full annual incentive bonus in respect of calendar year 2015, regardless of when the effective time of the arrangement occurs;
- affected employees who participate in the benefit plans of Holdings and Tim Hortons, which are referred to in this joint information statement/circular as the “new plans,” will generally receive credit under such plans for their years of service with Tim Hortons before the closing date for purposes of vesting, eligibility to participate and level of benefits, and Holdings will generally use all reasonable efforts to (i) waive all limitations as to preexisting conditions exclusions and all waiting periods with respect to participation and coverage requirements applicable to each affected employee to the extent waived or satisfied under the replaced Tim Hortons benefit plan prior to the closing date and (ii) credit each affected employee for any co-payments, deductibles and other out-of-pocket expenses paid prior to the closing date under the terms of the replaced Tim Hortons benefit plan in satisfying any applicable deductible, co-payment or out-of-pocket requirements for the plan year in which the effective time occurs;
- Holdings will, or will cause its subsidiaries, to forgo a portion of the income tax deduction that Holdings or its subsidiaries might otherwise be entitled to receive in respect of the settlement of stock options under Canadian tax law;
- the arrangement will constitute a “change in control” (or equivalent term) for purposes of the Tim Hortons benefit plans, agreements and arrangements, and certain affected employees will have the right to terminate their employment for “good reason” (or equivalent term) under the terms of the Tim Hortons benefit plans, agreements and arrangements as a result of the completion of the arrangement; and
- Tim Hortons may adopt a cash-based employee retention program in an aggregate amount not to exceed C\$15 million. Unless otherwise agreed between Tim Hortons and Burger King Worldwide, awards allocated under the retention program will vest and become payable on the 180th day following the completion of the transactions or an earlier qualifying termination of employment.

Financing Covenant

Burger King Worldwide has agreed to use its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary, proper or advisable to arrange and obtain the financing, including using reasonable best efforts to:

- maintain in effect the equity funding letters and the debt commitment letter until completion of the arrangement;
- negotiate and enter into definitive agreements with respect to the debt commitment letter on the terms and conditions (including the flex provisions) contained in the debt commitment letter and related fee letter or, if available, on other terms that are acceptable to Burger King Worldwide and would not adversely affect (including with respect to timing, taking into account the expected timing of the marketing period) the ability of Burger King Worldwide to consummate the merger;
- satisfy on a timely basis all conditions to funding that are applicable to Burger King Worldwide and its affiliates in the debt commitment letter and such definitive agreements thereto (other than any

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condition where the failure to be so satisfied is a direct result of Tim Hortons failure to furnish information described below) and in the equity funding letters and to consummate the financing at or prior to the closing; and

- enforce its rights (including through litigation in the event of a material breach thereof) under or with respect to the equity funding letters and the debt commitment letter.

Burger King Worldwide has agreed that it will not agree to any amendments or modifications to, or grant any waivers of, any condition or other provision under the equity funding letters and the debt commitment letter without the prior written consent of Tim Hortons to the extent such amendments, modifications or waivers would be reasonably expected to (i) reduce the aggregate amount of cash proceeds available from the financing to fund the amounts required to be paid by Burger King Worldwide under the arrangement agreement below the amount required to complete the arrangement and the other transactions contemplated by the arrangement agreement, (ii) impose new or additional conditions or otherwise expand, amend or modify any of the conditions to the receipt of the financing in a manner reasonably likely to prevent or delay or impair the ability of Burger King Worldwide to complete the transactions contemplated by the arrangement agreement, (iii) decrease the aggregate amount of the equity financing below the amount required to complete the transactions contemplated by the arrangement agreement or (iv) prevent, delay or impair the ability of Burger King Worldwide to complete the transactions contemplated by the arrangement agreement or adversely impact the ability of Burger King Worldwide to enforce its rights against the other parties to the equity funding letters and the debt commitment letter and the debt financing agreements.

Burger King Worldwide has agreed to give Tim Hortons prompt (and in any event within two business days) written notice:

- of any actual or alleged breach or default by any party to any of the equity funding letters and the debt commitment letter and the debt financing agreements;
- of the receipt of any written notice or other written communication with respect to any actual or alleged breach, default, termination or repudiation by any party to any of the equity funding letters and the debt commitment letter or any definitive document related to the financing or any provisions of the equity funding letters and the debt commitment letter or any definitive document related to the financing; or
- if Burger King Worldwide determines in good faith that they will not be able to satisfy any of the obligations to, or otherwise be able to obtain, some or any portion of the financing prior to the outside date.

Upon the occurrence of any of the circumstances in the preceding sentence or if any portion of the debt financing otherwise becomes unavailable, and such portion is reasonably required to fund the aggregate arrangement consideration and all fees, expenses and other amounts contemplated to be paid by Burger King Worldwide or the surviving company pursuant to the arrangement agreement, Burger King Worldwide will use its reasonable best efforts to arrange and obtain in replacement thereof alternative financing from alternative sources in an amount sufficient to consummate the transactions contemplated by the arrangement agreement on terms and conditions not less favorable to Tim Hortons or Burger King Worldwide (in the reasonable judgment of Burger King Worldwide) than the terms set forth in the debt commitment letter (including the flex provisions thereof).

Burger King Worldwide has agreed to keep Tim Hortons informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange the financing and provide copies of all documents provided to the arrangers or otherwise related to the financing to Tim Hortons.

Prior to the closing, Tim Hortons has agreed to use reasonable best efforts to provide to Burger King Worldwide, and agreed to cause each of its subsidiaries to use its reasonable best efforts to provide, and agreed to use its reasonable best efforts to cause its representatives, including legal and accounting representatives, to provide, in each case at Burger King Worldwide's sole expense, all cooperation reasonably requested by Burger

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King Worldwide that is customary or necessary in connection with arranging, obtaining and syndicating the financing and causing the conditions in the equity funding letters and the debt commitment letter to be satisfied, including using reasonable best efforts to:

- assisting with the preparation of offering documents;
- preparing and furnishing to Burger King Worldwide and the debt financing sources as promptly as practicable all customary and required financial information and all other available pertinent information and disclosures relating to Tim Hortons and its subsidiaries (including their businesses, operations, financial projections and prospects) as may be reasonably requested by Burger King Worldwide and customary to assist in preparation of offering documents;
- designating members of senior management of Tim Hortons to execute customary authorization letters with respect to offering documents and participate in a customary and reasonable number of presentations, road shows, due diligence sessions, drafting sessions and sessions with ratings agencies in connection with the financing, including direct contact between such senior management of Tim Hortons and its subsidiaries and Burger King Worldwide's financing sources and other potential lenders in the financing;
- assisting Burger King Worldwide in obtaining any corporate credit and family ratings from any ratings agencies contemplated by the debt commitment letter;
- requesting Tim Hortons independent auditors to cooperate with the financing, including by providing customary accountant's comfort letters (including "negative assurance") and consents from Tim Hortons independent auditors;
- assisting in the preparation of, and executing and delivering, definitive financing documents, including guarantee and collateral documents and customary closing certificates as may be required by the financing;
- facilitating the pledging of collateral for the financing;
- assisting the financing sources in benefiting from the existing lending relationships of Tim Hortons and its subsidiaries;
- requesting from Tim Hortons existing lenders such customary documents in connection with refinancings as reasonably requested by Burger King Worldwide in connection with the financing and collateral arrangements, including customary payoff letters, lien releases, instruments of termination or discharge;
- furnishing Burger King Worldwide and the debt financing sources at least two business days prior to the closing with all documentation and other information required by governmental authorities with respect to the debt financing under applicable "know your customer" and anti-money laundering rules and regulations;
- cooperating with Burger King Worldwide, and taking all corporate actions, subject to the occurrence of the effective time of the merger, reasonably requested by Burger King Worldwide to permit the consummation of the financing; and
- using commercially reasonable efforts to assist Burger King Worldwide, as reasonably requested by Burger King Worldwide, to cooperate and assist in Burger King Worldwide's efforts to obtain any regulatory approval required to consummate the equity financing.

The foregoing notwithstanding, (i) nothing in the preceding bullet points will require such cooperation to the extent it would interfere unreasonably with the business or operations of Tim Hortons or its subsidiaries, (ii) neither Tim Hortons nor any of its subsidiaries will be required to incur any liability that is not contingent upon the closing and (iii) neither Tim Hortons board nor the board of directors of any of Tim Hortons subsidiaries will be required to enter into any resolutions or take similar action approving the financing.

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Indemnification

All indemnification or exculpation rights existing in favor of present or former directors and officers of Burger King Worldwide, Tim Hortons or any of their respective subsidiaries as provided in the constating documents of such party or contracts to which such a party is bound and which were in effect as of the date of the arrangement agreement will continue in full force and effect and without modification in any manner that would adversely affect any right thereunder of any such indemnified party, with respect to actions or omissions of the indemnified parties occurring at or prior to the closing.

In addition, Holdings will, and will cause each of Burger King Worldwide, Tim Hortons and their respective subsidiaries to, maintain in effect for six years from the closing date customary directors' and officers' liability insurance covering those persons who are currently covered by the directors' and officers' liability insurance policies of Burger King Worldwide, Tim Hortons and their respective subsidiaries, as applicable, providing protection no less favorable than such existing insurance coverage, except that in no event will Holdings be required to spend premiums for any such insurance to the extent it would exceed 300% of the relevant party's current annual premium for directors' and officers' liability insurance. Prior to the closing, each of Burger King Worldwide and Tim Hortons will purchase prepaid non-cancellable run-off or "tail" directors' and officers' liability insurance on such terms providing coverage for a period of six years from the closing date with respect to claims arising from or related to facts or events which occurred on or prior to the closing date, providing protection no less favorable than such existing insurance coverage, except that in no event will Holdings be required to spend premiums for any such insurance to the extent it would exceed 600% of Tim Hortons or Burger King Worldwide's current annual premium for directors' and officers' liability insurance, as applicable.

Brand Headquarters and Names of Burger King Worldwide and Tim Hortons

Upon and following closing, Tim Hortons current headquarters in Oakville, Ontario will continue to be Tim Hortons headquarters and the global home of the flagship "TIM HORTONS" brand, and Burger King Worldwide's current headquarters in Miami, Florida will continue to be Burger King Worldwide's headquarters and the global home of the flagship "BURGER KING" brand.

"Tim Hortons Inc." will continue to be the name of Tim Hortons following consummation of the arrangement and the closing, and "Burger King Worldwide, Inc." will be the name of the surviving company following consummation of the transactions and the closing.

Officers and Directors upon Completion of the Merger

The directors of Merger Sub immediately prior to the effective time of the merger will be the directors of the surviving corporation until the earlier of their resignation or removal or until their respective successors are duly appointed, elected and qualified. The officers of Merger Sub immediately prior to the effective time of the merger will be the officers of the surviving corporation until the earlier of their resignation or removal or until their respective successors are duly elected or appointed and qualified.

Burger King Worldwide, Holdings and their respective boards of directors will take all actions necessary so that, immediately following the consummation of the arrangement and the merger, the board of directors of Holdings will consist of eight individuals of the Burger King Worldwide board of directors as of immediately prior to the closing and designated by Burger King Worldwide and three individuals of the Tim Hortons board of directors as of immediately prior to the closing and designated by Tim Hortons, each of which Tim Hortons designees will be a "resident Canadian" for purposes of the CBCA.

Conditions to the Completion of the Arrangement and the Merger

The completion of the transactions depends upon the satisfaction or waiver of a number of conditions, all of which, to the extent permitted by applicable laws, may be waived by Burger King Worldwide and/or Tim Hortons, as applicable.

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The following conditions must be satisfied or mutually waived before Burger King Worldwide or Tim Hortons is obligated to complete the arrangement:

- Tim Hortons shareholders having approved the arrangement at the Tim Hortons special meeting;
- each of the interim order and final order having been obtained on terms consistent with the arrangement agreement and the final order will not having been set aside or modified in a manner unacceptable to either Tim Hortons or Burger King Worldwide, each acting reasonably, on appeal or otherwise;
- the registration statement of which this joint information statement/circular is a part being effective, and no stop order suspending the effectiveness of such registration statement being in effect and no similar action in respect of the management proxy circular having been initiated or threatened by the SEC and not concluded or withdrawn;
- (i) the Holdings common shares having been approved for listing on the NYSE, subject only to official notice of issuance, and conditionally approved for listing on the TSX, subject only to the satisfaction of customary listing conditions of the TSX, and (ii) the exchangeable units having been conditionally approved for listing on the TSX, subject only to the satisfaction of customary listing conditions of the TSX;
- approvals under the HSR Act, the Competition Act (Canada), the Canada Transportation Act and the Investment Canada Act having been obtained and any waiting or suspensory periods related to such approvals having expired or been terminated, in each case, without the imposition of any law or order which has the effect of enjoining, restraining, prohibiting or otherwise preventing the consummation of the transactions;
- no governmental authority of competent jurisdiction having enacted any law or order (whether temporary, preliminary or permanent) that prevents the consummation of the transactions contemplated by the arrangement agreement; and
- the information statement that is a part of this joint information statement/circular having been mailed to Burger King Worldwide's stockholders at least 20 business days prior to the closing date.

The obligations of Tim Hortons to complete the arrangement are also conditioned on the satisfaction or waiver of the following conditions:

- Burger King Worldwide and its affiliates that are party to the arrangement agreement having complied in all material respects with their respective obligations, covenants and agreements in the arrangement agreement to be performed and complied with on or before the closing date;
- as of the date of the arrangement agreement and as of the closing date, certain representations and warranties made by Burger King Worldwide and Holdings in the arrangement agreement relating to capitalization being true and correct in all but de minimis respects;
- as of the date of the arrangement agreement and as of the closing date, certain representations and warranties made by Burger King Worldwide and Holdings in the arrangement agreement relating to authority, takeover statutes, voting requirements and prior operations being true and correct in all material respects;
- as of the date of the arrangement agreement and as of the closing date, the representation and warranty made by Burger King Worldwide in the arrangement agreement relating to the absence of certain changes being true and correct in all respects;
- the remaining representations and warranties made by Burger King Worldwide and Holdings in the arrangement agreement being true and correct in all respects (without giving effect to any materiality or material adverse effect qualifications) as of the closing date (other than representations and warranties which by their terms are made as of a specific date, which will be accurate as of such date),

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except for breaches of representations and warranties which have not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Burger King Worldwide;

- Tim Hortons having received (i) a certificate dated the closing date and validly executed by a senior officer of Burger King Worldwide to the effect that the foregoing conditions have been satisfied and (ii) a certificate dated the closing date and validly executed by a senior officer of Holdings to the effect that the foregoing conditions in the first five bullet points have been satisfied;
- the written consent of the shareholders of Burger King Worldwide having been delivered to Burger King Worldwide and Tim Hortons in accordance with the Burger King Worldwide voting agreement; and
- since the date of the arrangement agreement, no fact, circumstance, change, effect, event or occurrence having occurred that had or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Burger King Worldwide.

The obligations of Burger King Worldwide and its affiliates that are party to the arrangement agreement to complete the arrangement are also conditioned on the satisfaction or waiver of the following conditions:

- Tim Hortons having complied in all material respects with its obligations, covenants and agreements in the arrangement agreement to be performed and complied with on or before the closing date, other than its covenant to provide financing cooperation to Burger King Worldwide and assist in commencing any debt tender offers and redemptions;
- as of the date of the arrangement agreement and as of the closing date, certain representations and warranties made by Tim Hortons in the arrangement agreement relating to capitalization being true and correct in all but de minimis respects;
- as of the date of the arrangement agreement and as of the closing date, certain representations and warranties made by Tim Hortons in the arrangement agreement relating to the shareholder rights plan, authority, takeover statutes, voting requirements, brokers and opinions of financial advisors being true and correct in all material respects;
- as of the date of the arrangement agreement and as of the closing date, the representation and warranty made by Tim Hortons in the arrangement agreement relating to the absence of certain changes being true and correct in all respects;
- the remaining representations and warranties made by Tim Hortons in the arrangement agreement being true and correct in all respects (without giving effect to any materiality or material adverse effect qualifications) as of the closing date (other than representations and warranties which by their terms are made as of a specific date, which will be accurate as of such date), except for breaches of representations and warranties which have not had and would not reasonably be expected to have, individually or in the aggregate, a material adverse effect on Tim Hortons;
- since the date of the arrangement agreement, no fact, circumstance, change, effect, event or occurrence occurring that had or would reasonably be expected to have, individually or in the aggregate, a material adverse effect on Tim Hortons;
- Burger King Worldwide having received a certificate dated the closing date and validly executed by a senior officer of Tim Hortons to the effect that the foregoing conditions have been satisfied;
- the number of Tim Hortons common shares held by Tim Hortons shareholders having validly exercised dissent rights not exceeding nine percent of the number of Tim Hortons common shares outstanding as of the date of the arrangement agreement; and
- if requested by Burger King Worldwide in accordance with the arrangement agreement, Tim Hortons having undertaken the distribution by Tim Hortons US of its common shares of The TDL Group Co. to Tim Hortons Delaware Limited Partnership in liquidation of Tim Hortons US.

Termination of the Arrangement Agreement

The arrangement agreement may be terminated at any time prior to the closing in the following ways:

- by mutual written consent of Burger King Worldwide and Tim Hortons;
- by either Burger King Worldwide or Tim Hortons if the closing has not occurred by March 31, 2015 (or April 30, 2015, if so extended by either Burger King Worldwide or Tim Hortons if all conditions except for those related to the receipt of all required approvals from governmental authorities have been satisfied) (the “outside date”), except that the right to so terminate the arrangement agreement will not be available to Burger King Worldwide or Tim Hortons if its failure to fulfill any obligation under the arrangement agreement is a principal cause of or resulted in the failure of the closing to occur by such date;
- by either Burger King Worldwide or Tim Hortons if the requisite vote for approval of the arrangement resolution by Tim Hortons shareholders is not obtained at the Tim Hortons special meeting;
- by either Burger King Worldwide or Tim Hortons if any governmental authority of competent jurisdiction issues a law or order or taken any other action restraining, permanently restraining, enjoining or otherwise prohibiting the arrangement or the merger and such order or other action has become final and nonappealable;
- by Burger King Worldwide, (i) if prior to the time approval by Tim Hortons shareholders is obtained, there has occurred a Tim Hortons adverse recommendation change or (ii) if Tim Hortons breaches any of its representations, warranties, covenants or other agreements contained in the arrangement agreement, which breach or failure would cause the conditions precedent to Burger King Worldwide’s obligations under the arrangement agreement not to be satisfied by the outside date and cannot be cured by the outside date, and Burger King Worldwide is not in breach of any of the conditions precedent to Tim Hortons obligations to close under the arrangement agreement; or
- by Tim Hortons, (i) prior to the time approval by Tim Hortons shareholders is obtained, to permit Tim Hortons to enter into an agreement providing for a “superior proposal” and Tim Hortons immediately prior to or simultaneously with such termination pays to Burger King Worldwide any fees required to be paid to Burger King Worldwide as described below in “—*Termination Fees*” and *Effect of Termination*”, (ii) if the written consent of the Burger King Worldwide stockholders is not duly executed and delivered to Tim Hortons and Burger King Worldwide in accordance with the Burger King Worldwide voting agreement within five business days after the effectiveness of this joint information statement/circular; or (iii) if Burger King Worldwide or any of its affiliates party to the arrangement agreement breaches any of its representations, warranties, covenants or other agreements contained in the arrangement agreement, which breach or failure would render the conditions precedent to Tim Hortons obligations under the arrangement agreement not to be satisfied by the outside date and cannot be cured within that time, and Tim Hortons is not in breach of any of the conditions precedent to Burger King Worldwide’s obligations to close under the arrangement agreement.

Termination Fees

Under the arrangement agreement, Tim Hortons will be required to pay Burger King Worldwide a termination fee of C\$345 million if the arrangement agreement is terminated:

- by Tim Hortons to permit Tim Hortons to enter into an agreement that constitutes a superior proposal;
- by Burger King Worldwide if there has occurred a Tim Hortons adverse recommendation change; or
- (x) (i) by Burger King Worldwide or Tim Hortons if the closing does not occur by the outside date, (ii) by Burger King Worldwide or Tim Hortons if the requisite vote for approval of the arrangement resolution by Tim Hortons shareholders is not obtained at the Tim Hortons special meeting or (iii) by Burger King Worldwide if Tim Hortons breaches any of its representations, warranties, covenants or other agreements contained in the arrangement agreement, if (y) (i) prior to such termination, an

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acquisition proposal for Tim Hortons will have been made public and not withdrawn and (ii) at any time after the execution of the arrangement agreement and prior to the expiration of the twelfth month following such termination, Tim Hortons consummates any transaction in respect to an acquisition proposal for Tim Hortons.

Under the arrangement agreement, Burger King Worldwide will be required to pay Tim Hortons a termination fee of C\$500 million if the arrangement agreement is terminated:

- by Burger King Worldwide or Tim Hortons if the closing has not occurred by the outside date, if all of the conditions precedent to Burger King Worldwide's obligations under the arrangement agreement have been satisfied or waived in writing (other than those conditions that by their nature are to be satisfied at the closing, which conditions would be capable of being satisfied if the closing date were the date of termination) other than the conditions related to receipt of regulatory approvals and absence of orders (but only if the failure of the conditions is due to failure to receive approval under the Investment Canada Act or a law or order pursuant to the Investment Canada Act); or
- by Burger King Worldwide if any governmental authority of competent jurisdiction has issued a law or order or taken any other action restraining, enjoining or otherwise prohibiting the arrangement or the merger and such order or other action has become final and nonappealable (but only in the event the failure of such condition is due to the failure to obtain approval under the Investment Canada Act).

In addition, in the event the arrangement agreement is terminated because Tim Hortons shareholders do not approve the arrangement agreement, Tim Hortons may be required to pay Burger King Worldwide a termination fee in an amount of C\$40 million for reimbursement of certain expenses.

In the event that a termination fee is paid, the payment of such fee shall be the sole and exclusive remedy of the recipient of such fee and its affiliates and shareholders against the payor of such fee for any losses or damages incurred in connection with the arrangement agreement, the transactions and any matter forming the basis for such termination. While the parties to the arrangement agreement may pursue both a grant of specific performance and payment of the termination fee, under no circumstances is any party permitted to receive both a grant of specific performance of its counterparty's obligation to consummate the transactions and any monetary damages (including all or any portion of the termination fee).

Effect of Termination

In the event of a termination as described above, the arrangement agreement will become void and of no effect except for certain sections of the arrangement agreement. Such termination will not relieve any party to the arrangement agreement of any liability for damages resulting from a material, intentional or willful breach of the arrangement agreement.

Expenses

All legal and accounting costs and expenses incurred in connection with the arrangement agreement and the transactions thereunder will be paid by the party incurring such costs and expenses, subject to certain exceptions, including the following:

- fees associated with any filings in connection with required governmental approvals and fees associated with the filing of this joint information statement/circular will be the sole responsibility of Burger King Worldwide;
- Burger King Worldwide will reimburse Tim Hortons for any reasonable out-of-pocket costs (including attorneys' fees) incurred by Tim Hortons in connection with its cooperation with respect to the debt financing; and
- in the event of the commencement of a suit resulting from the failure of Burger King Worldwide or Tim Hortons to pay a termination fee, the party that has failed to pay will pay the other party its reasonable and documented costs and expenses (including reasonable and documented attorneys' fees) in connection with such suit.

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Amendment

The arrangement agreement may, at any time prior to the closing, be amended by action taken by the respective boards of directors of Burger King Worldwide and Tim Hortons without notice or authorization on the part of the Burger King Worldwide or Tim Hortons shareholders, except that after receipt of approval by the Burger King Worldwide or Tim Hortons shareholders, any changes to the amount or form of consideration to be delivered under the arrangement agreement to the Burger King Worldwide or Tim Hortons shareholders, respectively, must be approved by the Burger King Worldwide or Tim Hortons shareholders, respectively. The sections of the arrangement agreement with respect to injunctive relief, governing law, third party beneficiaries, amendments and no recourse may not be modified, waived or terminated by Burger King Worldwide in a manner that is adverse in any respect to a source of debt financing without the prior written consent of such source of debt financing.

Governing Law

The arrangement agreement is governed by and construed in accordance with the laws of the Province of Ontario without giving effect to any choice or conflict of law provision or rule (whether of the Province of Ontario or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the Province of Ontario, except that the provisions in the arrangement agreement which expressly relate to the DGCL (including the approval and effectiveness of the merger) will be construed, performed, governed and enforced in accordance with the DGCL.

Injunctive Relief

Burger King Worldwide and Tim Hortons have acknowledged and agreed, subject to the provisions described under “— *Termination of the Arrangement Agreement*”, that each would be irreparably harmed if any of the provisions of the arrangement agreement are not performed in accordance with their specific terms or are otherwise breached for which money damages would not be an adequate remedy at law. Accordingly, Burger King Worldwide and Tim Hortons will be entitled to an injunction or injunctions and other equitable relief to prevent breaches of the arrangement agreement, without proof of damages or otherwise, and any requirement for the securing or posting of any bond in connection with the obtaining of such injunctive or other equitable relief is waived.

THE PLAN OF ARRANGEMENT

The following is a summary of certain transaction steps and other material terms of the plan of arrangement and is qualified in its entirety by reference to the complete text of the plan of arrangement, which is incorporated into this joint information statement/circular by reference in its entirety and is attached as Annex B to this joint information statement/circular.

The purpose of the plan of arrangement is to facilitate a series of transactions which will occur in a specific sequence and as a consequence of which Amalgamation Sub, an indirect wholly owned subsidiary of Holdings, will acquire all of the common shares of Tim Hortons it does not already own and will then subsequently amalgamate with Tim Hortons.

If approved, the arrangement will become effective at the effective time of the arrangement, which is expected to be at 12:01 a.m., Toronto time, on a date to be determined, which is expected to be as soon as reasonably practical after all of the conditions to the arrangement agreement have been satisfied or waived.

Plan Steps

Pursuant to the terms of the plan of arrangement, commencing at the effective time of the arrangement, the following events or transactions will occur in the following sequence, except where noted otherwise:

- the shareholders rights plan of Tim Hortons will be terminated and will be of no further force or effect;
- the escrowed proceeds from the debt financing of the transactions will be released;
- concurrent with the preceding step, Berkshire will pay to Holdings the consideration payable under the securities purchase agreement and Holdings will issue to Berkshire the preferred shares and warrant issuable pursuant to such agreement;
- transactions are completed in sequence pursuant to securities acquisition agreements and forward contracts that result in the relevant portion of the aggregate of the proceeds received from the debt financing and proceeds received from Berkshire being exchanged for Canadian dollars and contributed to Amalgamation Sub;
- each Tim Hortons common share held by a dissenting Tim Hortons shareholder will be transferred to Amalgamation Sub by the holder thereof, and thereupon each dissenting Tim Hortons shareholder will cease to have any rights as holders of such Tim Hortons common shares other than the rights set out in the plan of arrangement;
- each Tim Hortons deferred stock unit outstanding immediately prior to the effective time of the arrangement will be deemed to be fully vested and Tim Hortons will pay as soon as practicable thereafter each holder of a Tim Hortons deferred stock unit an amount in cash equal to the product of (i) the arrangement mixed consideration value (meaning an amount equal to the sum of (a) C\$65.50 in cash plus (b) the value of 0.8025 Holdings common shares, based on the opening price of a Holdings common share on the TSX for the first trading day immediately following the date of the effective time of the arrangement) multiplied by (ii) the number of Tim Hortons common shares subject to such Tim Hortons deferred stock unit, all in full satisfaction of the obligations of Tim Hortons in respect of the Tim Hortons deferred stock units;
- concurrent with the preceding step, each Tim Hortons performance stock unit outstanding immediately prior to the effective time of the arrangement will be deemed to be fully vested, with performance goals deemed satisfied based on the maximum or highest level achievable under the Tim Hortons performance stock unit, and there shall be disbursed from the TDL RSU Employee Benefit Plan Trust (to the extent Tim Hortons common shares are available to be disbursed) or Tim Hortons will issue to each holder of a Tim Hortons performance stock unit in settlement of such performance stock unit that number of Tim Hortons common shares subject to such Tim Hortons performance stock unit, all in full satisfaction of the obligations of Tim Hortons in respect of the Tim Hortons performance stock units;

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- concurrent with the preceding step, each Tim Hortons restricted stock unit outstanding immediately prior to the effective time of the arrangement will be fully vested, and there shall be disbursed from the TDL RSU Employee Benefit Plan Trust (to the extent Tim Hortons common shares are available to be disbursed) or Tim Hortons will issue to each holder of a Tim Hortons restricted stock unit in settlement of such restricted stock unit that number of Tim Hortons common shares deliverable pursuant to the terms of such Tim Hortons restricted stock unit, all in full satisfaction of the obligations of Tim Hortons in respect of the Tim Hortons restricted stock units;
- each surrendered Tim Hortons stock option will be surrendered and transferred to Tim Hortons in consideration for the issuance of the number of Tim Hortons common shares, rounded down to the nearest whole share, equal in value to the in-the-money value of such Tim Hortons stock option, with the in-the-money value of the Tim Hortons stock option being the amount by which the fair market value of a Tim Hortons common share exceeds the exercise price of the Tim Hortons stock option;
- each Tim Hortons shareholder who has not deposited with the arrangement exchange agent a duly completed election form and letter of transmittal prior to the election deadline, or has otherwise failed to comply with applicable requirements, will be deemed to have elected to receive, in respect of all Tim Hortons common shares held by such holder (each such share, a “no election share”), the arrangement mixed consideration;
- each outstanding Tim Hortons common share (other than any Tim Hortons common share held by Amalgamation Sub) will be transferred to Amalgamation Sub in accordance with the election or deemed election of such holder in exchange for, subject to applicable proration and the treatment of fractional shares, the payment by Amalgamation Sub of (i) the arrangement cash consideration, (ii) the arrangement mixed consideration or (iii) the arrangement shares consideration, as applicable;
- concurrent with the preceding step, in consideration for Holdings delivering, on behalf of Amalgamation Sub, Holdings common shares directly to Tim Hortons shareholders, Amalgamation Sub common shares (the “AS delivered common shares”) with an aggregate fair market value equal to the aggregate fair market value of the Holdings common shares so delivered will be issued to Holdings;
- each Tim Hortons stock option (and its tandem stock appreciation right) that is outstanding immediately prior to the time of this step (other than the surrendered Tim Hortons stock options), whether or not vested, will be exchanged for a Holdings stock option to acquire from Holdings that number of Holdings common shares equal to the product of: (i) the number of Tim Hortons common shares subject to such Tim Hortons stock option immediately prior to the effective time of the arrangement multiplied by (ii) the exchange ratio of 3.0879, provided that the number of Holdings common shares issuable shall be rounded down to the nearest whole number of Holdings common shares, with an exercise price equal to the quotient of: (i) the exercise price per Tim Hortons common share subject to each Tim Hortons stock option divided by (ii) the exchange ratio of 3.0879 (with the aggregate exercise price being rounded up to the nearest whole cent), provided that the in-the-money value of such Holdings stock option immediately after the issuance of such Holdings stock option may not exceed the in-the-money value of the Tim Hortons stock option immediately prior to such issuance;
- the transactions are completed in sequence pursuant to transfer agreements that result in all AS delivered common shares acquired by Holdings as described above being contributed to a limited liability company to be formed under the laws of Delaware as an indirect wholly owned subsidiary of Holdings prior to the date of the effective time of the arrangement;
- at the effective time of the merger, and following the preceding steps, the merger will become effective;
- coincident with the effective time of the merger,
 - Holdings, Partnership and the trustee will execute the voting trust agreement, and
 - Holdings will issue to and deposit with the trustee the special voting share;

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- the stated capital of the Tim Hortons common shares will be reduced to C\$1.00 without any distribution; and
- at 5:00 p.m., Toronto time, on the first business day following the date of the effective time of the arrangement, Amalgamation Sub and Tim Hortons will amalgamate to form a new amalgamated company (which we refer to in this joint information statement/circular as “New Amalco”), and the separate legal existence of Amalgamation Sub will cease without Amalgamation Sub being liquidated or wound up, Amalgamation Sub and Tim Hortons will continue as one company, and the property of Amalgamation Sub (other than Tim Hortons common shares held by Amalgamation Sub and any amounts owing by Tim Hortons to Amalgamation Sub) will become the property of New Amalco.

Deposit of Arrangement Consideration

On or prior to the date of the effective time of the arrangement, Amalgamation Sub will deposit or cause to be deposited with the arrangement exchange agent, the aggregate amount of cash that Tim Hortons shareholders are entitled to receive under the arrangement and Holdings will deposit or cause to be deposited with the arrangement exchange agent evidence of the Holdings common shares in book-entry form that Tim Hortons shareholders are entitled to receive under the arrangement, in each case to be held by the arrangement exchange agent as agent and nominee for Tim Hortons shareholders for distribution to Tim Hortons shareholders in accordance with the provisions of the plan of arrangement.

Extinction of Rights

Any registered Tim Hortons shareholder that immediately prior to the effective time of the arrangement holds Tim Hortons common shares that are exchanged for Holdings common shares pursuant to the arrangement and does not deliver the election form and letter of transmittal and such other additional documents and instruments as the arrangement exchange agent may reasonably require on or prior to the sixth anniversary of the date of the effective time of the arrangement, will cease to have a claim or interest of any kind or nature as a shareholder of Holdings or otherwise. On such date, the cash and Holdings common shares to which the former Tim Hortons shareholder was ultimately entitled will be deemed to have been surrendered to Amalgamation Sub and Holdings respectively in accordance with applicable laws, together with all entitlements to dividends, distributions and interest thereon held for such former shareholder.

Amendments to the Plan

Burger King Worldwide and Tim Hortons may amend, modify and/or supplement the plan of arrangement prior to the effective time of the arrangement, provided that each such amendment, modification and/or supplement must be: (i) set out in writing; (ii) approved by Burger King Worldwide and Tim Hortons in writing, acting reasonably; (iii) filed with the Ontario court and, if made following the Tim Hortons special meeting, approved by the Ontario court; and (iv) communicated to Tim Hortons shareholders if and as required by the Ontario court. Any such amendment, modification or supplement to the plan of arrangement may be proposed by Tim Hortons at any time prior to the Tim Hortons special meeting (provided that Burger King Worldwide will have consented thereto in writing) with or without any other prior notice or communication, and if so proposed and accepted by the persons voting at the Tim Hortons special meeting in the manner required under the interim order, shall become part of the plan of arrangement for all purposes. Any amendment, modification or supplement to the plan of arrangement that is approved or directed by the Ontario court following the Tim Hortons special meeting will be effective only if: (i) it is consented to in writing by each of Burger King Worldwide and Tim Hortons (in each case, acting reasonably); and (ii) if required by the Ontario court, it is consented to by Tim Hortons shareholders, voting in the manner directed by the Ontario court. Any amendment, modification or supplement to the plan of arrangement may be made following the effective date of the arrangement unilaterally by Amalgamation Sub, provided that it concerns a matter which is solely of a ministerial and administrative nature required to better give effect to the ministerial and administrative implementation of the plan of arrangement and is not adverse to the interests of any former Tim Hortons shareholder or former Tim Hortons optionholder.

Paramountcy

From and after the effective time of the arrangement: (i) the plan of arrangement will take precedence and priority over any and all Tim Hortons common shares and Tim Hortons stock options (and its tandem stock appreciation right) issued prior to the effective time of the arrangement, (ii) the rights and obligations of the registered holders of Tim Hortons common shares, Tim Hortons stock options (and its tandem stock appreciation right), Tim Hortons deferred stock units, Tim Hortons performance stock units and Tim Hortons restricted stock units, and Tim Hortons, Holdings, Amalgamation Sub, the arrangement exchange agent and any transfer agent or other depositary therefor in relation thereto, shall be solely as provided for in the plan of arrangement, and (iii) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to any Tim Hortons common shares, Tim Hortons stock options (and its tandem stock appreciation right), Tim Hortons deferred stock units, Tim Hortons performance stock units and Tim Hortons restricted stock units will be deemed to have been settled, compromised, released and determined without liability except as set forth in the plan of arrangement.

LOCK-UP AGREEMENTS WITH TIM HORTONS DIRECTORS

The following is a summary of the material provisions of the Lock-Up Agreements entered into by Burger King Worldwide and certain Tim Hortons shareholders (the “lock-up agreements”), and is qualified in its entirety by reference to the full text of the lock-up agreements, a template form of which is attached as Exhibit 10.4 to this joint information statement/circular.

In connection with entering into of the arrangement agreement, Burger King Worldwide entered into lock-up agreements with each of the directors of Tim Hortons. As of August 26, 2014, Tim Hortons directors collectively owned less than 1% of the Tim Hortons common shares. Each of the Tim Hortons directors has agreed to vote or to cause to be voted all Tim Hortons common shares beneficially owned by such Tim Hortons directors as follows:

- at the Tim Hortons special meeting (or any adjournment or postponement thereof) in favor of the arrangement and any other matter necessary for the consummation of the transactions; and
- against any acquisition proposal (as defined above in “*The Arrangement Agreement*”) and/or any matter that could reasonably be expected to materially delay, prevent or frustrate the successful completion of the transactions at any meeting of Tim Hortons shareholders called for the purpose of considering same.

Restrictions on Tim Hortons Common Shares held by the Tim Hortons Directors

Each of the Tim Hortons directors has agreed to certain transfer restrictions for his or her Tim Hortons common shares. In particular, prior to the termination of the lock-up agreements, each of the Tim Hortons directors will:

- not option for sale, offer, sell, assign, transfer, exchange, dispose of, pledge, encumber, grant a security interest in, hypothecate or otherwise convey, or enter into any forward sale, repurchase agreement or other monetization transaction with respect to, any of his or her Tim Hortons common shares, or any right or interest therein (legal or equitable), to any person or agree to do any of the foregoing, other than pursuant to the arrangement agreement;
- except to the extent contemplated by the lock-up agreements, not grant any proxy, power of attorney or other right to vote his or her Tim Hortons common shares, or enter into any voting agreement, voting trust, vote pooling or other agreement with respect to the right to vote, call meetings of Tim Hortons shareholders or give consents or approval of any kind with respect to any of his or her Tim Hortons common shares or agree to do any of the foregoing; and
- not vote or cause to be voted any of his or her Tim Hortons common shares in respect of any proposed action by Tim Hortons in a manner which might reasonably be expected to prevent or materially delay the successful completion of the transactions.

Termination of the Lock-Up Agreements

Each lock-up agreement will terminate upon the earliest of:

- the date upon which Burger King Worldwide and each Tim Hortons director mutually agree to terminate each such lock-up agreement;
- the termination of the arrangement agreement in accordance with its terms;
- the effective time of the arrangement; or
- the outside date (taking into account any extensions thereof contemplated by the arrangement agreement). Each of the Tim Hortons directors and Burger King Worldwide may also terminate each such lock-up agreement upon written notice under certain other circumstances as further described in the lock-up agreements.

BURGER KING WORLDWIDE SHAREHOLDER VOTING AGREEMENT AND WRITTEN CONSENT OF CERTAIN BURGER KING WORLDWIDE STOCKHOLDERS

In connection with the arrangement agreement, on August 26, 2014, at the request of Tim Hortons, Tim Hortons entered into a voting agreement with 3G, a holder of approximately 243,858,915 of shares of Burger King Worldwide common stock, which represents a sufficient number of shares of Burger King Worldwide common stock to approve the merger and adopt the arrangement agreement. Pursuant to the voting agreement, 3G agreed to deliver a written consent approving the merger and adopting the arrangement agreement within five days following the effective time of the registration statement of which this joint information statement/circular forms a part registering the Holdings common shares, of which this joint information statement/circular is a part, to be issued in connection with the transactions. Pursuant to the voting agreement, 3G also granted to Tim Hortons an irrevocable proxy to secure 3G's obligations under the voting agreement. Also pursuant to the voting agreement, 3G agreed that it would make an exchangeable election in connection with the merger.

The foregoing description of the voting agreement is not complete and is qualified in its entirety by reference to the voting agreement and form of written consent, which are filed as Exhibit 10.1 and Annex J, respectively, hereto and are incorporated herein by reference.

The merger requires approval by a majority of the outstanding shares of Burger King Worldwide common stock. Each share of Burger King Worldwide common stock is entitled to one vote. As discussed above, 3G, which controls approximately 69.22% of the total voting power of Burger King Worldwide's outstanding shares of common stock has agreed to deliver a written consent approving the merger and adopting the arrangement agreement within five days following the effective time of the registration statement of which this joint information statement/circular is a part. Accordingly, no vote is required on your part. Therefore, Burger King Worldwide will not need to hold a special meeting and no further action is required on the part of Burger King Worldwide stockholders.

POST-TRANSACTIONS ORGANIZATIONAL STRUCTURE

Organizational Structure

Burger King Worldwide agreed to acquire Tim Hortons pursuant to the arrangement agreement in a transaction that will result in Burger King Worldwide and Tim Hortons being indirect subsidiaries of Holdings and Partnership. The transactions will be effectuated in two primary steps. In the first step, Amalgamation Sub will acquire Tim Hortons pursuant to a plan of arrangement under Canadian law, which will result in Tim Hortons becoming an indirect subsidiary of both Holdings and Partnership. In the second step, Merger Sub will merge with and into Burger King Worldwide, with Burger King Worldwide as the surviving corporation in the merger, which will result in Burger King Worldwide becoming an indirect subsidiary of both Holdings and Partnership. Holdings, which will be renamed prior to the closing, will be the general partner of Partnership and will own a majority interest in Partnership (based on vote and value) as described below, with the balance of the partnership units of Partnership initially being held by the holders of Burger King Worldwide common stock prior to the effective time of the merger.

The following is an organizational chart showing the intercorporate relationships between Tim Hortons and its material subsidiaries immediately before the commencement of the transactions:

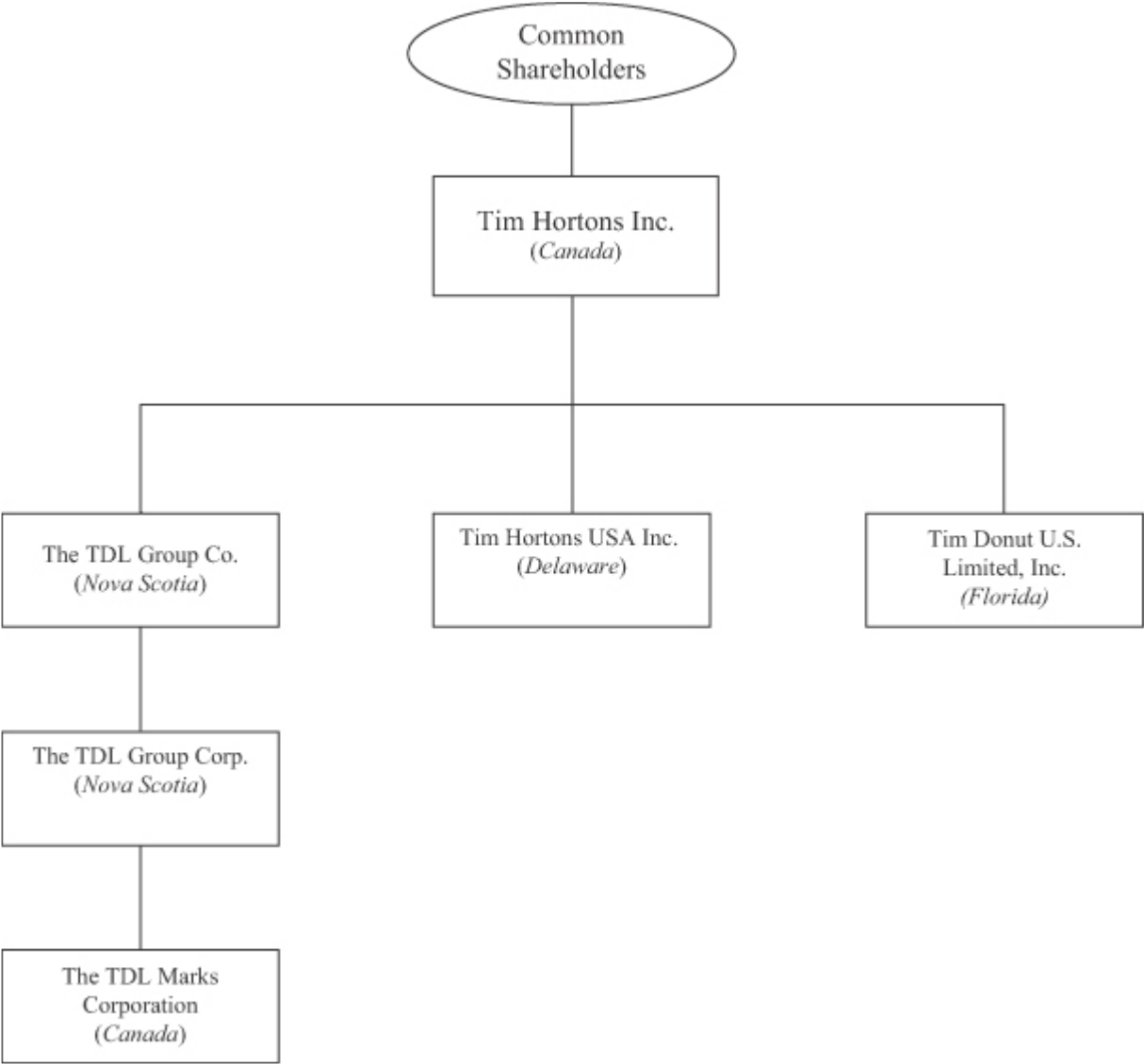


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The following is an organizational chart showing the intercorporate relationships between Burger King Worldwide and its material subsidiaries immediately before the commencement of the transactions:

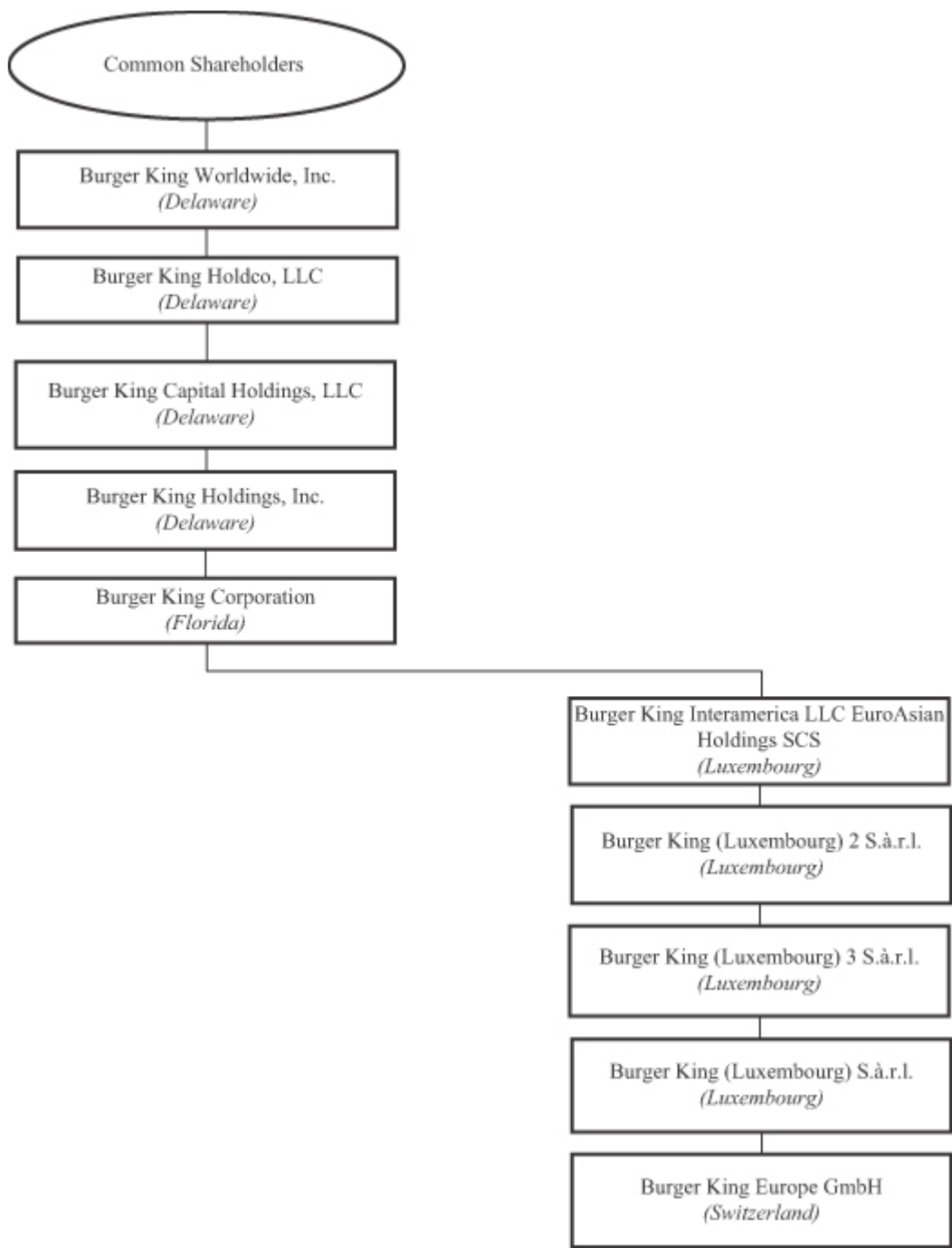
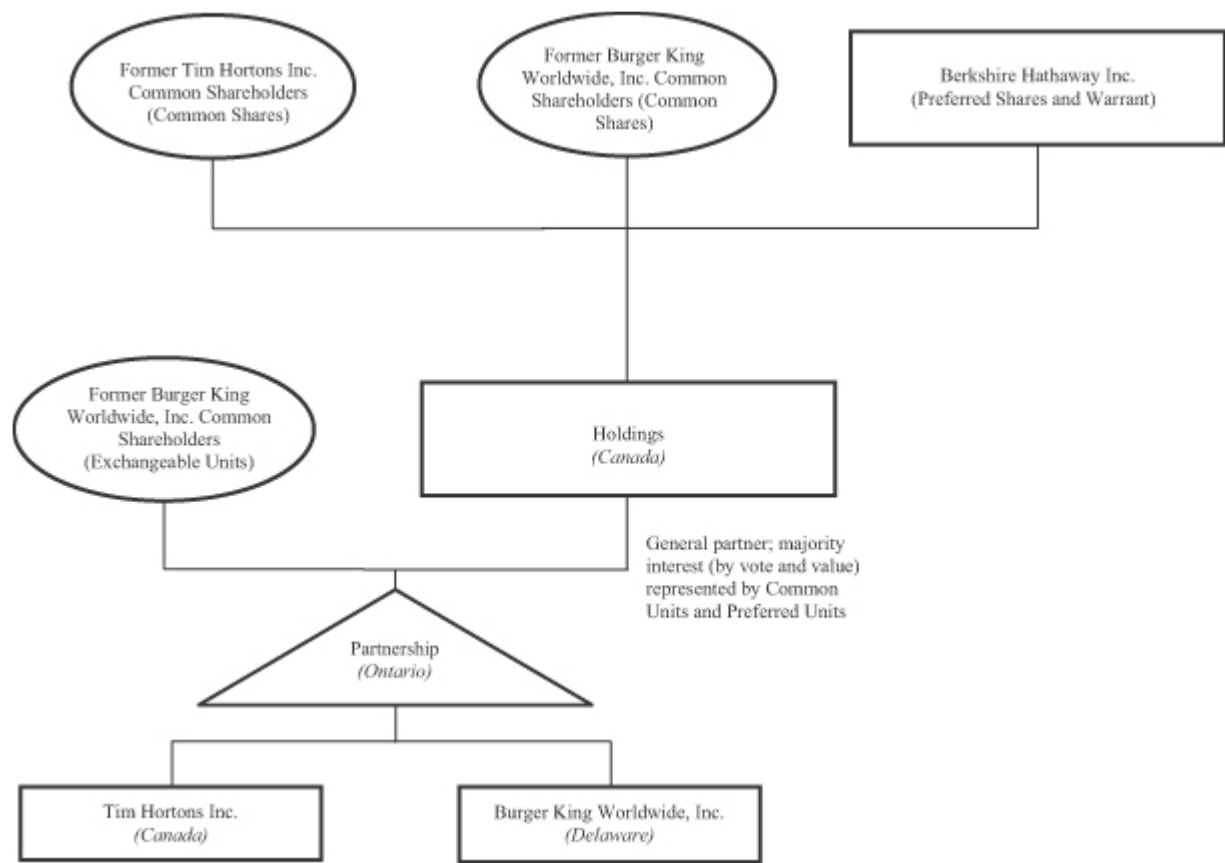


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The following is an organizational chart showing the anticipated intercorporate relationships of Holdings and its material subsidiaries immediately following the completion of the transactions:



Unless otherwise indicated, each subsidiary indicated on the above charts is wholly-owned. For purposes of the above charts, certain subsidiaries were omitted that did not constitute a material subsidiary. All material subsidiaries of Tim Hortons and Burger King Worldwide existing immediately before the commencement of the transactions will remain in existence following completion of the transactions as indirect subsidiaries of Holdings and Partnership.

Corporate Governance and Management of Holdings

Board of Directors and Committees

Following the consummation of the arrangement and the merger and in accordance with the arrangement agreement, Holdings’ board of directors is expected to be comprised of (i) each of the eight individuals on the Burger King Worldwide board of directors as of the date hereof (being Messrs. Alexandre Behring, Bernardo Hees, Martin E. Franklin, Paul J. Fribourg, Alan Parker, Carlos Alberto da Veiga Sicupira, Alexandre Van Damme and Roberto Thompson) and (ii) three of the 12 individuals on the Tim Hortons board of directors as of the date hereof to be designated by Tim Hortons prior to the closing, one of whom will be Mr. Cairn. Each of the Tim Hortons designees will be a “resident Canadian” for purposes of the CBCA and at least two of them will qualify as “independent” under U.S. and Canadian securities laws and the rules of the NYSE and the TSX. It is expected that Messrs. Franklin, Fribourg, Parker and Van Damme will also qualify as “independent” under U.S. and Canadian securities laws and the rules of the NYSE and the TSX.

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The corporate governance standards under Canadian best practices guidelines and related disclosure requirements are very similar to the U.S. standards, including the rules of the NYSE. Below are summaries of the expected role of Holdings' board of directors and the purpose of each proposed committee of Holdings' board of directors.

Board of Directors

The board of directors will act as the ultimate decision-making body of Holdings and will advise and oversee management, who will be responsible for the day-to-day operations and management of Holdings. The board will review Holdings' financial performance on a regular basis at board meetings and through periodic updates. The board will review Holdings' long-term strategic plans and the most significant financial, accounting and risk management issues facing the company from time to time.

In fulfilling his or her role, each director will be expected to (i) act honestly and in good faith with a view to the best interests of Holdings and (ii) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

A majority of the number of directors of Holdings will constitute a quorum for the transaction of business at any meeting of directors. Questions arising at any meeting of directors will be decided by a majority of votes. In case of an equality of votes, the chair of the meeting will not have a second or casting vote in addition to the chair's original vote as a director.

Upon completion of the transactions, the Holdings board of directors will be comprised of eleven directors. Three directors of Holdings will be designated by Tim Hortons prior to the closing of the transactions. Mr. Caira has been selected by the Tim Hortons board of directors as one of Tim Hortons designees, and he is expected to serve as vice chairman of Holdings. Each of the other two director designees will be a Canadian resident and must satisfy the independence requirements of the TSX and under Canadian securities laws. The remaining eight directors will be current directors of Burger King Worldwide. For information on each of the current directors of Tim Hortons and Burger King, please see Burger King Worldwide's Annual Report on Form 10-K for the year ended December 31, 2013 as filed with the SEC and Tim Hortons Management Proxy Circular dated March 12, 2013 as filed with the SEC and SEDAR, and incorporated by reference into this joint information statement/circular. See "*The Transactions—Recommendation by the Tim Hortons Board of Directors*" for undertakings of Burger King Worldwide related to the directors of Holdings following the closing of the transactions.

Information concerning the historical compensation paid by Tim Hortons to its directors, three of whom are expected to be directors of Holdings, is contained in Tim Hortons proxy circular for its 2014 annual meeting of stockholders under the heading "Director Compensation" beginning on page 77 thereto and is incorporated herein by reference. Information concerning the historical compensation paid by Burger King Worldwide to its directors, all of whom are expected to be directors of Holdings, is contained in Burger King Worldwide's proxy statement for its 2014 annual meeting of shareholders under the heading "Director Compensation" beginning on page 11 thereto and is incorporated herein by reference.

Audit Committee

The purpose of the Holdings audit committee will be to assist the Holdings board in its oversight of: (i) the quality and integrity of the financial statements of Holdings and its subsidiaries and related disclosure; (ii) the qualifications, independence and performance of Holdings' independent auditor; (iii) the performance of Holdings' internal audit function; (iv) Holdings' systems of disclosure controls and procedures, and internal controls over financial reporting; and (v) compliance by Holdings and its subsidiaries with all legal and regulatory requirements. In accordance with National Instrument 52-110—Audit Committees, each member of the audit committee will be independent and financially literate. The audit committee will also be subject to the independence standards set forth under the NYSE listing and the independence standards mandated by section 301 of the Sarbanes-Oxley Act and those set forth in Rule 10A-3 of the Exchange Act.

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Compensation Committee

The purpose of the Holdings compensation committee will be primarily for reviewing and approving salaries, incentives and other forms of compensation for executive officers and directors and to administer incentive compensation and benefit plans provided for employees of Holdings and its subsidiary entities. In particular, it is anticipated that the compensation committee will be responsible for: (i) overseeing and setting compensation and benefits policies generally; (ii) evaluating the performance of Holdings' chief executive officer and performance of employees who report directly to the chief executive officer; (iii) overseeing and setting compensation for the Holdings chief executive officer, each direct report to the chief executive officer and the members of the Holdings board of directors; and (iv) reviewing Holdings' management succession planning.

Nominating and Governance Committee

The purpose of the Holdings nominating and governance committee will be to identify and to recommend to the Holdings board of directors individuals qualified to serve as directors of Holdings and to advise the Holdings board of directors with respect to its composition, governance practices and procedures.

Conflicts Committee

The conflicts committee will be a committee composed entirely of "independent directors" (as such term is defined in the partnership agreement of Partnership) to be established in order to consent to, approve or direct various enumerated actions on behalf of Holdings (in its capacity as the general partner of Partnership) in accordance with the terms of the partnership agreement of Partnership, which we refer to in this joint information statement/circular as the "Holdings conflicts committee".

Director Independence

Under the rules of the NYSE, a listed company must generally have a majority of directors that meet the "independence" criteria set forth under the NYSE listing standards. Under the NYSE rules, no director qualifies as "independent" unless the board of directors affirmatively determines that the director has no material relationship with the listed company (either directly or as a partner, shareholder or officer of an organization that has a relationship with the company). After the consummation of the transactions, the majority of Holdings' board of directors is anticipated to be "independent" for purposes of the NYSE rules.

In Canada, NP 58-201 provides guidance on corporate governance practices, which reflect best practices established by the Canadian Securities Administrators but are not intended to be prescriptive. NP 58-201 provides, among other things, that (i) the board of directors of a reporting issuer should have a majority of independent directors; (ii) the chair of the board of directors should be an independent director; (iii) the board of directors should appoint a nominating committee composed entirely of independent directors; and (iv) the board of directors should appoint a compensation committee composed entirely of independent directors. NI 58-101 requires a company to disclose the extent to which it complies with the best practices set forth in NP 58-201. As a result, Holdings will be required to either "comply or explain" with respect to the standards of director independence established under Canadian securities laws.

Following the consummation of the arrangement and the merger, it is anticipated that the chairman of Holdings will not be "independent" for purposes of Canadian securities laws and the listing rules of the TSX, and Holdings' nominating and corporate governance and compensation committees will not be composed solely of independent directors. Accordingly, Holdings will not be in compliance with certain governance best practices set forth in NP 58-201. Nevertheless, Holdings believes that its directors will be able to exercise sufficient independence in making its decisions and intends to establish processes and practices to ensure such independent decision making is achieved. In particular, Holdings expects, among others, that (i) independent directors on the Holdings board of directors will regularly hold in camera sessions at the end of regularly scheduled board of directors meeting, or

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separate meetings, in each case where non-independent directors and members of management are not present; (ii) the board of directors will have an effective and transparent process to refer any actual or potential conflicts of interest involving the non-independent directors to the independent directors; and (iii) the conflicts committee (comprised entirely of “independent directors” as defined under the partnership agreement of Partnership) will be required to consent to, approve and/or direct a number of actions under the partnership agreement of Partnership where a real or potential conflict of interest could exist or arise as between Holdings, Partnership or the unitholders thereof.

It is expected that Holdings will regularly evaluate the composition of its board of directors, board committees and other policies as part of its ongoing commitment to best practices in corporate governance, and will actively engage in discussion with its shareholders on corporate governance issues in general, and monitor evolving market practices regarding director independence in particular, and will continue to comply with all applicable TSX policies and Canadian securities laws in connection with this matter.

Management

Following consummation of the arrangement and the merger, it is anticipated that Daniel Schwartz will serve as the Chief Executive Officer of Holdings, and the remainder of the officers of Holdings will be announced prior to closing.

Messrs. Caira and Schwartz are expected to continue as Tim Hortons and Burger King Worldwide CEOs, respectively, in the transition period prior to the consummation of the transactions, and additional executives in the new global company structure are expected to be identified and announced at or around the time of closing.

For information on Messrs. Caira and Schwartz, as well as the other executive officers of each of Tim Hortons and Burger King Worldwide, please see Tim Hortons Annual Report on Form 10-K for the year ended December 29, 2013 as filed with the SEC and SEDAR and Burger King Worldwide’s Annual Report on Form 10-K for the year ended December 31, 2013 as filed with the SEC, which are incorporated by reference into this joint information statement/circular.

Information concerning the historical compensation paid by Tim Hortons to its executive officers, some of whom are expected to be the executive officers of Holdings, is contained in Tim Hortons proxy circular for its 2014 annual meeting of stockholders under the heading “Compensation Discussion and Analysis” beginning on page 43 thereto and is incorporated herein by reference. Information concerning the historical compensation paid by Burger King Worldwide to its executive officers, some of whom are expected to be the executive officers of Holdings, is contained in Burger King Worldwide proxy statement for its 2014 annual meeting of stockholders under the heading “Compensation Discussion and Analysis” beginning on page 18 thereto and is incorporated herein by reference. Following the proposed transactions, it is expected that a compensation committee of Holdings will be formed, and that such committee will oversee and determine the compensation of the chief executive officer and other executive officers of Holdings and evaluate and determine the appropriate executive compensation philosophy and objectives for Holdings.

Headquarters

Following closing, Tim Hortons current headquarters in Oakville, Ontario will continue to be Tim Hortons headquarters and the global home of the flagship “TIM HORTONS” brand, and Burger King Worldwide’s current headquarters in Miami, Florida will continue to be Burger King Worldwide’s headquarters and the global home of the flagship “BURGER KING” brand.

Corporate Governance of Partnership

Following consummation of the transactions, Holdings will be the sole general partner of Partnership and will have the exclusive right, power and authority to manage, control, administer and operate the business and

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affairs and to make decisions regarding the undertaking and business of Partnership, subject to the terms of the partnership agreement of Partnership and applicable laws. Further information regarding Partnership and the partnership agreement can be found at “—Partnership Agreement” of this joint information statement/circular. Further information regarding the Holdings board of directors and related governance considerations can be found at “—Corporate Governance and Management of Holdings” of this joint information statement/circular.

Partnership Agreement

The following is a summary of the material provisions set forth in the partnership agreement in the form included in this joint information statement/circular as Annex F, to be entered into between Holdings (the “General Partner”), as the general partner of Partnership, 8997896 Canada Inc., a corporation incorporated under the laws of Canada (the “Initial Limited Partner”), as the initial limited partner of Partnership and each person who is admitted to Partnership as a limited partner in accordance with the provisions of the partnership agreement (the “Limited Partners” and, collectively, the “Partners”), which partnership agreement will amend and restate the existing partnership agreement of Partnership and come into effect immediately prior to filing of the articles of arrangement and in connection with the closing of the transactions.

Because this is a summary of the partnership agreement, it does not contain all of the information about the Partnership. For more complete information, you should read the partnership agreement itself, including the schedules thereto, which is included in this joint information statement/circular as Annex F. The following summary is qualified by reference thereto.

Duration

Partnership has perpetual existence and will continue as a limited partnership until and unless Partnership is terminated or dissolved in accordance with the partnership agreement.

Management: The General Partner

Holdings is the sole General Partner of Partnership and will manage all of Partnership’s operations and activities in accordance with the partnership agreement. Holdings has the capacity and authority to act as a general partner and covenants to act honestly, in good faith, and in the best interests of Partnership in exercising its powers and carrying out its duties under the partnership agreement.

Subject to the terms of the partnership agreement and the Ontario Limited Partnerships Act, the General Partner has the full and exclusive right, power and authority to manage, control, administer and operate the business and affairs and to make decisions regarding the undertaking and business of Partnership. Among other things, the General Partner is empowered to negotiate, execute and perform all agreements, conveyances or other instruments on behalf of Partnership, and to mortgage, charge or otherwise create a security interest over any or all of the property of Partnership or its subsidiaries, and to sell property subject to such a security interest.

The partnership agreement provides that, where the General Partner is granted discretion under the partnership agreement in managing Partnership’s operations and activities, the General Partner shall be entitled to consider only such interests and factors as it desires, including its own interests and shall have no duty or obligation (fiduciary or otherwise) to give any consideration to any interest of, or factors affecting, Partnership, and will not be subject to any other standards imposed by the partnership agreement, any other agreement, the Ontario Limited Partnerships Act or any other law.

Despite the foregoing, the General Partner will only be able to take certain actions (as set forth in the partnership agreement) if the same are approved, consented to or directed by the Holdings conflicts committee. The Holdings conflicts committee will be a committee of the board of directors of Holdings (as the General Partner) composed entirely of one or more “independent directors”, meaning those members of the board of

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directors of Holdings who are not employees, officers, managers, partners or Affiliates of Holdings or any of its Affiliates (with 3G, 3G Capital and their respective affiliates, for the avoidance of doubt, acknowledged to be affiliates of Holdings as of the effective date of the partnership agreement), and who have been determined to be independent directors of Holdings by the board of directors of Holdings, including without limitation pursuant to the listing rules of any national securities exchange on which any shares, units or other interests of either Holdings or Partnership are then listed, the Exchange Act and applicable Canadian securities laws.

Purpose of Partnership

The purpose of Partnership is (i) to acquire and hold interests in the shares of the corporations to be acquired by Partnership pursuant to the transactions contemplated in the arrangement agreement, and, subject to the approval of the General Partner, interests in any other persons; (ii) to engage in any activity related to the capitalization and financing of Partnership's interests in such corporations and other persons; and (iii) to engage in any activity that is in furtherance of the foregoing, is approved by the General Partner and that lawfully may be conducted by a limited partnership organized under the Ontario Limited Partnerships Act and the partnership agreement.

Capital Structure of Partnership and Holdings

Aside from nominal initial partnership interests issued on formation of Partnership, upon the closing of the transactions the capital of Partnership shall initially consist of three classes of units: the interest of the General Partner is to be represented by common units and preferred units, with the number of issued Partnership common units and Partnership preferred units immediately following closing of the transactions to be equal to the respective number of Holdings common shares and Holdings preferred shares. The interests of the Limited Partners will be represented by Class B exchangeable limited partnership units ("exchangeable units") issued to former Burger King Worldwide stockholders pursuant to the merger. For more information on the exchangeable units, see "*— Description of the Partnership Exchangeable Units*".

When the General Partner issues Holdings common shares or Holdings preferred shares, it will contribute the net proceeds to Partnership as a capital contribution on account of its Partnership common units or Partnership preferred units, respectively. In the event that a new class of shares in the capital of Holdings is created, the General Partner will create a corresponding new class of partnership units that has corresponding distribution rights to such new class of shares and will cause Partnership to issue new units of such class to Holdings. The partnership agreement also requires Holdings to contribute the net proceeds from the issuance of such shares to Partnership in exchange for such units.

If Holdings proposes to redeem, repurchase or otherwise acquire any Holdings common shares for cash, the partnership agreement requires Partnership, immediately prior to such redemption, repurchase or acquisition, to make a distribution to Holdings on the common units in an amount sufficient for Holdings to fund such redemption, repurchase or acquisition, as the case may be. If Holdings redeems, repurchases or otherwise acquires any preferred shares for cash, Partnership shall, immediately prior to such redemption, repurchase or acquisition, make a distribution to Holdings on its preferred units in an amount sufficient for Holdings to fund such redemption, repurchase or acquisition, as the case may be.

The partnership agreement also provides that, so long as any exchangeable units (other than those held by Holdings or its subsidiaries) are outstanding, Holdings will not:

- issue or distribute to all or substantially all the holders of Holdings common shares:
- Holdings common shares (or securities exchangeable for or convertible into or carrying rights to acquire Holdings common shares) by way of a dividend or other distribution (other than to holders of Holdings common shares who exercise an option to receive those securities in lieu of receiving a cash dividend);

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- rights, options or warrants to subscribe for or purchase any Holdings common shares (or securities exchangeable for or convertible into or carrying rights to acquire Holdings common shares);
- other securities of Holdings (other than shares convertible into or exchangeable for or carrying the rights to acquire Holdings common shares);
- rights, options or warrants (other than as referred to above);
- evidences of indebtedness;
- assets of Holdings;
- subdivide, redivide or change the then-outstanding Holdings common shares into a greater number of shares;
- reduce, combine, consolidate or change the then-outstanding Holdings common shares into a lesser number of such shares; or
- reclassify or otherwise change the Holdings common shares or effect an amalgamation, merger, reorganization or other transaction affecting Holdings common shares,

unless the same or an equitably equivalent issuance, distribution or change, as the case may be, to or in the rights of the holders of, the exchangeable units is made simultaneously. Holdings will ensure that the record date for any of the foregoing events (or the effective date if there is no record date) is the same with respect to both the exchangeable units and the Holdings common shares and is not less than five business days after the date that Holdings announces the event. The General Partner will determine, in good faith with the prior approval of the Holdings conflict committee, “equitable equivalence” for these purposes, and its determination, based upon the factors specified in the partnership agreement, will be conclusive and binding.

In the event that any other change is effected in the share capital of Holdings, the General Partner is required to take all actions as are necessary so that the economic rights of the holders of the exchangeable units shall be proportionate to their percentage interest in Partnership, with such percentage interest being determined based on the number of exchangeable units outstanding relative to the number of Holdings common shares outstanding.

Except as described above, the partnership agreement authorizes the General Partner to cause Partnership to issue additional units on any terms and conditions of offering and sale as the General Partner, in its discretion, may determine provided that except as permitted in the partnership agreement, no additional partnership units will be issued to Holdings. Unless otherwise determined by the General Partner, no person or entity shall have pre-emptive, preferential or any other similar right with respect to the issuances of any interest in Partnership.

Exchangeable Units: Exchange Mechanism

After the one year anniversary of the merger, a holder of exchangeable units will have the right to require Partnership to exchange any or all of the holder’s exchangeable units. If a holder of exchangeable units exercises this right, Partnership will repurchase for cancellation each exchangeable unit submitted for exchange in consideration for either one Holdings common share or a cash amount equal to the exchangeable units cash amount, at the sole discretion of the General Partner (subject to the consent of the Holdings conflicts committee in certain circumstances). See “— *Description of the Partnership Exchangeable Units—Optional Exchange Right* ”.

Additional Units; No Preemptive Rights

Except as described above, the partnership agreement authorizes the General Partner to cause Partnership to issue additional units on any terms and conditions of offering and sale as the General Partner, in its discretion, may determine. Unless otherwise determined by the General Partner in its sole discretion with the prior approval of the Holdings conflicts committee, no person or entity shall have pre-emptive, preferential or any other similar right with respect to the issuances of any interest in Partnership.

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Transfer of Units

Units of Partnership are fully transferable. Upon the transfer of any units of Partnership, the transferee will be admitted as a Limited Partner with respect to the transferred units and will be deemed to have agreed to be bound by the terms of the partnership agreement.

The partnership agreement requires Holdings, as long as any outstanding exchangeable units are owned by any person other than Holdings or any of its subsidiaries, and subject to the right of Partnership to effect a mandatory exchange of all outstanding exchangeable units, to use its commercially reasonable efforts to maintain a listing for such exchangeable units on the TSX, the NYSE or another national securities exchange.

Power of Attorney

Each Limited Partner, including those persons who become Limited Partners in connection with receiving any exchangeable units, automatically and irrevocably appoints the General Partner, with full power of substitution, as that Limited Partner's agent to execute and file documents or instruments required for, among other things, but subject in each case to the other provisions of the partnership agreement, continuance, dissolution, liquidation or termination of Partnership. Each Limited Partner also agrees to be bound by any representations or actions made or taken by the General Partner pursuant to this power of attorney, and waives any and all defences which may be available to contest or disaffirm the action of the General Partner.

Capital Contributions

Following the issuance of the exchangeable units to the Limited Partners pursuant to the merger, the Limited Partners will not be required to make further contributions to Partnership.

The General Partner is not personally liable for the return of any capital contribution made by a Limited Partner to Partnership.

Limited Liability of the Limited Partners

Subject to the provisions of the Ontario Limited Partnerships Act and of similar legislation in other jurisdictions of Canada: (a) the liability of each Limited Partner for the debts, liabilities and obligations of Partnership will be limited to the Limited Partner's capital contribution, plus the Limited Partner's share of any undistributed income of Partnership; and (b) following payment of a Limited Partner's capital contribution, the Limited Partner will not be liable for any further claims or assessments or be required to make further contributions to Partnership, except that, where a Limited Partner has received the return of all or part of that Limited Partner's capital contribution, the Limited Partner is nevertheless liable to Partnership or, where Partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of Partnership to all creditors who extended credit or whose claims otherwise arose before the return of the capital contribution. A Limited Partner holds as trustee for the limited partnership any money or other property that is paid or conveyed to the Limited Partner on account of the Limited Partner's contribution that is made contrary to the Ontario Limited Partnerships Act.

Limitation on Authority of the Limited Partners and Limited Liability

The partnership agreement states that a Limited Partner (in its capacity as a Limited Partner) may not do any of the following:

- take part in the administration, control, management or operation of the business of Partnership or transact business on behalf of Partnership;
- execute any document that purports to bind another Partner or Partnership;
- hold itself out as having the power or authority to bind another Partner or Partnership;

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- undertake any obligation or responsibility on behalf of another Partner or Partnership;
- bring any action for partition or sale or file any lien or charge with respect to Partnership's property; or
- compel or seek a partition, judicial or otherwise, of any of the assets of Partnership distributed or to be distributed to the General Partner and the Limited Partners in kind in accordance with the partnership agreement.

The Ontario Limited Partnerships Act also stipulates that any Limited Partner that takes part in the control of the business of a partnership loses its limited liability status, and may be personally liable for the debts and obligations of Partnership.

The partnership agreement provides that the General Partner will indemnify each Limited Partner for all liabilities incurred by the Limited Partner if limited liability status is lost due to the negligence of the General Partner in performing its duties and obligations under the partnership agreement.

Offers for Units or Shares

The partnership agreement contains provisions to the effect that if a take-over bid is made for all of the outstanding exchangeable units and not less than 90% of the Partnership exchangeable units (other than units of Partnership held at the date of the take-over bid by or on behalf of the offeror or its associates or associates) are taken up and paid for by the offeror, the offeror will be entitled to acquire the exchangeable units held by unitholders who did not accept the offer on the terms offered by the offeror.

The partnership agreement further provides that for so long as exchangeable units remain outstanding, (i) Holdings will not propose or recommend a formal bid for Holdings common shares, and no such bid will be effected with the consent or approval of Holdings board of directors, unless holders of exchangeable units are entitled to participate in the bid to the same extent and on an equitably equivalent basis as the holders of Holdings common shares, and (ii) Holdings will not propose or recommend a formal bid for exchangeable units, and no such bid will be effected with the consent or approval of Holdings board of directors, unless holders of Holdings common shares are entitled to participate in the bid to the same extent and on an equitably equivalent basis as the holders of exchangeable units. A holder of exchangeable units will not be entitled to exchange its exchangeable units into Holdings common shares pursuant to the exchange right (described below under "*Optional Exchange Right*") prior to the one year anniversary of the date of the effective time of the merger. As a result, if a bid with respect to Holdings common shares was made in that one year period, a holder of exchangeable units could not participate in that bid unless it was proposed or recommended by Holdings or its board of directors or was otherwise effected with the consent or approval of Holdings board of directors.

Canadian securities regulatory authorities may intervene in the public interest (either on application by an interested party or by staff of a Canadian securities regulatory authority) to prevent an offer to holders of Holdings common shares, preferred shares or exchangeable units being made or completed where such offer is abusive of the holders of one of those security classes that are not subject to that offer.

Distributions

Subject to the provisions set forth in the partnership agreement, the General Partner will cause distributions to be made by Partnership as follows: (i) if a dividend has been declared and is payable in respect of a Holdings preferred share, Partnership will make a distribution in respect of the preferred units in an amount equal to the aggregate amount of dividends or distributions payable in respect of the preferred shares, and (ii) if a dividend has been declared and is payable in respect of a Holdings common share, Partnership will make a distribution in the same amount in respect of each exchangeable unit and will make a distribution in respect of the Partnership common units in an amount equal to the aggregate amount of dividends or distributions payable in respect of the Holdings common shares.

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If a dividend of additional Holdings common shares is made to the holders of Holdings common shares, then Partnership shall issue to each holder of exchangeable units, in respect of each exchangeable unit held by such holder, a number of additional exchangeable units equal to the number Holdings common shares distributed to each holder of Holdings common shares.

In no case will Partnership be required to make a distribution if such distribution would violate the Ontario Limited Partnerships Act or any other applicable law.

The General Partner may make further cash distributions to Holdings in order to fund repurchases, redemptions or acquisitions of Holdings common shares and in order to fund expenses or other obligations incurred by Holdings as a consequence of its role as the General Partner, including, in amounts required for Holdings to pay any tax liabilities, operating or administrative costs, customary indemnification obligations of Holdings owing to officers, directors and other persons, expenses incurred for director and officer insurance, expenses incurred as a result of litigation, expenses related to any securities offering, investment or acquisition transaction, any judgments, settlements, penalties or fines and other fees related to the maintenance and existence of the General Partner. However, none of such distributions may be used to pay or facilitate dividends or distributions on the Holdings common shares.

Amendment of the Partnership Agreement

Generally

Subject to the right of the General Partner to amend the partnership agreement and to the rights of the exchangeable units, the partnership agreement may only be amended in writing with the consent of a majority of the holders of the Partnership common units and with the consent of the General Partner (following approval by the conflicts committee). However, any amendment seeking to convert Partnership into a general partnership would require unanimous written consent of the Partners. Further, no amendment may give anyone other than the General Partner the right to dissolve Partnership.

Despite the power of Holdings to amend the partnership agreement, either in its capacity as the General Partner or as the holder of all of the outstanding Partnership common units, the partnership agreement requires the approval of: (a) the holders of the exchangeable units, the holders of a majority of the outstanding Holdings common shares (excluding any votes pursuant to the special voting share) and of the Holdings conflicts committee for any amendment that would increase or decrease the economic rights of an exchangeable unit relative to a Holdings common share; (b) the holders of exchangeable units and the Holdings conflicts committee for any amendment that affects the rights or privileges attaching to the exchangeable units in a manner adverse to the interests of the exchangeable unit holders; and (c) the Holdings conflicts committee in the case of any other amendment that would affect the rights or privileges attaching to the exchangeable units. Approval of the exchangeable units to any such amendment must be approved by an ordinary resolution either approved by a resolution approved by more than 50% of the votes cast by holders of exchangeable units entitled to vote on the resolution at a meeting of holders of exchangeable units, or by a written resolution signed by holders of more than 50% of the aggregate number of exchangeable units outstanding that are held by holders entitled to vote on that resolution.

Amendment by the General Partner without Approval of the Limited Partners

For the avoidance of doubt, the General Partner may make the following amendments to the partnership agreement without the consent of the Limited Partners:

- A change in the name of Partnership, the location of Partnership's principal place of business or the registered office of Partnership;
- The admission, substitution, withdrawal or removal of the Limited Partners in accordance with the partnership agreement;

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- A change that, in the sole discretion of the General Partner, is reasonable and necessary or appropriate to continue to qualify Partnership as a limited partnership;
- With the prior approval of the Holdings conflicts committee, a change that the General Partner determines is reasonable and necessary or appropriate to enable Partners to take advantage of, or not be detrimentally affected by, changes or differing interpretations with respect to Canadian or U.S. income tax regulations, legislation or interpretation;
- A change to amend or add any provision or to cure any ambiguity in the partnership agreement that may be defective or inconsistent with any other provision contained in the partnership agreement or this joint information statement/circular;
- A change that, in the sole discretion of the General Partner, does not materially adversely affect the Limited Partners;
- A change that the General Partner determines to be necessary or appropriate to satisfy requirements of a governmental authority, to comply with a requirement of a national securities exchange on which the units of Partnership are listed or is required to effect the intent expressed in the partnership agreement or this joint information statement/circular;
- A change in the fiscal year or taxable year of Partnership and any other related changes;
- An amendment that is necessary, in the opinion of counsel to Partnership, to prevent Partnership, the General Partner or its directors, officers, trustees or agents from having a material risk of being in any manner subjected to the provisions of the U.S. Investment Company Act of 1940, as amended, the U.S. Investment Advisers Act of 1940, as amended, or “plan asset” regulations adopted under the U.S. Employee Retirement Income Security Act of 1974, as amended, regardless of whether such are substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor;
- An amendment that the General Partner determines in its sole discretion to be necessary or appropriate in connection with the creation, authorization or issuance of any class or series of equity in Partnership;
- An amendment that the General Partner determines in its sole discretion to be necessary or appropriate to reflect and account for the formation by Partnership of, or investment by Partnership in, any corporation, partnership, joint venture, limited liability company or other entity; and
- Any other amendments substantially similar to any of the matters described in the bullet points above.

Merger, Sale or Other Disposition of Assets

As long as any exchangeable units are outstanding, Holdings cannot consummate a transaction in which all or substantially all of its assets would become the property of any other person or entity. This does not apply to a transaction if such other person or entity becomes bound by the partnership agreement and assumes Holdings’ obligations, as long as the transaction does not impair in any material respect the rights, duties, powers and authorities of other parties to the partnership agreement.

Nothing in the partnership agreement prevents Holdings from amalgamating or merging with any wholly owned direct or indirect subsidiary provided that all assets of such a subsidiary are transferred either to Holdings, to another wholly owned subsidiary of Holdings, or are distributed among the subsidiary’s shareholders.

Election to be Treated as a Corporation

The Partnership shall undertake all necessary steps to preserve its status as a partnership for U.S. federal income tax purposes; provided that, if for any reason the General Partner determines in its sole discretion that it is no longer in the interest of Partnership to continue as a partnership for U.S. federal income tax purposes, the

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General Partner may elect to treat Partnership as an association or as a publicly traded partnership taxable as a corporation for U.S. federal (and applicable state) income tax purposes. Alternatively, it may effect such change by merger, conversion or otherwise under applicable law.

Dissolution

Partnership will dissolve upon the occurrence of any of the following:

- The removal or deemed removal of the sole General Partner unless the General Partner is replaced in accordance with the partnership agreement;
- The sale, exchange or disposition of all or substantially all of the property of Partnership, if approved in accordance with the partnership agreement; or
- A decision of the General Partner to dissolve Partnership.

Partnership will not dissolve by reason of death, bankruptcy, insolvency, mental incompetency or other disability of any Limited Partner or upon the transfer of any units. Further, no Limited Partner has the right to ask for the dissolution of Partnership, for the winding-up of its affairs or for the distribution of its assets.

Procedure on Dissolution

Upon dissolution of Partnership, the procedure is as follows:

- The receiver will sell or otherwise dispose of the part of Partnership's assets as the receiver considers appropriate;
- The receiver will pay the debts and liabilities of Partnership and liquidation expenses;
- If there are any assets of Partnership remaining, the receiver will distribute all property and cash in the following order:
 - To the holder of Partnership preferred units, namely Holdings, until it has received an amount sufficient to fund its payment obligations with respect to Holdings preferred shares corresponding to Partnership preferred units; and
 - To Holdings until it has received an amount sufficient to satisfy certain costs and expenses of Holdings relating to its role as General Partner of the business and affairs of Holdings that are conducted through the Partnership or any of its subsidiaries; and
 - To the holders of Partnership common units, namely Holdings, and the holders of Partnership exchangeable units, with Holdings' interest being determined based on the number of outstanding Holdings common shares relative to the number of outstanding Partnership exchangeable units; and
- The receiver will file the declaration of dissolution prescribed by the Ontario Limited Partnerships Act and provide prior notice of any dissolution by mailing to each Limited Partner a notice at least 21 days prior to the filing of such declaration.

Withdrawal and Removal of the General Partner

Without the prior approval of the Holdings conflicts committee, Partnership and the holders of the exchangeable units by an ordinary resolution, Holdings covenants that it will not voluntarily cease to be the General Partner as long as any outstanding exchangeable units are owned by any person other than Holdings or any of its subsidiaries.

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In the event of any of the following, Holdings will be deemed to have been removed as the General Partner:

- The passing of a resolution of the directors or shareholders of Holdings relating to its bankruptcy, dissolution, liquidation, winding-up or assignment for the benefit of creditors;
- The appointment of a receiver of the assets and undertaking of Holdings; or
- The failure of Holdings to maintain its status as a corporation.

Should any of the above occur, a new general partner will be appointed by an ordinary resolution of the holders of Partnership common units. In addition, Holdings may be removed by an ordinary resolution of the holders of Partnership common units, but under no circumstances can it be removed by the holders of exchangeable units.

In the event of the withdrawal or removal of Holdings as the General Partner, Partnership is obligated to pay any amounts owed to Holdings to the date of its resignation or removal.

Upon the resignation or removal of Holdings as the General Partner, Partnership is required to release it from any costs, expenses, damages or liabilities that it has suffered or incurred as a result of, or arising out of, events which occur in relation to Partnership after resignation or removal.

Transfer of General Partnership Interest

Provided that the transferee assumes the rights and duties of the General Partner and agrees to be bound by the partnership agreement, the General Partner may, without the approval of the Limited Partners, transfer all, but not less than all, of the General Partner's interest (i) to a subsidiary of the General Partner; (ii) in connection with the General Partner's merger or amalgamation with or into another entity; or (iii) to the purchaser of all or substantially all of the General Partner's assets.

Indemnification

Under the partnership agreement, in most circumstances Partnership will indemnify the following parties to the fullest extent permitted by law against any and all losses, claims, damages, liabilities, joint or several expenses, judgments, fines and settlements:

- The General Partner;
- Any former general partner;
- Any affiliate of the General Partner or a former general partner; and
- Any officer, director, employee, partner, agent or trustee of the General Partner, a former general partner or any of their affiliates (together, the "Partnership Indemnitees").

This indemnification will only be available if Partnership Indemnatee acted honestly and in good faith with a view to the best interests of Partnership. The indemnity extends to criminal or administrative action or proceedings that are enforced by a monetary penalty as long as Partnership Indemnatee had reasonable grounds for believing that its conduct was lawful.

No indemnification will be available to a Partnership Indemnatee where a final decision of a court of competent jurisdiction that is not appealable has found Partnership Indemnatee to be in breach of, or negligent in the performance of, its obligations under the partnership agreement. The termination of an action, suit or proceeding by judgment, order or settlement will not create a presumption that Partnership Indemnatee acted in breach of, or was negligent in the performance of, its obligations.

Any indemnification will be made only out of the assets of Partnership. Partnership may purchase insurance on behalf of those parties as the General Partner determines against any liability that may be asserted against, or

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expense that may be incurred by, the insured party in connection with Partnership's activities, regardless of whether Partnership has the power to indemnify those parties against those liabilities under the partnership agreement.

Books and Records

The General Partner is required to keep appropriate books and records with respect to Partnership's business at the principal office of Partnership. The General Partner will forward to the Limited Partners all reports and financial statements that may be required under applicable securities legislation or stock exchange rules.

Right to Inspect Books and Records

Subject to the right of the General Partner to keep Partnership information confidential, each Limited Partner has the right, for a purpose reasonably related to that Limited Partner's own interest as a limited partner in Partnership, to receive the following:

- A current list of the name and last known address of each Limited Partner;
- Copies of the partnership agreement, the declaration of limited partnership for Partnership and the current record of Partners;
- Copies of all documents filed by Partnership with a securities regulator or stock exchange where the units are listed for trading;
- Copies of minutes of meetings of the Partners; and
- Any other information regarding the affairs of Partnership as is just and reasonable.

Tax Matters

The General Partner will use commercially reasonable efforts to furnish to all Partners necessary tax information as promptly as possible after the end of Partnership's fiscal year. However, delivery of such information may be subject to delay as a result of the late receipt of any necessary tax information from an entity in which Partnership or its subsidiaries holds an interest.

All decisions to make or refrain from making any tax elections will be determined by the General Partner. The General Partner is authorized to represent Partnership, at Partnership's expense, in connection with all examinations of Partnership's affairs by tax authorities, including resulting administrative and judicial proceedings. Each Partner agrees to cooperate with the General Partner with regard to all things reasonably required by the General Partner to conduct such proceedings.

Description of Holdings Share Capital

Immediately prior to the consummation of the transactions, the authorized share capital of Holdings set out in its articles will consist of: (i) an unlimited number of Holdings common shares, (ii) one special voting share and (iii) a number of Holdings preferred shares equal to the number of Holdings preferred shares issued to Berkshire pursuant to the securities purchase agreement. The number of Holdings preferred shares to be issued pursuant to the securities purchase agreement will be set prior to the closing of the transactions based on the actual number of Holdings common shares that will be outstanding at the closing of the transactions. The number will be set such that at the closing of the transactions the number of votes attached to the Holdings preferred shares, at one vote per share, will be approximately 13% of the total number of votes attached to all voting shares of Holdings. After giving effect to the transactions, an estimated [•] Holdings common shares, one special voting share and [•] Holdings preferred shares are expected to be outstanding.

The following is a summary of the material rights, privileges, restrictions and conditions that attach to the Holdings common shares, special voting share and Holdings preferred shares. This is a summary only and is subject to the detailed provisions of the articles of amendment of Holdings attached hereto as Annex D.

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Holdings Common Shares

Notice of Meeting and Voting Rights

Except as otherwise provided by law, the holders of Holdings common shares are entitled to receive notice of and to attend all meetings of the shareholders of Holdings and will vote together as a single class with the Holdings preferred shares and the special voting share. The holders of Holdings common shares are entitled to one vote per Holdings common share.

Dividend and Liquidation Entitlements

The holders of Holdings common shares are entitled to receive dividends, as and when declared by the board of directors of Holdings, in such amounts and in such form as the board of directors of Holdings may from time to time determine, subject to the preferential rights of the Holdings preferred shares and any other shares ranking prior to the Holdings common shares. All dividends declared on the Holdings common shares will be declared and paid in equal amounts per share. No dividends will be declared or paid on the Holdings common shares except as permitted by the terms of the Holdings preferred shares. See “*Holdings Preferred Shares—Dividend Entitlements*” below.

In the event of the dissolution, liquidation or winding-up of Holdings, the holders of Holdings common shares shall be entitled to receive the remaining property and assets of Holdings after satisfaction of all liabilities and obligations to creditors of Holdings, after satisfaction of the Holdings preferred share liquidation preference and subject to the preferential rights of any other shares ranking prior to the Holdings common shares. See “*Holdings Preferred Shares—Liquidation Preference*” below.

Special Voting Share

Notice of Meeting and Voting Rights

Except as otherwise provided by law, the special voting share shall entitle the holder thereof to vote on all matters submitted to a vote of the holders of Holdings common shares at any shareholders meeting of Holdings and to exercise the right to consent to any matter for which the written consent of the holders of Holdings common shares is sought, and will, with respect to any shareholders meeting or written consent, vote together as a single class with the Holdings common shares and Holdings preferred shares. The holder of the special voting share shall not be entitled to vote separately as a class on a proposal to amend the articles of amendment of Holdings to: (i) increase or decrease the maximum number of special voting shares that Holdings is authorized to issue, or increase any maximum number of authorized shares of a class having rights or privileges equal or superior to the special voting share; or (ii) create a new class of shares equal or superior to the special voting share. The holder of the special voting share shall be entitled to attend all shareholder meetings of Holdings which the holders of Holdings common shares are entitled to attend, and shall be entitled to receive copies of all notices and other materials sent by Holdings to its holders of Holdings common shares relating to such meetings and any consents sought from the holders of common shares.

The holder of the special voting share is entitled to that number of votes equal to the number of votes which would attach to the Holdings common shares receivable by the holders of exchangeable units upon the exchange of all exchangeable units outstanding from time to time (other than the exchangeable units held by Holdings and its subsidiaries), determined as of the record date for the determination of shareholders entitled to vote on the applicable matter or, if no record date is established, the date such vote is taken. See “—*Description of the Partnership Exchangeable Units*” and “—*Voting Rights of Holders of Exchangeable Units; Statutory Rights*”.

Dividend and Liquidation Entitlements

The holder of the special voting share is not entitled to receive dividends and has no entitlements with respect to the property or assets of Holdings in the event of the dissolution, liquidation or winding-up of

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Holdings. Holdings also agreed in the partnership agreement to not make dividends or distributions on the Holdings common shares unless the same or equitably equivalent dividend or distribution is made on the Partnership exchangeable units on a per security basis.

Redemption Right

At such time as there are no exchangeable units outstanding, the special voting share shall automatically be redeemed and cancelled for \$1 to be paid to the holder thereof.

Holdings Preferred Shares

Dividend Entitlements

The holders of the Holdings preferred shares are entitled to receive, as and when declared by the board of directors of Holdings, cumulative cash dividends at an annual rate of 9% on the amount of the purchase price per Holdings preferred share, payable quarterly in arrears (“regular quarterly dividends”). The purchase price per Holdings preferred share shall be determined by dividing \$3 billion by the number of Holdings preferred shares issued at the closing of the transactions. Such dividends accrue daily on a cumulative basis, whether or not declared by the board of directors of Holdings. If any such dividend or make-whole dividend (defined below) is not paid in full on the scheduled payment date or the required payment date, as applicable (the unpaid portion, “past due dividends”), additional cash dividends (“additional dividends”) shall accrue daily on a cumulative basis on past due dividends at an annual rate of 9%, compounded quarterly, whether or not such additional dividends are declared by the board of directors of Holdings.

For each fiscal year of Holdings during which any Holdings preferred shares are outstanding, beginning with the year that includes the third anniversary of the original issue date (the “original issue date”) of such shares, in addition to the regular quarterly dividends, Holdings is required to pay to the holder of the Holdings preferred shares an additional amount (a “make-whole dividend”). The amount of the make-whole dividend is determined by a formula designed to ensure that on an after tax basis the net amount of the dividends received by the holder on the Holdings preferred shares from the original issue date is the same as it would have been had Holdings been a U.S. corporation. The make-whole dividend can be paid, at Holdings’ option, in cash, Holdings common shares or a combination of both. If, however, the Holdings common shares issued to the holder would be “restricted securities” within the meaning of Rule 144(a)(3) of the Securities Act, such Holdings common shares must be covered by an effective registration statement permitting them to be freely tradable. In addition, any Holdings common shares so issued will be valued for purposes of the make-whole dividend at 97% of the average volume weighted average price of the Holdings common shares over the five consecutive trading days prior to the delivery of such shares. The make-whole dividends are payable not later than 75 days after the close of each fiscal year starting with the fiscal year that includes the third anniversary of the original issue date. The right to receive the make-whole dividends shall terminate if and at the time that 100% of the outstanding Holdings preferred shares are no longer held by Berkshire or any one of its subsidiaries; provided, however, that in the event of a redemption of Holdings preferred shares or a liquidation, dissolution or winding up of the affairs of Holdings, a final make-whole dividend for the year of redemption or liquidation will be computed and paid with respect to all Holdings preferred shares subject to the redemption, and in the case of a liquidation, with respect to all Holdings preferred shares.

No dividend shall be declared or paid on the Holdings common shares, or any other shares ranking junior to or on parity with the Holdings preferred shares, and no Holdings common shares, junior or parity shares shall be purchased, redeemed or otherwise acquired for consideration by Holdings or any of its subsidiaries unless on the date of such declaration, payment, purchase, redemption or other acquisition (i) all past due dividends, accrued and unpaid additional dividends thereon to the date of payment of such past due dividends, and unpaid make-whole dividends for all prior fiscal years and all amounts accrued thereon, on all outstanding Holdings preferred shares, shall have been declared and paid in full and (ii) an amount equal to the full regular quarterly dividend for all outstanding Holdings preferred shares for the then-current quarterly dividend period shall have been declared

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and paid in full (or declared and such amount shall have been deposited by Holdings in trust for the *pro rata* benefit of the holders of Holdings preferred shares on the applicable record date therefor with a specified financial institution).

In addition, if holders of at least a majority of the outstanding Holdings preferred shares have delivered a notice described under “*Redemption Following Tenth Anniversary*” or “*Redemption Following Triggering Event*” below, no dividend shall be declared or paid on the Holdings common shares or any other share of junior shares of Holdings (except that dividends declared on the Holdings common shares or any other junior shares prior to the date of such delivery may be paid), and no Holdings common shares or other junior shares shall be purchased, redeemed or otherwise acquired for consideration by Holdings or any of its subsidiaries, directly or indirectly, unless on the date of such declaration, payment, purchase, redemption or other acquisition for consideration all Holdings preferred shares subject to such notice have been redeemed in full.

Liquidation Preference

In the event of any liquidation, dissolution or winding up of the affairs of Holdings, whether voluntary or involuntary, holders of Holdings preferred shares shall be entitled to receive for each Holdings preferred share, out of the assets of Holdings or proceeds thereof available for distribution to shareholders of Holdings, and after satisfaction of all liabilities and obligations to creditors of Holdings, before any distribution of such assets or proceeds is made to or set aside for the holders of Holdings common shares, junior shares or any other shares of Holdings ranking junior to the Holdings preferred shares as to such distribution, payment in full in cash in an amount equal to the sum of (i) for Holdings preferred shares that have not been redeemed, the purchase price per Holdings preferred share multiplied by 1.099 (the “Call Amount”), plus (ii) for all Holdings preferred shares, the accrued and unpaid dividends per share, including any and all past due dividends and additional dividends on such past due dividends, in each case, whether or not declared, to each date of payment, and unpaid make-whole dividends for all prior fiscal years and a final make-whole dividend payment, as well as past due dividends in respect thereof and amounts accrued thereon, in each case, whether or not declared. If such liquidation preference is paid in full on all Holdings preferred shares the holders of other shares of Holdings shall be entitled to receive all remaining assets of Holdings (or proceeds thereof) according to their respective rights and obligations.

Redemption

Optional Redemption

Holdings may not redeem the Holdings preferred shares for the first three years following the original issue date. On or after the third anniversary of the original issue date, Holdings may, at its option, redeem, in whole at any time or in part from time to time, outstanding Holdings preferred shares at a redemption price paid in cash for each Holdings preferred share redeemed equal to the sum of the Call Amount plus the accrued and unpaid dividends on such share, including any and all past due dividends and additional dividends on past due dividends, in each case whether or not declared, to the date of payment, and unpaid make-whole dividends for all prior fiscal years as well past due dividends in respect thereof and amounts accrued thereon, in each case, whether or not declared (such sum, the “redemption price”). Any optional redemption of less than all of the outstanding Holdings preferred shares shall be in an amount of not less than 10% of the Holdings preferred shares outstanding at the closing of the transactions.

Redemption Following Tenth Anniversary

After the tenth anniversary of the original issue date, the holders of not less than a majority of the outstanding Holdings preferred shares may require Holdings, to the fullest extent permitted by law, to redeem all of the outstanding Holdings preferred shares of such holders at a price equal to the redemption price for each redeemed share. If necessary to pay all or a portion of the aggregate redemption price, Holdings shall take any action necessary or appropriate to cause the occurrence of one or more underwritten primary public offerings of Holdings common shares pursuant to an effective registration statement filed with the SEC in accordance with

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the Securities Act or pursuant to a prospectus filed with the securities commission of any of the Provinces of Canada under applicable Canadian securities laws, or any other primary issuance of Holdings common shares in an arm's length transaction with parties other than Berkshire and its affiliates. In any such public offering or issuance, the holders of the outstanding Holdings preferred shares who elect to force the offering shall be entitled to choose the lead underwriter(s) for the offering. All fees and expenses of any such offering or other issuance of Holdings common shares and the redemption of Holdings preferred shares will be for the account of Holdings.

Redemption Following Triggering Event

In the event that a triggering event (as defined below) is announced, the holders of not less than a majority of the Holdings preferred shares may require Holdings, to the fullest extent permitted by law, to redeem all of the outstanding Holdings preferred shares of such holders at a price equal to the redemption price for each redeemed share on the date of the consummation of the triggering event. For this purpose, a "triggering event" means the occurrence of one or more of the following: (i) the acquisition of Holdings by another entity by means of a merger, amalgamation, arrangement, consolidation, reorganization or other transaction or series of related transactions if Holding's stockholders constituted immediately prior to such transaction or series of related transactions hold less than 50% of the voting power of the surviving or acquiring entity; (ii) the closing of the transfer, in one transaction or a series of related transactions, to a person or entity (or a group of persons or entities) of Holdings' securities if, after such closing, Holdings' stockholders constituted immediately prior to such transaction or series of related transactions hold less than 50% of the voting power of Holdings or its successor; or (iii) a sale, license or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of Holdings.

A final make-whole dividend payment will be paid with respect to any Holdings preferred shares called for redemption. Once a Holdings preferred share has been redeemed in full, it must be cancelled and may not be reissued.

Voting Rights

Except as otherwise provided by law, the holders of Holdings preferred shares shall be entitled to (i) receive notice of and to attend all meetings of the shareholders of Holdings that the holders of the Holdings common shares are entitled to attend, (ii) receive copies of all notices and other materials sent by Holdings to its shareholders relating to such meetings, and (iii) vote at such meetings. At any such meeting, the holders of the Holdings preferred shares are entitled to cast one vote for each Holdings preferred share (which is expected to equal approximately 13% of the total number of votes attached to all shares entitled to vote at a meeting as of the closing date). In addition, Berkshire has agreed with Holdings that (i) with respect to preferred shares representing 10% of the total votes attached to all voting shares of Holdings, Berkshire may vote such shares with respect to matters on which it votes as a class with all Holdings voting shares, in any manner it wishes and (ii) with respect to preferred shares representing in excess of 10% of the total votes attached to all voting shares of Holdings, Berkshire will vote such shares with respect to matters on which it votes as a class with all Holdings voting shares in a manner proportionate to the manner in which the other holders of voting shares voted in respect of such matter. This voting agreement does not apply with respect to special approval matters.

Except as otherwise required by law or the special approval matters described in the next paragraph below, the Holdings common shares, the special voting share and the Holdings preferred shares shall vote together as a single class.

The vote or consent of the holders of a majority of the outstanding Holdings preferred shares, separately as a class, shall be necessary for effecting or validating any of the following matters ("special approval matters"):

- *Authorization, Creation or Issuance of Shares of Holdings* . Any amendment or alteration of the articles of amendment of Holdings to (i) authorize or create, or increase the authorized amount of, any shares of any class or series of shares of Holdings, or the issuance of any shares of any class or series of

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shares of Holdings, in each case, ranking senior to or equally with the Holdings preferred shares with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of Holdings, or having or sharing any voting or consent rights with respect to any special approval matter or (ii) decrease the authorized amount of Holdings common shares;

- *Authorization or Issuance of Additional Holdings Preferred Shares or Certain Other Shares* . The authorization or issuance of (or obligation to issue) (i) any Holdings preferred shares in addition to the Holdings preferred shares authorized and issued on the original issue date, (ii) any shares of any class or series of shares of Holdings ranking equally with or senior to the Holdings preferred shares with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of Holdings, or (iii) any shares of any class or series of shares of Holdings that is not perpetual and has a term that ends on or before the eleventh anniversary of the original issue date, or provides for redemption thereof on any date on or before the eleventh anniversary of the original issue date, or provides for any right of the holder thereof to put such shares to Holdings or otherwise cause or require the purchase of such shares by Holdings on or before the eleventh anniversary of the original issue date, or that is convertible or exchangeable into any of the foregoing;
- *Amendments* . Any amendment, alteration or repeal of any provision of the terms of the Holdings preferred shares set out in the articles of amendment of Holdings or other amendment, alteration or repeal of the articles of amendment or bylaws of Holdings that affects or changes the rights, preferences, privileges or powers of the Holdings preferred shares; and
- *Share Exchanges, Reclassifications, Mergers, Amalgamations and Consolidations* . Any consummation of a share exchange or reclassification involving the Holdings preferred shares, or of a merger, amalgamation, arrangement or consolidation of Holdings with another corporation or other entity, unless as a result thereof (x) the Holdings preferred shares remain outstanding or are converted into or exchanged for preference securities of the surviving entity with rights, preferences, privileges and powers substantially identical to those of the Holdings preferred shares, and (y) there is no other class or series of equity outstanding that would not be permitted to be issued and outstanding as described under “ *Ranking* ” below or the issuance of which would be a special approval matter if the same were to be issued by Holdings on the date of consummation of such exchange, reclassification, merger, amalgamation, arrangement or consolidation (provided, that if pursuant to such transaction the holders of Holdings preferred shares hold preference securities in a surviving entity, the equity of such surviving entity shall also comply with the requirements of this clause (y)).

No other class or series of shares of Holdings shall have or share any voting or consent rights with the holders of Holdings preferred shares with respect to any special approval matter.

Ranking

If any Holdings preferred share has not been redeemed (including as to the payment of the final make-whole dividend in respect thereof and related amounts), no other class or series of shares of Holdings shall (i) rank equally with or senior to the Holdings preferred shares in the payment of dividends and rank equally with, junior to or senior to the Holdings preferred shares with respect to the distribution of assets on any liquidation, dissolution or winding up of Holdings or (ii) rank equally with or senior to the Holdings preferred shares with respect to the distribution of assets on any liquidation, dissolution or winding up of Holdings and rank equally with, junior to or senior to the Holdings preferred shares in the payment of dividends.

Description of the Partnership Exchangeable Units***Summary of Economic and Voting Rights***

The Partnership exchangeable units are intended to provide economic rights that are substantially equivalent, and voting rights with respect to Holdings that are equivalent, to the corresponding rights afforded to holders of Holdings common shares. Under the terms of the partnership agreement, the rights, privileges, restrictions and conditions attaching to the Partnership exchangeable units include the following:

- From and after the one year anniversary of the date of the effective time of the merger, the Partnership exchangeable units will be exchangeable at any time, at the option of the holder, on a one-for-one basis for Holdings common shares, subject to the right of the General Partner (subject to the approval of the conflicts committee in certain circumstances) to determine to settle any such exchange for a cash payment in lieu of exchange for Holdings common shares. If Holdings elects to make a cash payment in lieu of issuing Holdings common shares, the amount of the cash payment will be the weighted average trading price of the Holdings common shares on the NYSE for the 20 consecutive trading days ending on the last business day prior to the exchange date. Exchangeable units will not be exchangeable prior to the one year anniversary of the date of the effective time of the merger.
- If a dividend or distribution has been declared and is payable in respect of a Holdings common share, Partnership will make a distribution in respect of each Partnership exchangeable unit in an amount equal to the dividend or distribution in respect of a Holdings common share. The record date and payment date for distributions on the Partnership exchangeable units will be the same as the relevant record date and payment date for the dividends or distributions on the Holdings common shares.
- If Holdings issues any Holdings common shares in the form of a dividend or distribution on the Holdings common shares, Partnership will issue to each holder of Partnership exchangeable units, in respect of each Partnership exchangeable unit held by such holder, a number of Partnership exchangeable units equal to the number of Holdings common shares issued in respect of each Holdings common share.
- If Holdings issues or distributes rights, options or warrants or other securities or assets of Holdings to all or substantially all of the holders of Holdings common shares, Partnership is required to make a corresponding distribution to holders of the Partnership exchangeable units.
- No subdivision or combination of the outstanding Holdings common shares is permitted unless a corresponding subdivision or combination of Partnership exchangeable units is made.
- Holdings and its board of directors are prohibited from proposing or recommending an offer for the Holdings common shares or for the Partnership exchangeable units unless the holders of the Partnership exchangeable units and the holders of Holdings common shares are entitled to participate to the same extent and on equitably equivalent basis.
- Upon a dissolution and liquidation of Partnership, if Partnership exchangeable units remain outstanding and have not been exchanged for Holdings common shares, then the distribution of the assets of Partnership between holders of Holdings common shares and holders of Partnership exchangeable units will be made on a pro rata basis based on the numbers of Holdings common shares and Partnership exchangeable units outstanding. Assets distributable to holders of Partnership exchangeable units will be distributed directly to such holders. Assets distributable in respect of Holdings common shares will be distributed to Holdings. Prior to this pro-rata distribution, Partnership is required to pay to Holdings sufficient amounts to fund the expenses or other obligations of Holdings (to the extent related to its role as the General Partner or the business and affairs of Holdings that are conducted through Partnership or its subsidiaries) to ensure that any property and cash distributed to Holdings in respect of the common shares will be available for distribution to holders of Holdings common shares in an amount per share equal to distributions in respect of each exchangeable unit. The terms of the exchangeable units do not provide for an automatic exchange of exchangeable units into Holdings common shares upon a dissolution or liquidation of Partnership or Holdings.

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- Approval of holders of the Partnership exchangeable units is required for an action (such as an amendment to the partnership agreement) that would affect the economic rights of a Partnership exchangeable unit relative to a Holdings common share.

The holders of Partnership exchangeable units are indirectly entitled to vote in respect of matters on which holders of Holdings common shares are entitled to vote, including in respect of the election of directors of Holdings, through a special voting share of Holdings. The special voting share is held by the trustee, entitling the trustee to that number of votes on matters on which holders of Holdings common shares are entitled to vote equal to the number of Partnership exchangeable units outstanding. The trustee is required to cast such votes in accordance with voting instructions provided by holders of Partnership exchangeable units. The trustee will exercise each vote attached to the special voting share only as directed by the relevant holder of Partnership exchangeable units and, in the absence of instructions from a holder of a Partnership exchangeable unit as to voting, will not exercise those votes.

A more detailed description of the economic, voting and other rights, privileges, restrictions and conditions attaching to the Partnership exchangeable units follows below.

The tax consequences of receiving or holding exchangeable units may differ significantly from the tax consequences of receiving or holding Holdings common shares depending upon your particular circumstances. You should consider carefully the tax consequences to you in respect of receiving or holding exchangeable units. See “*The Transactions—Material U.S. Federal Income Tax Considerations*” and “*The Transactions—Material Canadian Federal Income Tax Consequences of the Transactions*”.

Optional Exchange Right

From and after the one year anniversary of the date of the effective time of the merger, holders of exchangeable units will, from time to time, have the right to require Partnership to exchange any or all of the exchangeable units held by such holder for one Holdings common share in respect of each exchangeable unit (the “exchanged shares”) subject to the right of Holdings, in its capacity as the General Partner, for and on behalf of Partnership, in its sole and absolute discretion (subject to the approval of the conflicts committee in certain circumstances) to cause Partnership to repurchase the Partnership exchangeable units for a prescribed cash amount determined by reference to the weighted average trading price of the Holdings common shares on the NYSE for the 20 consecutive trading days ending on the last business day prior to the exchange date (the “exchangeable units cash amount”). Written notice of the determination of the form of consideration shall be given to the holder of the exchangeable units exercising the exchange right no later than ten business days prior to the exchange date.

In order to exercise the exchange right, a holder of exchangeable units must deliver to Partnership, at its office (or at a designated office of Partnership’s transfer agent), a duly executed exchange notice together with such additional documents and instruments as the transfer agent and Partnership may reasonably require. The exchange notice must (i) specify the number of exchangeable units in respect of which the holder is exercising the exchange right and (ii) state the business day on which the holder desires to have Partnership exchange the subject units, provided that the exchange date must not be less than 15 business days nor more than 30 business days after the date on which the exchange notice is received by Partnership. If no exchange date is specified in an exchange notice, the exchange date will be deemed to be the 15th business day after the date on which the exchange notice is received by Partnership.

An exercise of the exchange right may be revoked by the exercising holder by notice in writing given to Partnership before the close of business on the fifth business day immediately preceding the exchange date.

On the exchange date, Partnership will deliver or cause the transfer agent to deliver to the relevant holder, as applicable (i) the applicable number of exchanged shares, or (ii) a cheque representing the applicable exchangeable units cash amount, in each case, less any amounts withheld on account of tax. See “— *Distributions; Liquidation; Withholding Rights—Withholding Rights* .”

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Notwithstanding the exercise of the exchange right, where a record date in respect of a distribution with respect to the exchangeable units occurs prior to the exchange date and there is any declared and unpaid distribution on any exchangeable unit so exchanged, such amount shall remain payable and shall be paid in the applicable form on the designated payment date to the former holder of the exchangeable unit so exchanged.

Mandatory Exchange

Partnership may cause a mandatory exchange of the outstanding exchangeable units into Holdings common shares in the event that:

- at any time there remain outstanding fewer than 5% of the number of exchangeable units outstanding as of the effective time of the merger (other than exchangeable units held by Holdings and its subsidiaries and as such number of exchangeable units may be adjusted in accordance with the partnership agreement) (a “sunset exchange”);
- any one of the following occurs (a “control transaction exchange”):
 - any person, firm or corporation acquires directly or indirectly any voting security of Holdings and immediately after such acquisition, the acquirer has voting securities representing more than 50% of the total voting power of all the then outstanding voting securities of Holdings on a fully-diluted basis;
 - the shareholders of Holdings shall approve a merger, consolidation, recapitalization or reorganization of Holdings, other than any transaction which would result in the holders of outstanding voting securities of Holdings immediately prior to such transaction having at least a majority of the total voting power represented by the voting securities of the surviving entity outstanding immediately after such transaction, with the voting power of each such continuing holder relative to other continuing holders not being altered substantially in the transaction; or
 - the shareholders of Holdings shall approve a plan of complete liquidation of Holdings or an agreement for the sale or disposition of Holdings of all or substantially all of Holdings’ assets;

provided that, in each case, Holdings, in its capacity as the General Partner, determines, in good faith and in its sole discretion, that such transaction involves a bona fide third party and is not for the primary purpose of causing the exchange of the exchangeable units in connection with such transaction; or

- a matter arises in respect of which applicable law provides holders of exchangeable units with a vote as holders of units of Partnership in order to approve or disapprove, as applicable, any change to, or in the rights of the holders of, the exchangeable units, where the approval or disapproval, as applicable, of such change would be required to maintain the economic equivalence of the Partnership exchangeable units and the Holdings common shares, and the holders of the Partnership exchangeable units fail to take the necessary action at a meeting or other vote of holders of exchangeable units to approve or disapprove, as applicable, such matter in order to maintain economic equivalence of the Partnership exchangeable units and the Holdings common shares (a “voting event exchange”).

Where Partnership determines to cause the mandatory exchange of all of the outstanding exchangeable units into Holdings common shares, it will give prior written notice specifying the date of the mandatory exchange to the holders of exchangeable units at least fifteen days prior to such mandatory exchange, in the case of a sunset exchange or a control transaction exchange, and on the business day following the day on which the holders of the exchangeable units failed to take such action in the case of a voting event exchange.

On the exchange date, Partnership will deliver or cause the transfer agent to deliver to the relevant holders of exchangeable units so exchanged the applicable Holdings common shares, less any amounts withheld on account of tax. See “— *Distributions; Liquidation; Withholding Rights—Withholding Rights* .”

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Notwithstanding any mandatory exchange of the exchangeable units, where a record date in respect of a distribution with respect to the exchangeable units occurs prior to the exchange date and there is any declared and unpaid distribution on any exchangeable unit so exchanged, such amount shall remain payable and shall be paid in the applicable form on the designated payment date to the former holder of the exchangeable unit so exchanged.

Voting Rights of Holders of Exchangeable Units; Statutory Rights

In connection with the merger, Holdings, Partnership and the trustee will enter into the voting trust agreement. This summary is qualified in its entirety by reference to that agreement, which is filed as Exhibit 10.2 to this joint information statement/circular.

Voting Rights with Respect to Partnership

Except as otherwise required by the partnership agreement, voting trust agreement or applicable law, the holders of the exchangeable units shall not directly be entitled to receive notice of or to attend any meeting of the unitholders of Partnership or to vote at any such meeting.

Voting Rights with Respect to Holdings

Under the voting trust agreement, Holdings will issue one special voting share to the trustee for the benefit of the holders of exchangeable units (other than Holdings and its subsidiaries). The Holdings special voting share will have the number of votes, which may be cast by the trustee at any meeting at which the holders of Holdings common shares are entitled to vote or in respect of any written consent sought by Holdings from its holders of common shares, equal to the then outstanding number of exchangeable units (other than exchangeable units held by Holdings and its subsidiaries).

Each holder of an exchangeable unit (other than Holdings and its subsidiaries) on the record date for any meeting or shareholder consent at which holders of Holdings common shares are entitled to vote will be entitled to instruct the trustee to exercise the votes attached to the special voting share for each exchangeable unit held by the exchangeable unitholder. The trustee will exercise each vote attached to the special voting share only as directed by the relevant holder of exchangeable units and, in the absence of instructions from a holder of an exchangeable unit as to voting, will not exercise those votes.

A holder of exchangeable units may, upon instructing the trustee, obtain a proxy from the trustee entitling such holder to vote directly at the meeting the votes attached to the special voting share to which the holder of exchangeable units is entitled.

Notwithstanding the foregoing, in the event that under applicable law any matter requires the approval of the holder of record of the special voting share, voting separately as a class, the trustee will, in respect of such vote, exercise all voting rights: (i) in favour of the relevant matter where the result of the vote of the Holdings common shares, the Holdings preferred shares and the special voting share, voting together as a single class on such matter, was the approval of such matter; and (ii) against the relevant matter where the result of such combined vote was against the relevant matter; provided that in the event of a vote on a proposal to amend the articles of Holdings to: (x) effect an exchange, reclassification or cancellation of the special voting share, or (y) add, change or remove the rights, privileges, restrictions or conditions attached to the special voting share, in either case, where the special voting share is permitted or required by applicable law to vote separately as a single class, the trustee will exercise all voting rights for or against such proposed amendment based on whether it has been instructed to cast a majority of the votes for or against such proposed amendment.

The trustee will mail or cause to be mailed (or otherwise communicate) to the holders of exchangeable units the notice of each meeting at which the holders of Holdings common shares are entitled to vote, together with the

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related materials and a statement as to the manner in which the holder may instruct the trustee to exercise the votes attaching to the special voting share, on the same day as Holdings mails (or otherwise communicates) the notice and materials to the holders of Holdings common shares.

The trustee will also send to the holders of exchangeable units copies of proxy materials, all information statements, reports (including interim and annual financial statements) and other written communications sent by Holdings to the holders of Holdings common shares at the same time as the materials are sent to Holdings shareholders. The trustee will also send to the holders of exchangeable units all materials sent by third parties to the holders of Holdings common shares (if known to have been received by Holdings) including dissident proxy and information circulars and tender and exchange offer circulars, as soon as reasonably practicable after the materials are delivered to the trustee.

Statutory Rights

Wherever and to the extent that the CBCA confers a prescribed statutory right on a holder of voting shares, Holdings has agreed that the holders of exchangeable units (other than Holdings and its subsidiaries) are entitled to the benefit of such statutory rights through the trustee, as the holder of record of the special voting share. The prescribed statutory rights set out in the voting trust agreement include rights provided for in sections 21, 103(5), 137, 138(4), 143, 144, 175, 211, 214, 229, 239 and 241 of the CBCA.

Upon the written request of a holder of exchangeable units delivered to the trustee, provided that certain conditions are satisfied, Holdings and the trustee will cooperate to facilitate the exercise of such statutory rights on behalf of such holder so entitled to instruct the trustee as to the exercise thereof, such exercise of the statutory right to be treated, to the maximum extent possible, on the basis that such holder was the registered owner of the Holdings common shares receivable upon the exchange of the exchangeable units owned of record by such holder.

Distributions; Liquidation; Withholding Rights

Distributions

Pursuant to the terms of the partnership agreement, if a dividend or distribution has been declared and is payable in respect of a Holdings common share, Partnership will make a distribution in respect of each exchangeable unit in an amount equal to the dividend or distribution in respect of a Holdings common share. The record date and payment date for distributions on the exchangeable units will be the same as the relevant record date and payment date for the dividends or distributions on the Holdings common shares.

Liquidation

Partnership will dissolve upon the occurrence of any of the following:

- The removal or deemed removal of the sole General Partner unless the General Partner is replaced;
- The sale, exchange or disposition of all or substantially all of the property of Partnership, if approved in accordance with the partnership agreement; or
- A decision of the General Partner to dissolve Partnership.

Partnership will not dissolve by reason of death, bankruptcy, insolvency, mental incompetency or other disability of any Limited Partner or upon the transfer of any units. Further, no Limited Partner has the right to ask for the dissolution of Partnership, for the winding-up of its affairs or for the distribution of its assets.

Upon dissolution of Partnership, the procedure is as follows:

- The receiver will sell or otherwise dispose of the part of Partnership's assets as the receiver considers appropriate;

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- The receiver will pay the debts and liabilities of Partnership and liquidation expenses;
- If there are any assets of Partnership remaining, the receiver will distribute all property and cash in the following order:
 - To the holder of Partnership preferred units, namely Holdings, until it has received an amount sufficient to fund its payment obligations with respect to Holdings preferred shares corresponding to Partnership preferred units;
 - To Holdings until it has received an amount sufficient to satisfy certain costs and expenses of Holdings relating to its role as General Partner of the business and affairs of Holdings that are conducted through the Partnership or any of its subsidiaries.
 - To the holder of Partnership common units, namely Holdings, and the holders of the exchangeable units pro rata in accordance with their respective interests, with Holdings' interest being determined based on the number of outstanding Holdings common shares relative to the number of outstanding exchangeable units.

Withholding Rights

The General Partner may cause Partnership or any of its affiliates to comply with any withholding requirements established under applicable laws. To the extent that Partnership is required to or elects to withhold and pay over to any taxing authority any amount resulting from the allocation or distribution of income to a holder of exchangeable units or to the extent that any payments made to Partnership are subject to withholding as a result of such payments being attributable to any particular holder of exchangeable units, the General Partner may treat the amount withheld as a distribution of cash to such holder of exchangeable units in the amount of such withholding from or in respect of such holder.

Amendments to the Exchangeable Unit Terms

The rights, privileges, restrictions and conditions attaching to the exchangeable units may be added to, changed or removed but only with the approval of:

- in the case of amendments that would increase or decrease the economic rights of an exchangeable unit relative to a Holdings common share, such that such securities would cease to have economic equivalence, or that would otherwise enhance or limit the rights, privileges, restrictions or conditions attaching to the exchangeable units relative to the rights, privileges, restrictions or conditions attaching to the Holdings common shares, (i) the holders of a majority of the exchangeable units, (ii) the holders of a majority of the outstanding Holdings common shares (excluding any votes pursuant to the special voting share) and (iii) the Holdings conflicts committee; or
- in the case of any amendment (x) not covered by the above bullet point and (y) that would affect the rights, privileges, restrictions or conditions attaching to the exchangeable units in a manner adverse to the holders of the exchangeable units, (i) the holders of a majority of the exchangeable units, and (ii) the Holdings conflicts committee; or
- in the case of any other amendment that would affect the rights, privileges, restrictions or conditions attaching to the exchangeable units, the Holdings conflicts committee.

UNAUDITED PRO FORMA CONDENSED CONSOLIDATED FINANCIAL INFORMATION

The following unaudited pro forma condensed consolidated financial information presents the unaudited pro forma condensed consolidated balance sheet as of June 30, 2014 and the unaudited pro forma condensed consolidated statements of operations for the six months ended June 30, 2014 and the year ended December 31, 2013, after giving effect to the transactions and adjustments as described in the accompanying notes. The unaudited pro forma condensed consolidated financial information includes the historical results of Holdings (“we”, “our”, “us”), Burger King Worldwide and Tim Hortons, after giving pro forma effect to:

- the acquisition of Tim Hortons by Burger King Worldwide (the “holding company acquisition”) in exchange for consideration consisting of C\$65.50 and 0.8025 of our common shares to be received by Tim Hortons stockholders in exchange for each share of Tim Hortons common stock;
- repayment of \$1,139.7 million of existing indebtedness of Tim Hortons and \$2,924.7 million of existing indebtedness of Burger King Worldwide;
- our entry into a New Term Loan Facility consisting of a \$6,750.0 million facility with a 7-year maturity;
- our issuance of \$2,250 million aggregate principal amount of second lien secured Notes with a 7.5-year maturity; and
- the purchase, for \$3,000.0 million, of 9% cumulative compounding perpetual voting preferred shares issued by us and the warrant to purchase our common shares by Berkshire;

In the post-combination entity, Holdings will be the general partner of Partnership and will own a majority interest (by vote and value) in Partnership which will be represented by common units and preferred units of Partnership. The investment of Holdings in Partnership will eliminate fully in consolidation. The balance of the partnership units of Partnership will initially be held by former holders of Burger King Worldwide common stock in the form of newly issued Partnership exchangeable units. Each share of Burger King Worldwide common stock outstanding immediately prior to the effective time of the merger will be converted into the right to receive (a) if no exchangeable election has been made, 0.99 newly issued Holdings common shares and 0.01 newly issued Partnership exchangeable units or (b) if the stockholder makes an election to receive consideration solely in the form of Partnership exchangeable units, one Partnership exchangeable unit in exchange for each share of Burger King Worldwide common stock, in each case subject to proration as set forth in the arrangement agreement. The Partnership exchangeable units are designed to have distribution and voting rights that are substantially equivalent to those of the Holdings common shares. Specifically, pursuant to the terms of the partnership agreement each Partnership exchangeable unit will be entitled to distributions from Partnership in an amount equal to any dividends or distributions that have been declared and are payable in respect of a Holdings common share. In addition, holders of Partnership exchangeable units are entitled to one vote per unit (through a special voting share of Holdings, held in trust for the unit holders) and vote together with the Holdings common shares and the preferred shares as a single class. Accordingly, the Partnership exchangeable units are reflected in the pro forma financial information in the same manner as the Holdings common shares.

We collectively refer to these as the “transactions.” After taking into account the voting power attributed to the preferred shares, former holders of Burger King Worldwide common stock will control approximately 68% of the voting power of Holdings and former Tim Hortons shareholders will control approximately 21% of the voting power of Holdings following the transactions.

The following unaudited pro forma condensed consolidated balance sheet as of June 30, 2014, and the unaudited pro forma condensed consolidated statements of operations for the six months ended June 30, 2014, and for the year ended December 31, 2013, are based on (i) the financial statements of Holdings, (ii) the audited consolidated financial statements of Burger King Worldwide and Tim Hortons for the year ended December 31, 2013, and December 29, 2013, respectively, and (iii) the unaudited consolidated financial statements of Burger King Worldwide and Tim Hortons as of and for the six months ended June 30, 2014, and June 29, 2014,

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respectively, which are included elsewhere in this document. The fiscal year of Tim Hortons ends on the Sunday closest to December 31 and fiscal year 2013 includes 52 weeks of operations. The financial statements for the six months ended June 29, 2014, include 26 weeks of operations. As such, all references to December 31, 2013, reflects Tim Hortons annual consolidated financial statements for the year ended December 29, 2013, and all references to June 30, 2014, reflect Tim Hortons interim consolidated financial statements as of June 29, 2014, and for the six months ended June 29, 2014, as applicable.

The historical financial information has been adjusted to give pro forma effect to events that are directly attributable to the transactions, have an ongoing effect on our statement of operations and are factually supportable. Our unaudited pro forma condensed consolidated financial information and explanatory notes present how our financial statements may have appeared had the businesses actually been combined and had our capital structure reflected the transactions as of the dates noted above. The unaudited pro forma condensed consolidated balance sheet as of June 30, 2014, gives effect to the transactions as if it had occurred on that date. The unaudited pro forma condensed consolidated statements of operations for the year ended December 31, 2013, and the six months ended June 30, 2014, give effect to the transactions as if it occurred on January 1, 2013.

Tim Hortons historical balance sheet as of June 30, 2014, and statement of operations for the twelve months ended December 31, 2013, and six months ended June 30, 2014, as well as Tim Hortons reclassifications, financing adjustments and acquisition accounting adjustments have been converted from Canadian Dollar ("CAD") to United States Dollar ("USD"), the functional currency of Holdings. The balance sheet was converted using the CAD to USD exchange rate on June 30, 2014, of 0.93721. The statements of operations for the twelve months ended December 31, 2013, and six months ended June 30, 2014, were converted using the average CAD to USD exchange rate for the periods of 0.97105 and 0.91187, respectively. Certain acquisition accounting adjustments were converted using the USD to CAD exchange rate on October 17, 2014, of 1.1277. All amounts presented are in USD unless otherwise noted.

The unaudited pro forma adjustments are based upon available information and certain assumptions that we believe are reasonable under the circumstances. The unaudited pro forma condensed consolidated financial information does not purport to represent what our actual consolidated results of operations or consolidated financial condition would have been had the transactions actually occurred on the dates indicated, nor do they purport to project our future consolidated results of operations or consolidated financial condition for any future period or as of any future date. The unaudited pro forma condensed consolidated financial information should be read in conjunction with the information included under the headings "*Selected Historical Consolidated Financial Data of Burger King Worldwide*," "*Selected Historical Consolidated Financial Data of Tim Hortons*," "*Management's Discussion and Analysis of Financial Condition and Results of Operations of Burger King Worldwide*," "*Management's Discussion and Analysis of Financial Condition and Results of Operations of Tim Hortons*" and related notes included elsewhere in this document. All pro forma adjustments and their underlying assumptions are described more fully in the notes to our unaudited pro forma condensed consolidated financial information.

The combination will be accounted for as a business combination of Tim Hortons using the acquisition method of accounting in accordance with ASC 805, *Business Combinations*, and, accordingly, will generally result in the recognition of Tim Hortons assets acquired and liabilities assumed at fair value. However, as of the date of this filing, we have not performed the valuation studies necessary to estimate the fair values of the assets we will acquire, the liabilities we will assume, and the historical noncontrolling interest in Tim Hortons necessary to reflect the allocation of purchase price to the fair value of such amounts. The excess of the consideration transferred over the net assets acquired has been allocated to intangible assets (i.e., indefinite-lived trade names and definite-lived franchise agreements) and goodwill. A final determination of these fair values will reflect appraisals prepared by independent third-parties and will be based on the actual tangible and intangible assets and liabilities that existed as of the acquisition-date. The actual allocation of the consideration transferred will differ from the allocation assumed in these unaudited pro forma condensed consolidated financial statements and may result in adjustments to the unaudited pro forma condensed consolidated financial information.

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Unaudited Pro Forma Condensed Consolidated Balance Sheet As of June 30, 2014 (In millions of U.S. Dollars)

	<u>Holdings</u>	<u>Historical Burger King Worldwide</u>	<u>Historical Tim Hortons</u>	<u>Reclassifications</u>	<u>Financing Adjustments</u>	<u>Acquisition Accounting Adjustments</u>	<u>Holdings Pro Forma</u>
Current assets:							
Cash and cash equivalents	\$ —	\$ 904.7	\$ 23.5	\$ —	\$ (740.2) ⁽²⁾	\$ —	\$ 188.0
Restricted cash and cash equivalents	—	—	80.5	—	—	—	80.5
Accounts receivable, net	—	—	206.3	(206.3) ⁽¹⁾	—	—	—
Notes receivable, net	—	—	7.1	(7.1) ⁽¹⁾	—	—	—
Trade and notes receivable, net	—	170.4	—	213.4 ⁽¹⁾	—	—	383.8
Prepays and other current assets, net	—	82.4	—	(82.4) ⁽¹⁾	—	—	—
Inventories and other current assets, net	—	—	110.4	82.4 ⁽¹⁾	16.3 ⁽⁵⁾	—	209.1
Advertising fund restricted assets	—	—	36.6	—	—	—	36.6
Deferred income taxes, net	—	20.0	9.4	—	0.2 ⁽⁷⁾	—	29.6
Total current assets	—	1,177.5	473.8	—	(723.7)	—	927.6
Property and equipment, net	—	786.1	1,575.5	—	—	—	2,361.6
Intangible assets, net	—	2,773.7	—	—	—	4,371.0 ⁽³⁾	7,144.7
Goodwill	—	629.0	—	—	—	7,923.2 ⁽³⁾	8,552.2
Net investment in property leased to franchisees	—	151.4	—	—	—	—	151.4
Notes receivable, net	—	—	0.6	(0.6) ⁽¹⁾	—	—	—
Deferred income taxes	—	—	11.0	(11.0) ⁽¹⁾	5.2 ⁽⁷⁾	—	5.2
Equity investments	—	—	37.8	(37.8) ⁽¹⁾	—	—	—
Other assets, net	—	236.4	110.1	49.4 ⁽¹⁾	65.4 ⁽⁶⁾	(5.2) ⁽³⁾	456.1
Total assets	<u>\$ —</u>	<u>\$ 5,754.1</u>	<u>\$ 2,208.8</u>	<u>\$ —</u>	<u>\$ (653.1)</u>	<u>\$ 12,289.0</u>	<u>\$19,598.8</u>

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		Historical Burger King	Historical Tim				
	Holdings	Worldwide	Hortons	Reclassifications	Financing Adjustments	Acquisition Accounting Adjustments	Holdings Pro Forma
LIABILITIES AND EQUITY							
Current liabilities:							
Accounts and drafts payable	—	\$ 24.1	\$ 160.4	\$ —	\$ (0.2) ⁽⁴⁾	\$ —	\$ 184.3
Accrued advertising	—	72.8	—	—	—	—	72.8
Other accrued liabilities	—	156.4	61.7	(15.4) ⁽¹⁾	(22.5) ⁽⁴⁾	—	180.2
Tim Card obligation	—	—	120.4	(120.4) ⁽¹⁾	—	—	—
Gift card liability	—	—	—	135.8 ⁽¹⁾	—	—	135.8
Advertising fund liabilities	—	—	36.3	—	—	—	36.3
Short-term borrowings	—	—	14.1	—	(14.1) ⁽⁴⁾	—	—
Current portion of long-term debt and capital leases	—	94.1	17.2	—	(18.6) ⁽⁴⁾	—	92.7
Total current liabilities	—	347.4	410.1	—	(55.4)	—	702.1
Term debt, net of current portion	—	2,860.0	1,211.8	—	4,901.0 ⁽⁴⁾	—	8,972.8
Capital leases, net of current portion	—	70.0	117.2	—	—	—	187.2
Other liabilities, net	—	300.8	101.8	—	—	(51.7) ⁽³⁾	350.9
Deferred income taxes, net	—	638.4	7.6	—	(29.3) ⁽⁷⁾	1,158.3 ⁽³⁾	1,775.0
Total liabilities	—	4,216.6	1,848.5	—	4,816.3	1,106.6	11,988.0
Preferred shares	—	—	—	—	2,772.7 ⁽⁸⁾	—	2,772.7
Stockholders' equity	—	1,537.5	358.8	—	(8,242.1) ⁽⁹⁾	11,182.4 ⁽³⁾	4,836.6
Noncontrolling interest	—	—	1.5	—	—	—	1.5
Total liabilities, mezzanine equity, and stockholders' equity	\$ —	\$ 5,754.1	\$ 2,208.8	\$ —	\$ (653.1)	\$ 12,289.0	\$ 19,598.8

See accompanying notes to unaudited pro forma condensed consolidated balance sheet.

Notes to unaudited pro forma condensed consolidated balance sheet

Tabular amounts in millions of dollars unless noted otherwise.

- (1) The following adjustments represent the reclassification of Burger King Worldwide and Tim Hortons balance sheet amounts to conform to our condensed consolidated presentation:

As of June 30, 2014

	Historical Burger King	Historical Tim Hortons	Reclassifications	Historical combined, as reclassified before pro forma adjustments
Accounts receivable, net	—	206.3	(206.3)	—
Notes receivable, net	—	7.1	(7.1)	—
Trade and notes receivable, net	170.4	—	213.4	383.8
Prepays and other current assets, net	82.4	—	(82.4)	—
Inventories and other current assets, net	—	110.4	82.4	192.8
Notes receivable, net	—	0.6	(0.6)	—
Deferred income taxes	—	11.0	(11.0)	—
Equity investments	—	37.8	(37.8)	—
Other assets, net	236.4	110.1	49.4	395.9
Other accrued liabilities	156.4	61.7	(15.4) ^(a)	202.7
Tim Card obligation	—	120.4	(120.4) ^(a)	—
Gift card liability	—	—	135.8	135.8

- (a) Represents the reclassification of \$15.4 million of Burger King Worldwide gift card liability from Other accrued liabilities and the \$120.4 million of Tim Hortons Tim card obligations to Gift card liability.

- (2) The following table summarizes the sources and uses of funds of the transactions and includes payment for extinguishment of existing indebtedness, entry into the New Term Loan Facilities and Notes, issuance of new common equity, and incurrence and payments of purchase consideration and related costs. Actual amounts may differ:

Sources	Amount	Uses	Amount
Cash and investments ^(a)	\$ 780.1	Total consideration for Tim Hortons ^(g)	\$11,542.7
Derivatives settlement ^(b)	16.1	Repayment of existing indebtedness ^(h)	4,086.9
New Term Loan Facility ^(c)	6,682.5	Fees and expenses ⁽ⁱ⁾	442.8
Notes ^(d)	2,250.0		
Preferred investment ^(e)	3,000.0		
New common equity ^(f)	3,343.7		
Total sources	<u>\$16,072.4</u>	Total uses	<u>\$16,072.4</u>

- (a) Estimated cash and cash equivalents of \$740.2 million used to fund the transactions as of June 30, 2014. Also includes bearer deposit note for \$39.9 million recognized in Other assets, net related to Tim Hortons stock-based compensation arrangements, for which cash will be received upon the extinguishment of certain Tim Hortons stock-based compensation arrangements. Tim Hortons has been required to hold bearer deposit notes as collateral to reduce the carrying cost of the Total Return Swap (“TRS”). Since the TRS will be settled upon the execution of the transactions (refer to Note 2(b)), the bearer deposit notes will also be settled and reclassified to cash and cash equivalents as there is no ongoing need to maintain the bearer deposit notes. The proceeds from the bearer deposit notes are necessary for funding at the close of the transactions and therefore are directly related to the financing of the transactions.

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- (b) Estimated cash to be received from the settlement of Tim Hortons TRS for \$16.1 million included in Other assets, net as of June 30, 2014. Tim Hortons TRS are swaps on Tim Hortons stock and is utilized as an economic hedge for Tim Hortons stock-based compensation arrangements that will settle in cash (i.e., deferred stock units (“DSU”) and stock options issued with stock appreciation rights (“SAR”)). As a result of the transactions and in accordance with the original agreements the TRS are required to be settled. The proceeds received upon settlement of Tim Hortons TRS are necessary for funding at the closing of the transactions and therefore are directly related to the financing of the transactions. The value of the TRS was determined based on the fair value of the TRS recognized on Tim Hortons balance sheet as of June 30, 2014.
 - (c) The New Term Loan Facility will consist of a \$6,750.0 million facility with a seven-year maturity, less original issue discount of \$67.5 million, which is the original issue discount reflected in the new credit agreement pricing.
 - (d) Represents the aggregate principal amount of the second lien senior secured Notes and does not reflect the estimated fees and expenses related to the transactions, which are included with other fees and expenses and reflected as a use of funds.
 - (e) Represents cash committed by Berkshire to purchase the preferred shares and the warrant to purchase common shares of Holdings.
 - (f) Represents new common equity in Holdings that Tim Hortons shareholders will receive in exchange for 133,639,410 existing Tim Hortons common shares at a 0.8025 exchange ratio per share in Tim Hortons. The value of each Holdings common share is based on the closing price of Burger King Worldwide common stock on October 17, 2014, of \$29.50, which approximates C\$33.27 using the exchange rate on October 17, 2014, of 1.1277. The value of new common equity in Holdings was converted to USD as of June 30, 2014 using the June 30, 2014 exchange rate of 0.93721 for pro forma purposes.
 - (g) Total purchase consideration paid for Tim Hortons (refer to Note 3).
 - (h) Settlement of existing indebtedness of \$2,924.7 million for Burger King Worldwide and \$1,139.7 million for Tim Hortons. Additional settlement of accrued interest associated with existing indebtedness of \$16.9 million for Burger King Worldwide and \$5.6 million for Tim Hortons. To the extent any indebtedness related to Tim Hortons that we assume is not tendered in a change in control or other tender offer made in connection with the holding company acquisition and remains outstanding following the consummation of the transactions, the aggregate amount of the financings in connection with the transactions may be reduced by a corresponding amount of the reduction in the aggregate principal amount of our New Term Loan Facility. See “The Offering—Optional Redemption.”
 - (i) Represents the breakage fees for existing indebtedness, estimated deferred financing fees related to obtaining the New Term Loan Facility and Notes, estimated fees and expenses, including financial advisory fees, legal, accounting and other professional fees incurred in connection with the transactions, and post-combination expense attributable to the accelerated vesting of outstanding Tim Hortons RSUs and PSUs. Post-combination expense of \$18.0 million (\$12.8 million paid in cash and \$5.2 million paid in shares) associated with the accelerated vesting of Tim Hortons RSUs and PSUs is determined by attributing the total acquisition date fair value of the RSUs and PSUs, determined as the total cash consideration of C\$65.50 per Tim Hortons common share plus the value of new common shares in Holdings that Tim Hortons shareholders will receive between pre-combination and post-combination expense (refer to Note 3(c)). These fees and expenses are included as a reduction to cash and shareholders equity in the accompanying unaudited pro forma condensed consolidated balance sheet as of June 30, 2014. Due to the absence of a continuing impact on our operations, these charges have been excluded from the pro forma adjustments in the statement of operations.
- (3) The holding company acquisition will be accounted for as a business combination of Tim Hortons using the acquisition method of accounting in accordance with ASC 805, *Business Combinations* .
- Tim Hortons shareholders will be entitled to received C\$65.50 in cash and 0.8025 newly issued Holdings common shares in exchange for each common share of Tim Hortons held by such shareholder, or they may

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make an election to receive cash under which they will be entitled to receive C\$88.50 in cash for each common share of Tim Hortons, or make an election to receive Holdings common shares in which case they will be entitled to receive 3.0879 newly issued Holdings common shares in exchange for each Tim Hortons common share, subject to certain limitations. The aggregate amount of all cash and stock consideration payable to Tim Hortons shareholders is fixed such that elections made by Tim Hortons shareholders with respect to their Tim Hortons common shares will not impact the aggregate composition of consideration payable to Tim Hortons shareholders. Any elections made by existing Tim Hortons shareholders, whether for cash or for newly issued Holdings common shares, will be subject to adjustment. Thus, despite the elections made by Tim Hortons shareholders, after the required adjustments, the aggregate consideration paid to Tim Hortons shareholders will equal 0.8025 Holdings common shares per Tim Hortons common share and cash of C\$65.50 per Tim Hortons common share.

Except for the assets and liabilities addressed below, we estimated the fair value of Tim Hortons assets acquired, liabilities assumed, and noncontrolling interest in Tim Hortons to approximate the carrying values on the date of the holding company acquisition. Two separately-identified intangible assets acquired from Tim Hortons, Tim Hortons brand name and Tim Hortons franchise agreements, were recognized based on their estimated fair values as of the acquisition-date. We have estimated the fair value of the brand name and franchise agreements using primarily a market-based approach, which is a valuation technique that provides an estimate of fair value based on prices and other relevant information generated by market transactions involving comparable assets, liabilities or a group of assets and liabilities. We estimated the allocation of the purchase price to Tim Hortons brand name and Tim Hortons franchise agreements based on their approximate fair values and the remainder of the purchase price is allocated to goodwill.

A final determination of these fair values will reflect appraisals prepared by independent third-parties and will be based on the actual tangible and identifiable intangible assets and liabilities that existed as of the acquisition-date. The actual allocation of the consideration transferred will differ from the allocation assumed in these unaudited pro forma condensed consolidated financial statements and may be materially different.

The following table sets forth the preliminary allocation of consideration:

	USD
Cash consideration ^{(a) (c)}	\$ 8,191.0
Share consideration ^{(b) (c)}	3,338.5
DSU Settlement ^(d)	13.2
Total consideration ^{(e) (f)}	<u>11,542.7</u>
Less: Book value of Tim Hortons net assets acquired	(360.3)
Excess of cash paid over book value of net assets acquired	<u>\$11,182.4</u>
Acquisition accounting adjustment to:	
Intangible assets (trade name and franchise agreements) ^(g)	\$ 4,371.0
Write-off of rent leveling assets and liabilities ^(h)	26.4
Settlement of stock-based compensation liability ⁽ⁱ⁾	20.1
Deferred tax liability ^(j)	(1,158.3)
Allocation to goodwill ^(k)	7,923.2
Total allocation	<u>\$11,182.4</u>

- (a) Represents total cash consideration based on C\$65.50 per share paid to Tim Hortons shareholders in exchange for their shares in Tim Hortons, reduced by the post-combination expense of \$12.8 million attributed to the accelerated vesting of Tim Hortons RSUs and PSUs (refer to Note 3(c)). As of June 30, 2014, Tim Hortons diluted share count settled at close was 133,639,410, which included Tim

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- Hortons common issued and outstanding share count of 133,126,058 as of June 30, 2014, 113,155 shares subject to RSUs and PSUs that immediately vest, net of shares in Trust, and 400,197 shares subject to vested stock options.
- (b) Represents the value of 107.2 million new common shares in Holdings that Tim Hortons shareholders will receive in exchange for 133,639,410 existing Tim Hortons common shares at a 0.8025 exchange ratio per share in Tim Hortons. The value of each Holdings common share is based on the closing price of Burger King Worldwide on October 17, 2014, of \$29.50, which approximates C\$33.27 using the exchange rate on October 17, 2014, of 1.1277. The value of total share consideration using a share price of C\$33.37 was converted to USD as of June 30, 2014 using the June 30, 2014 exchange rate of 0.93721, for pro forma purposes, and reduced by the post-combination expense of \$5.2 million associated with the accelerated vesting of Tim Hortons RSUs and PSUs (refer to Note 3(c)).
 - (c) The accelerated vesting of Tim Hortons RSUs and PSUs results from the plan of arrangement, as the awards do not automatically vest upon a change in control pursuant their original terms. The accounting treatment would be considered the same as if Holdings issued a fully vested replacement award in exchange for an unvested award, and the amount attributable to post-combination service is accounted for separately from the business combination. Post-combination expense of \$18.0 million (\$12.8 million paid in cash and \$5.2 million paid in shares) associated with the accelerated vesting of Tim Hortons RSUs and PSUs is determined by attributing the total acquisition date fair value of the RSUs and PSUs, determined as the total cash consideration of C\$65.50 per Tim Hortons common share plus the value of new common shares in Holdings that Tim Hortons shareholders will receive between pre-combination and post-combination expense. Since the RSUs and PSUs require no post-combination service, pre-combination expense included in the consideration is attributed by the ratio of the period of completed employees' service as of the acquisition date, divided by the service period of the original awards. The remainder would be recorded as post-combination expense, but was excluded from the pro forma adjustments in the statement of operations due to the absence of a continuing impact on our operations.
 - (d) Represents cash payments to Tim Hortons DSU holders for settlement of all outstanding DSUs. All outstanding DSUs will vest in accordance with its original terms and each DSU holder will receive cash in exchange for the settlement of the DSUs. The DSU holders will receive \$86.41 per DSU, which was determined based on the total value of the mix of consideration paid to Tim Hortons shareholders. As of June 30, 2014, there were 153,215 outstanding DSUs.
 - (e) Total purchase consideration may fluctuate based on changes in the Burger King Worldwide stock price. Burger King Worldwide's stock price traded between \$28.48 and \$33.82 (or approximately C\$32.12 and C\$38.14, using the October 17, 2014, exchange rate of 1.1277) during the period between August 28, 2014, and October 17, 2014. Considering the price range together with the 107.2 million shares of Holdings that Tim Hortons shareholders will receive, may result in gross share consideration ranging between \$3,228.4 million and \$3,833.5 million as converted to USD using the June 30, 2014, exchange rate of 0.93721. The share consideration would have been reduced for RSU and PSU post-combination expense ranging between \$5.0 million and \$6.0 million, such that the total share consideration would have ranged between \$3,223.4 million and \$3,827.5 million. Additionally, by applying the same share price range, the DSU settlement would have ranged \$85.55 and \$90.08 per DSU, or a total DSU settlement between \$13.1 million and \$13.8 million. Thus, together with cash consideration of \$8,191.0 million, had the transactions been consummated at the aforementioned share prices, the total purchase consideration would have ranged between \$11,427.5 million and \$12,032.3 million.
 - (f) Total purchase consideration may fluctuate based on changes in the CAD to USD exchange rates. A 10% change in exchange rates compared to June 30, 2014 would result in total purchase consideration between \$10,388.5 million and \$12,697.0 million.
 - (g) Represents recognition of \$4,155.4 million for Tim Hortons trade name and \$215.6 million for franchise agreements acquired from Tim Hortons based on their estimated acquisition-date fair value. The Tim Hortons trade name is considered to be an indefinite lived intangible asset, as it is expected to contribute to Holdings' cash flows indefinitely subsequent to the transactions, and there are no legal, contractual, competitive, economic or other factors that limit the useful life of the Tim Hortons trade

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- name to Holdings. Further, there are no known effects of obsolescence, competition or other economic factors that would indicate limitations in Holdings' future use of the Tim Hortons trade name. Therefore, the trade name intangible asset will not be amortized. The Tim Hortons franchise agreements will be amortized over their useful lives (refer to Note (b) and (B)).
- (h) Represents write-off of Tim Hortons rent leveling asset of \$5.2 million included in Other assets, net and rent leveling liability of \$31.6 million included in Other liabilities, net.
 - (i) Represents the settlement of the stock-based compensation liability associated with Tim Hortons stock options with tandem SARs and DSUs, which will be settled as part of the transactions. As these awards are cash-settled, they are revalued to fair value at the end of each reporting period. Stock options with tandem SARs are fair valued using the Black-Scholes option pricing model, which includes assumptions such as the estimated length of time employees will retain their stock options before exercising them ("expected term") ranging from 0.5 to 4.7 years, the expected volatility of the Tim Hortons common share price over the expected term (12% to 16%), the risk-free interest rate (1.1% to 1.5%), the dividend yield (2.2%) and the forfeiture rate (0%). DSUs are fair valued as the difference between the current Tim Hortons market price (\$58.41 on June 30, 2014) and the original grant price (weighted average of \$41.14).
 - (j) Represents the deferred tax impact associated with the incremental differences in book and tax basis created from the preliminary application of acquisition accounting, related to the estimated fair value adjustments for trade name and franchise agreements. Deferred taxes were established based on a statutory tax rate of approximately 26%, based on jurisdictions where income is generated. The effective tax rate of the combined company could be significantly different (either higher or lower) depending on post-acquisition activities, including cash needs and the geographical mix of income.
 - (k) Represents the preliminary excess of consideration transferred over the fair values of assets acquired and liabilities assumed as a result of the acquisition of Tim Hortons. Goodwill is attributable to planned growth in new markets, synergies expected to be achieved from the combined operations of Tim Hortons and Burger King Worldwide, including corporate overhead, and the assembled workforce of Tim Hortons. Goodwill is not expected to be deductible for tax purposes.
- (4) Represents pro forma adjustments relating to the additional indebtedness incurred in connection with the New Term Loan Facility and Notes and repayment of all amounts outstanding (including accrued interest) under the existing indebtedness for Burger King Worldwide and Tim Hortons:

Payoff of accrued interest included within other accrued liabilities	\$ (22.5)
Payoff of existing short-term borrowings	\$ (14.1)
Payoff of existing accounts payable related to Revolver facility fees	\$ (0.2)
Payoff of existing indebtedness - current portion	\$ (76.5)
Anticipated borrowing under the New Term Loan Facility - current portion	67.5
Original issue discount on New Term Loan Facility - current portion	(9.6)
Total adjustment to current portion of long-term debt and capital leases	<u>\$ (18.6)</u>
Payoff of existing indebtedness - long-term portion	\$(3,973.6)
Anticipated borrowing under the New Term Loan Facility - long-term portion	6,682.5
Issuance of Notes	2,250.0
Original issue discount on New Term Loan Facility - long-term portion	(57.9)
Total adjustment to long-term debt and capital leases	<u>\$ 4,901.0</u>

The adjustments are based on balances as of June 30, 2014. To the extent any indebtedness related to Tim Hortons that we assume is not tendered in a change of control or other tender offer made in connection with the holding company acquisition and remains outstanding following the consummation of the transactions, the aggregate amount of the financings in connection with the transactions may be reduced by a corresponding amount of the reduction in the aggregate principal amount of our New Term Loan Facility.

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A senior secured revolving credit facility was issued in conjunction with the New Term Loan Facility that permits Holdings to borrow loans from time to time in an aggregate principal amount of \$500.0 million. Holdings does not have the intention to immediately draw from the senior secured revolving credit facility to finance the transactions. As such, the senior secured revolving credit facility is not considered an anticipated borrowing and is not accounted for as a financing adjustment on the unaudited pro forma condensed consolidated balance sheet.

Any changes at the closing date of the transactions to the amounts owed on the existing indebtedness and the revolving portion of our existing indebtedness and the liability under our interest rate swap agreements from the respective amounts at June 30, 2014, may or may not be material. No adjustments have been made to the unaudited pro forma financial statements for any changes in these balances subsequent to June 30, 2014.

- (5) Represents pro forma adjustments relating to the write-off of Burger King Worldwide and Tim Hortons historical deferred financings costs and the recognition of new deferred financing costs on New Term Loan Facility and Notes:

Current (Prepaids and other current assets, net)	
Deferred financing costs associated with New Term Loan Facility and Notes offered hereby ^(a)	\$ 25.4
Write-off of Burger King Worldwide deferred financing costs related to existing indebtedness	(9.1)
	<u>\$ 16.3</u>
Non-current (Other assets, net)	
Deferred financing costs associated with New Term Loan Facility and Notes offered hereby ^(a)	\$157.7
Write-off of Burger King Worldwide and Tim Hortons deferred financing costs related to existing indebtedness ^(b)	(36.3)
	<u>\$121.4</u>

(a) Relates to deferred financing costs arising from the New Term Loan Facility and Notes.

(b) Write-off of deferred financing costs related to existing indebtedness of \$31.0 million related to Burger King Worldwide and \$5.3 million related to Tim Hortons.

- (6) Represents the pro forma financing adjustments to Other assets, net.

Financing adjustments to Other assets, net	
Non-current portion related to deferred financing costs ^(a)	\$121.4
Derivatives settlement ^(b)	(16.1)
Settlement of Tim Hortons Bearer Deposit Note ^(c)	(39.9)
	<u>\$ 65.4</u>

- (a) Relates to the non-current portion of deferred financing costs associated with New Term Loan Facility and Notes and the write-off of Burger King Worldwide and Tim Hortons deferred financing costs related to existing indebtedness (refer to Note 5).

- (b) Estimated cash to be received from the settlement of Tim Hortons TRS for \$16.1 million included in Other assets, net as of June 30, 2014. Tim Hortons TRS are swaps on Tim Hortons stock and is utilized as an economic hedge for Tim Hortons stock-based compensation arrangements that will settle in cash (i.e., DSUs and stock options issued with associated tandem SARs). As a result of the transactions, and in accordance with the original agreements the TRS are required to be settled. The proceeds received upon settlement of Tim Hortons TRS are necessary for funding at the closing of the transactions and therefore are directly related to the financing of the transactions. The value of the TRS was determined based on the fair value of the TRS recognized on Tim Hortons balance sheet as of June 30, 2014.

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- (c) Tim Hortons has been required to hold bearer deposit notes as collateral to reduce the carrying cost of the TRS. Since the TRS will be settled and reclassified to cash and cash equivalents upon the execution of the transactions (refer to Note 2(b)), the bearer deposit notes will also be settled as there is no ongoing need to maintain the bearer deposit notes. The proceeds from the bearer deposit notes are necessary for funding at the close of the transactions and therefore are directly related to the financing of the transactions.
- (7) The following table sets forth the pro forma adjustments for the deferred tax impacts resulting from the elimination of existing indebtedness and elimination of Tim Hortons stock-based compensation liability in connection with the transactions.

<u>Assets</u>	
Deferred income taxes, net (current portion) ^(a)	\$ 0.2
Deferred income taxes, net (long-term portion) ^(a)	\$ 5.2
<u>Liabilities</u>	
Deferred income taxes, net (long-term portion) ^(b)	\$(29.3)

- (a) Relates to an increase in the current and long-term portion of the deferred tax asset recognized as a result of Tim Hortons TRS which will be settled as part of the transactions (refer to Note 2(b)). These adjustments were determined based on the historical deferred tax impacts that had been recognized for temporary differences caused by the TRS.
- (b) Relates to a decrease of \$29.7 million to the long-term portion of the deferred tax liability recognized as a result of Burger King Worldwide's existing indebtedness that will be eliminated as part of the transactions (refer to Note 2(h)). Additionally, there is an increase of \$0.4 million to the long-term portion of the deferred tax liability recognized as a result of Tim Hortons stock-based compensation liability which will be settled as part of the transactions (refer to Note 3(f)). The adjustments are determined based on the historical deferred tax asset that had historically been recognized for temporary differences caused by Burger King Worldwide's existing indebtedness and Tim Hortons stock-based compensation liability.
- (8) Represents the \$3,000.0 million in proceeds received from Berkshire in exchange for the Holdings preferred shares, less the value of the warrant granted to Berkshire to purchase 1.75% of the fully diluted common shares of Holdings (approximately 8.3 million).

The Holdings preferred shares may be redeemed at Holdings' option on and after the third anniversary of the original issuance. After the tenth anniversary of the original issue date, holders of not less than a majority of the outstanding Holdings preferred shares may cause Holdings to redeem their preferred shares at redemption price of 109.9% of par value plus accrued and unpaid dividends and unpaid make-whole dividends. Since the redemption features are not solely within the control of Holdings, the preferred shares are classified within temporary equity.

Additionally, Berkshire will receive a warrant to purchase 1.75% of the fully diluted Holdings common shares (approximately 8.3 million) as of the transaction date on a fully diluted basis at an exercise price of \$0.01 per share. The warrant was valued at a fair value of \$29.49 using the Black-Scholes option pricing model based on the following assumptions: (i) market price: \$29.50 on October 17 2014, (ii) exercise price: \$0.01, (iii) risk free rate: 1.44%, (iv) volatility: 30%, (v) dividend rate: 0% and (vi) term: 5 years. The proceeds were allocated to preferred shares (\$2,772.7 million) and the warrant (\$227.3 million for all common shares underlying the warrant) on a relative fair value basis.

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(9) The pro forma adjustments to stockholders' equity due to the holding company acquisition are as follows:

Historical Burger King Worldwide	\$ 1,537.5
Historical Tim Hortons	358.8
Tim Hortons acquisition accounting adjustment	<u>11,182.4</u>
	13,078.7
Financing adjustments:	
Elimination of existing indebtedness to be settled as part of the Transactions ^(a)	4,064.4
Elimination of accrued interest to be settled as part of the Transactions ^(b)	22.5
Write-off deferred financing costs related to existing indebtedness ^(c)	(45.4)
Elimination of derivatives to be settled as part of the Transactions ^(d)	(16.1)
Anticipated borrowing under the New Term Loan Facility and Notes ^(e)	(8,932.5)
Preferred stock recognized ^(f)	(2,772.7)
Cash and investments ^(g)	(780.1)
Deferred financing fees of New Term Loan Facility and Notes ^(h)	183.1
Tax impact of pro forma adjustments ⁽ⁱ⁾	<u>34.7</u>
Total financing adjustments	<u>(8,242.1)</u>
Total pro forma stockholders' equity	<u>\$ 4,836.6</u>

- (a) Relates to eliminating existing indebtedness of \$2,924.7 million for Burger King Worldwide and \$1,139.7 million for Tim Hortons.
- (b) Relates to eliminating accrued interest associated with existing indebtedness of \$16.9 million for Burger King Worldwide and \$5.6 million for Tim Hortons.
- (c) Relates to the write-off of deferred financing costs related to existing indebtedness of \$40.1 million for Burger King Worldwide and \$5.3 million for Tim Hortons.
- (d) Estimated cash to be received from the settlement of Tim Hortons TRS for \$16.1 million included in Other assets, net as of June 30, 2014.
- (e) Relates to total New Term Loan Facility and Notes of Holdings of \$9,000.0 million, less \$67.5 million of original issue discount on New Term Loan Facility.
- (f) Relates to \$3,000.0 million investment from Berkshire in exchange for preferred shares in Holdings and a warrant for common shares of Holdings. The total proceeds were allocated between preferred shares and the warrant based on the estimated fair value of the warrant and preferred shares (refer to Note 8).
- (g) Relates to estimated cash and cash equivalents used to fund the transactions as of June 30, 2014 (refer to Note 2). This includes material non-recurring charges estimated to be \$49.7 million and \$79.6 million for Burger King Worldwide and Tim Hortons, respectively. Amounts payable by Burger King Worldwide include \$13.8 million of bankers' fees, \$19.0 million of legal fees, \$6.1 million of accounting fees, and \$10.8 million of other transaction related fees. Amounts payable by Tim Hortons include \$52.1 million of bankers' fees, \$25.4 million of legal fees, \$1.1 million of accounting fees, and \$1.0 million of other fees.
- (h) Represents the estimated deferred financing fees related to obtaining the New Term Loan Facility and Notes.
- (i) Relates to deferred tax impacts resulting from the elimination of existing indebtedness and elimination of Tim Hortons stock-based compensation liability in connection with the transactions (refer to Note 7). The elimination of Burger King Worldwide's existing indebtedness resulted in a \$29.7 million decrease to its deferred tax liability. The elimination of Tim Hortons TRS and stock-based compensation liability resulted in net impact of \$5.0 million due to a \$5.4 million increase to its deferred tax asset and a \$0.4 million increase to its deferred tax liability, respectively.

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Unaudited Pro Forma Condensed Consolidated Statement of Operations For the Twelve Months Ended December 31, 2013 (In millions of U.S. Dollars, except per share data)

	Holdings	Historical Burger King Worldwide	Historical Tim Hortons	Reclassifications	Financing Adjustments	Acquisition Accounting Adjustments	Holdings Pro Forma
Revenues:							
Sales	\$ —	\$ —	\$ 2,200.3	\$ 222.7 ^(a)	\$ —	\$ —	\$ 2,423.0
Company restaurant revenues	—	222.7	—	(222.7) ^(a)	—	—	—
Franchise and property revenues	—	923.6	—	961.0 ^(a)	—	—	1,884.6
Rents and royalties	—	—	797.4	(797.4) ^(a)	—	—	—
Franchise fees	—	—	163.6	(163.6) ^(a)	—	—	—
Total revenues	—	1,146.3	3,161.3	—	—	—	4,307.6
Company restaurant expenses	—	195.3	—	(195.3) ^(a)	—	—	—
Cost of sales	—	—	1,915.8	195.3 ^(a)	—	—	2,111.1
Operating expenses	—	—	312.5	(312.5) ^(a)	—	—	—
Franchise fee costs	—	—	157.9	(157.9) ^(a)	—	—	—
Franchise and property expenses	—	152.4	—	470.4 ^(a)	—	9.7 ^(b)	632.5
General and administrative expenses	—	—	154.9	(154.9) ^(a)	—	—	—
Selling, general and administrative expenses	—	242.4	—	154.9 ^(a)	—	4.4 ^{(b) (c)}	401.7
(Income) from equity method investments	—	—	(14.7)	12.7 ^(a)	—	—	(2.0)
Corporate reorganization expenses	—	—	11.4	—	—	—	11.4
De-branding costs	—	—	18.5	—	—	—	18.5
Asset impairment	—	—	2.8	(2.8) ^(a)	—	—	—
Other operating (income) expenses, net	—	34.0	(0.9)	(9.9) ^(a)	—	—	23.2
Total operating costs and expenses	—	624.1	2,558.2	—	—	14.1	3,196.4
Income (loss) from operations	—	522.2	603.1	—	—	(14.1)	1,111.2
Interest expense	—	—	37.9	(37.9) ^(a)	—	—	—
Interest (income)	—	—	(3.5)	3.5 ^(a)	—	—	—
Interest expense, net	—	200.0	—	34.4 ^(a)	269.9 ^(d)	—	504.3
Income (loss) before income taxes	—	322.2	568.7	—	(269.9)	(14.1)	606.9
Income tax expense (benefit)	—	88.5	152.4	—	(49.7) ^(e)	(5.9) ^(e)	185.3
Net income (loss)	—	233.7	416.3	—	(220.2)	(8.2)	421.6
Net income attributable to non controlling interests	—	—	4.2	—	—	—	4.2
Net income (loss) attributable to Holdings	—	233.7	412.1	—	(220.2)	(8.2)	417.4
Preferred shares dividends	—	—	—	—	(270.0) ^(f)	—	(270.0)
Preferred shares redemption value	—	—	—	—	(524.3) ^(f)	—	(524.3)
Net income (loss) attributable to common stockholders	<u>\$ —</u>	<u>\$ 233.7</u>	<u>\$ 412.1</u>	<u>\$ —</u>	<u>\$ (1,014.5)</u>	<u>\$ (8.2)</u>	<u>\$ (376.9)</u>
Net income (loss) per common share ^(f)							
Basic		0.67	2.74				\$ (0.82)
Diluted		0.65	2.74				\$ (0.82)
Weighted average outstanding shares ^(f)							
Basic		351.0	150.2				458.2
Diluted		357.8	150.6				458.2

See accompanying notes to unaudited pro forma condensed consolidated statement of operations.

**Notes to unaudited pro forma condensed consolidated
statement of operations**

Tabular amounts in millions of USD unless noted otherwise.

- (a) The following adjustments represent the reclassification of Burger King Worldwide and Tim Hortons income statement amounts to conform to the condensed consolidated presentation:

Year ended December 31, 2013

	Historical Burger King		Historical Tim Hortons	Reclassification		Historical combined, as reclassified before pro forma adjustments
	Worldwide					
Sales	\$ —		\$ 2,200.3	\$ 222.7	—	\$ 2,423.0
Company restaurant revenues	222.7		—	(222.7)		—
Franchise and property revenues	923.6		—	961.0		1,884.6
Rents and royalties	—		797.4	(797.4)		—
Franchise fees	—		163.6	(163.6)		—
Company restaurant expenses	195.3		—	(195.3)		—
Cost of sales	—		1,915.8	195.3		2,111.1
Operating expenses	—		312.5	(312.5)		—
Franchise fee costs	—		157.9	(157.9)		—
Franchise and property expenses	152.4		—	470.4		622.8
General and administrative expenses	—		154.9	(154.9)		—
Selling, general and administrative expenses	242.4		—	154.9		397.3
(Income) loss from equity method investments	—		(14.7)	12.7	(i)	(2.0)
Asset impairment	—		2.8	(2.8)	(ii)	—
Other operating (income) expenses, net	34.0		(0.9)	(9.9)	(i) (ii)	23.2
Interest expense	—		37.9	(37.9)		—
Interest (income)	—		(3.5)	3.5		—
Interest expense, net	200.0		—	34.4		234.4

- i. Represents the reclassification of \$12.7 million in losses from Burger King Worldwide equity method investments from Other operating (income) expenses, net to (Income) loss from equity method investments.
- ii. Represents the reclassification of \$2.8 million in Tim Hortons asset impairment charges from Asset impairment to Other operating (income) expenses, net.

- (b) The holding company acquisition will be accounted for as a business combination of Tim Hortons using the acquisition method of accounting and, accordingly, will generally result in the recognition of assets acquired and liabilities assumed at fair value.

The pro forma adjustments to amortization expense related to the recognition of new intangible assets with definite lives and elimination of historical intangible assets consists of the following:

<u>Franchise and property expenses</u>	
Recognition of amortization expense for intangible assets acquired from Tim Hortons ⁽ⁱ⁾	\$ 9.7
<u>General and administrative expenses</u>	
Elimination of Tim Hortons amortization of intangible assets ⁽ⁱⁱ⁾	\$(0.4)

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- i. The total pro forma amortization recognized for the fiscal year ended December 31, 2013, relates to franchise agreements acquired, amortized over a 23 year useful life (consistent with Burger King Worldwide's useful lives for franchise agreements). An increase of 10 years in the estimated useful life of the Tim Hortons franchise agreement intangible asset would decrease amortization expense by \$2.8 million. A decrease of 10 years in the estimated useful life of the Tim Hortons franchise agreement intangible asset would increase amortization expense by \$7.2 million.
 - ii. The total pro forma amortization eliminated for the fiscal year ended December 31, 2013, relates to an intangible asset for the use of the name and likeness of Ronald V. Joyce, a former owner of Tim Hortons. In 2013, after evaluation of strategic considerations and the overall performance of the Cold Stone Creamery business in Tim Hortons locations, Tim Hortons decided to remove the Cold Stone Creamery brand from Tim Hortons restaurants in Canada. This decision allowed the owners of the affected restaurants to simplify their operations and focus entirely on Tim Hortons. The de-branding costs were not eliminated in conjunction with the pro forma as they were considered normal course of business.
- (c) The pro forma adjustments to selling, general and administrative expenses reflects the elimination of certain of Tim Hortons historical stock-based compensation expense and recognition of estimated stock-based compensation expense for Tim Hortons, as follows:

Elimination of liability-classified stock option compensation expense ⁽ⁱ⁾	\$(12.4)
Elimination of DSU stock-based compensation expense ⁽ⁱ⁾	(2.6)
Elimination of TRS income ⁽ⁱ⁾	13.5
Stock-based compensation expense for Tim Hortons ⁽ⁱⁱ⁾	6.3
	<u>\$ 4.8</u>

- i. Tim Hortons historical stock options with associated tandem SARs and DSUs are accounted for as cash-settled awards, which are revalued to fair value at the end of each reporting period. In order to hedge the variability of cash flows and, to a lesser extent, earnings associated with these awards, Tim Hortons has entered into a number of TRS, which are also revalued to fair value at the end of each reporting period. It is expected that future equity compensation will be accounted for as equity-settled awards, in line with Burger King Worldwide's current practice, and not cash-settled awards. Therefore, due to the variability in accounting for cash-settled awards, the historical DSU expense, stock options with tandem SARs and associated TRS gain/loss have been eliminated.

DSUs will be settled on the date of the effective time of the transactions. At the effective time of the transactions, all outstanding DSUs will be settled for the equivalent of C\$65.50 cash plus the value of 0.8025 newly issued Holdings common shares. The settlement of outstanding DSUs has been included in the calculation of the purchase price. DSUs are not expected to be issued subsequent to the transactions.

Vested stock options surrendered by the employee will be settled on the date of the effective time of the transactions, in the same manner as outstanding common shares. The settlement of vested surrendered stock options has been included in the calculation of the purchase price, on the assumption that all vested stock options will be surrendered. Vested stock options not surrendered and unvested options will be exchanged for replacement awards. Unvested options have not been included in the calculation of the purchase price as these awards will be replaced.

The TRS derivative contracts are required to be settled at the time of the transactions.

- ii. Future grants of new stock options expected to be granted prospectively will be equity classified consistent with Burger King Worldwide's current practice. The expense associated with these new awards replaces Tim Hortons historical stock option compensation expense (which has been eliminated per above due to the variability in accounting for liability-classified awards). The incremental expense amount for these new awards is based on historical RSU expense since RSU awards have historically

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been equity classified by Tim Hortons and represent approximately 50% of total equity-related compensation. This incremental expense, combined with the historical RSU expense that was not eliminated above, represents a reasonable proxy for prospective stock compensation expense associated with future grants of equity-classified awards.

The unvested stock options with associated tandem SARs of Tim Hortons have historically been liability classified, with mark-to-market expense. Approximately 898,000 stock options will be replaced with new awards using a conversion ratio of 3.0879. Each of the new awards will have materially equivalent economic terms and conditions as each exchanged award. Accordingly, we do not believe any material incremental stock-based compensation expense will arise from the replacement awards relating to unvested stock options with associated tandem SARs. Additionally, since these awards will be liability classified, consistent with the awards they will replace, no amount of expense has been attributed to the replacement awards due to an inability to forecast expense associated with awards that will be marked-to-market.

- (d) The pro forma adjustment to interest expense related to the issuance of the New Term Loan Facility and Notes by Holdings and elimination of existing indebtedness at Burger King Worldwide and Tim Hortons consists of the following adjustments:

Interest on New Term Loan Facility and Notes of approximately \$9.0 billion principal amount at a weighted average interest rate of 4.88% ⁽ⁱ⁾	\$437.2
Agency fees and unused fee on new Revolver	2.7
Amortization on \$183.1 million of debt issuance costs arising from the New Term Loan Facility and Notes and \$67.5 million of original issue discount on New Term Loan Facility ⁽ⁱⁱ⁾	35.1
Total interest expense on the New Term Loan Facility and Notes	<u>\$475.0</u>
Reversal of historical:	
Historical interest expense on existing indebtedness ⁽ⁱⁱⁱ⁾	\$193.2
Historical amortization of deferred financing fees ^(iv)	11.1
Cancellation of Tim Hortons interest rate forward	0.8
Total historical interest expense on existing indebtedness	<u>\$205.1</u>
Total pro forma adjustment to interest expense	<u>\$269.9</u>

- i. The estimated interest rate set forth above reflects assumption with respect to the debt financing for the transactions. The weighted average interest rate of 4.88% was determined based on a 6.0% stated interest rate for the Notes and a 4.5% interest rate for the New Term Loan Facility. The New Term Loan Facility interest rate will be based on 350 basis points, plus LIBOR, subject to a 1.0% per annum floor. A 0.125% change in the assumed interest rate of the New Term Loan Facility and Notes would change aggregate pro forma interest expense for the fiscal year ended December 31, 2013, by approximately \$11.2 million.
- ii. This amount represents amortization expense recognized for debt issuance costs arising from the New Term Loan Facility and Notes, and original issue discount on New Term Loan Facility. Amortization is calculated on a straight-line basis over 7 years for the New Term Loan Facility and original issue discount and 7.5 years for the Notes.
- iii. Historical interest expense on existing indebtedness for Burger King Worldwide and Tim Hortons is \$178.1 million and \$15.1 million, respectively.
- iv. This amount represents amortization of historical deferred financing costs for Burger King Worldwide and Tim Hortons in the amounts of \$10.3 million and \$0.8 million, respectively.

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- (e) The historical tax impacts related to the pro forma adjustments are represented in the pro forma statement of operations based on the tax rates when the expenses were originally recognized. The pro forma adjustment to income tax expense (benefit) reflects the tax effect of the pro forma adjustments using a statutory rate of approximately 26%, based on jurisdictions where income is generated. The effective tax rate of the combined company could be significantly different depending on post-acquisition activities, including cash needs and the geographical mix of income.

Tax effect of eliminating interest expense on existing indebtedness ⁽ⁱ⁾	\$ 76.2
Tax effect on interest expense of New Term Loan Facility and Notes	(125.9)
	<u>\$ (49.7)</u>
Tax effect of eliminating stock-based compensation expense ⁽ⁱⁱ⁾	\$ (3.3)
Tax effect on amortization expense for new intangible assets	(2.6)
	<u>\$ (5.9)</u>

- i. Tax effect of historical interest expense on existing indebtedness of Burger King Worldwide and Tim Hortons is \$72.6 million and \$3.6 million, respectively. The historical tax rate used to calculate the tax effect of eliminating interest expense on existing indebtedness was 37.5% for discount notes held by Burger King Capital Holdings, LLC and Burger King Capital Finance, Inc. and 38.9% for senior notes and term loans issued by Burger King Corporation. Tim Hortons tax effect of eliminating existing indebtedness was calculated using a rate of 21.2%.
- ii. A tax rate of approximately 25.0% - 26.9% was used to calculate the tax effect of eliminating Tim Hortons stock-based compensation expense, including the effect from the TRS.
- (f) Pro forma basic earnings per common share ("EPS") is calculated by dividing net income applicable to common stockholders by the weighted average number of common shares outstanding. Pro forma diluted earnings per share is computed by dividing net income applicable to common stockholders by the weighted average number of common shares outstanding during the period adjusted for the dilutive effect of stock options. We exclude stock options from the calculation of diluted earnings per share if the effect of including such stock options is anti-dilutive.

Numerator:	
Net income attributable to Holdings	\$ 417.4
Preferred shares dividends ⁽ⁱ⁾	(270.0)
Adjustment for redemption value ⁽ⁱⁱ⁾	(524.3)
Net loss attributable to common stockholders	<u>\$(376.9)</u>
Denominator:	
Weighted average common shares outstanding - basic ⁽ⁱⁱⁱ⁾	458.2
Effect of dilutive securities	—
Weighted average common shares outstanding - diluted ^(iv)	<u>458.2</u>
Basic loss per share	\$ (0.82)
Diluted loss per share	\$ (0.82)

- i. Includes 9% cumulative dividends related to our 9% preferred shares held by Berkshire.
- ii. In connection with the transactions, we issued preferred shares and the warrant to purchase 8.3 million shares of common stock to Berkshire for proceeds of \$3,000.0 million in cash. The proceeds were allocated to the preferred shares for \$2772.7 million and the warrant for \$227.3 million on a

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preliminary relative fair value basis. The preferred shares are redeemable at our option three years after issuance and thereafter at a price of 109.9% of par value plus accrued and unpaid dividends and unpaid make-whole dividends. This pro forma adjustment recognizes an additional preferred dividend of \$524.3 million, calculated as the difference between the carrying value and redemption value of the preferred shares, which is recorded as a reduction to the income attributable to common stockholders and common stockholders' equity.

- iii. Includes Burger King Worldwide weighted average common shares outstanding of 351.0 million and Tim Hortons weighted average common shares in Holdings of 107.2 million as of December 31, 2013. The pro forma shares used to calculate earnings per share assume that Tim Hortons shareholders will hold 107.2 million Holdings common shares immediately following the closing of the transactions, which is based on 133,639,410 existing Tim Hortons diluted common shares at a 0.8025 conversion ratio per share in Tim Hortons. The pro forma shares used to calculate earnings per share also reflect that outstanding shares of common stock of Burger King Worldwide which will be converted on a one for one basis into Holdings common shares resulting in 351.0 million weighted average common shares outstanding. The Partnership exchangeable units are designed to have distribution and voting rights that are substantially equivalent to those of the Holdings common shares. Specifically, pursuant to the terms of the Limited Partnership Agreement of Partnership each Partnership exchangeable unit will be entitled to distributions from Partnership in an amount equal to any dividends or distributions that have been declared and are payable in respect of a Holdings common share. In addition, holders of exchangeable units are entitled to one vote per unit (through a Special Voting Share of Holdings, held in trust for the unit holders) and vote together with the Common Shares and the Preferred Shares as a single class. Accordingly, the Partnership exchangeable units are reflected in the pro forma financial information in the same manner as the Holdings common shares.
- iv. Basic and diluted weighted average common shares outstanding are equivalent because the pro forma statement of operations indicates a net loss for all periods presented causing any potentially dilutive securities to be anti-dilutive. Therefore, 28.6 million shares of potentially dilutive securities were excluded in the calculation of diluted earnings per share since their impact would have been anti-dilutive. The components of the total amount of potentially dilutive securities are comprised of 2.8 million in Tim Hortons Unvested Options, 17.5 million in Burger King Worldwide Outstanding Options, and 8.3 million for the warrant held by Berkshire.

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Unaudited Pro Forma Condensed Consolidated Statement of Operations For the Six Months Ended June 30, 2014 (In millions of U.S. Dollars, except per share data)

	Holdings	Historical Burger King Worldwide	Historical Tim Hortons	Reclassifications	Financing Adjustments	Acquisition Accounting Adjustments	Holdings Pro Forma
Revenues:							
Sales	\$ —	\$ —	\$ 1,053.1	\$ 36.8 ^(A)	\$ —	\$ —	\$ 1,089.9
Company restaurant revenues	—	36.8	—	(36.8) ^(A)	—	—	—
Franchise and property revenues	—	465.3	—	443.1 ^(A)	—	—	908.4
Rents and royalties	—	—	387.1	(387.1) ^(A)	—	—	—
Franchise fees	—	—	56.0	(56.0) ^(A)	—	—	—
Total revenues	—	502.1	1,496.2	—	—	—	1,998.3
Company restaurant expenses	—	31.2	—	(31.2) ^(A)	—	—	—
Cost of sales	—	—	912.5	31.2 ^(A)	—	—	943.7
Operating expenses	—	—	151.1	(151.1) ^(A)	—	—	—
Franchise fee costs	—	—	57.1	(57.1) ^(A)	—	—	—
Franchise and property expenses	—	73.1	—	208.2 ^(A)	—	4.6 ^(B)	285.9
General and administrative expenses	—	—	72.5	(72.5) ^(A)	—	—	—
Selling, general and administrative expenses	—	95.2	—	72.5 ^(A)	—	0.1 ^(C)	167.8
(Income) loss from equity method investments	—	—	(6.7)	9.9 ^(A)	—	—	3.2
Other operating expenses, net	—	19.8	1.8	(9.9) ^(A)	—	—	11.7
Total operating costs and expenses	—	219.3	1,188.3	—	—	4.7	1,412.3
Income (loss) from operations	—	282.8	307.9	—	—	(4.7)	586.0
Interest expense	—	—	32.2	(32.2) ^(A)	—	—	—
Interest (income)	—	—	(1.9)	1.9 ^(A)	—	—	—
Interest expense, net	—	100.6	—	30.3 ^(A)	120.0 ^(D)	—	250.9
Income (loss) before income taxes	—	182.2	277.6	—	(120.0)	(4.7)	335.1
Income tax expense (benefit)	—	46.7	79.0	—	(22.7) ^(E)	(0.6) ^(E)	102.4
Net income (loss)	—	135.5	198.6	—	(97.3)	(4.1)	232.7
Net income attributable to non controlling interests	—	—	2.9	—	—	—	2.9
Net income (loss) attributable to Holdings	—	135.5	195.7	—	(97.3)	(4.1)	229.8
Preferred stock dividends	—	—	—	—	(135.0) ^(F)	—	(135.0)
Net income (loss) attributable to common stockholders	\$ —	\$ 135.5	\$ 195.7	\$ —	\$ (232.3)	\$ (4.1)	\$ 94.8
Net income per common share ^(F)							
Basic		0.38	1.44				\$ 0.21
Diluted		0.38	1.43				\$ 0.20
Weighted average outstanding shares ^(F)							
Basic		352.3	136.0				459.5
Diluted		359.3	136.4				476.4

See accompanying notes to unaudited pro forma condensed consolidated statement of operations.

**Notes to unaudited pro forma condensed consolidated
statement of operations**

Tabular amounts in millions of USD unless noted otherwise.

- (A) The following adjustments represent the reclassification of Burger King Worldwide and Tim Hortons income statement amounts to conform to condensed consolidated presentation as follows:

Six months ended June 30, 2014

	Historical Burger King Worldwide	Historical Tim Hortons	Reclassification	Historical combined, as reclassified before pro forma adjustments
Sales	\$ —	\$1,053.1	\$ 36.8	\$ 1,089.9
Company restaurant revenues	36.8	—	(36.8)	—
Franchise and property revenues	465.3	—	443.1	908.4
Rents and royalties	—	387.1	(387.1)	—
Franchise fees	—	56.0	(56.0)	—
Company restaurant expenses	31.2	—	(31.2)	—
Cost of sales	—	912.5	31.2	943.7
Operating expenses	—	151.1	(151.1)	—
Franchise fee costs	—	57.1	(57.1)	—
Franchise and property expenses	73.1	—	208.2	281.3
General and administrative expenses	—	72.5	(72.5)	—
Selling, general and administrative expenses	95.2	—	72.5	167.7
(Income) loss from equity method investments	—	(6.7)	9.9(i)	3.2
Other operating expenses, net	19.8	1.8	(9.9)(i)	11.7
Interest expense	—	32.2	(32.2)	—
Interest (income)	—	(1.9)	1.9	—
Interest expense, net	100.6	—	30.3	130.9

- i. Represents the reclassification of \$9.9 million in losses from Burger King Worldwide equity method investments from Other operating (income) expenses, net to (Income) loss from equity method investments.

- (B) The holding company acquisition will be accounted for as a business combination of Tim Hortons using the acquisition method of accounting and, accordingly, will generally result in the recognition of assets acquired and liabilities assumed at fair value.

The pro forma adjustments to amortization expense related to the recognition of new intangible assets and elimination of historical intangible assets consists of the following:

Franchise and property expenses

Recognition of amortization expense for intangible assets acquired from Tim Hortons

(i)

\$4.6

- i. The total pro forma amortization recognized for the six months ended June 30, 2014 relates to franchise agreements acquired, amortized over a 23 year useful life (consistent with Burger King Worldwide's useful lives for franchise agreements). An increase of 10 years in the estimated useful life of the Tim Hortons franchise agreement intangible asset would decrease amortization expense by \$1.4 million. A decrease of 10 years in the estimated useful life of the Tim Hortons franchise agreement intangible asset would increase amortization expense by \$3.6 million.

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- (C) The pro forma adjustments to selling, general and administrative expenses reflects the elimination of certain of Tim Hortons historical stock-based compensation expense and recognition of estimated stock-based compensation expense for Tim Hortons, as follows:

Elimination of liability-classified stock option compensation income ⁽ⁱ⁾	\$ 1.7
Elimination of DSU stock-based compensation expense ⁽ⁱ⁾	(0.1)
Elimination of TRS expense ⁽ⁱ⁾	(3.9)
Stock-based compensation expense for Tim Hortons ⁽ⁱⁱ⁾	<u>2.4</u>
	<u>\$ 0.1</u>

- i. Tim Hortons historical stock options with associated tandem SARs and DSUs are accounted for as cash-settled awards, which are revalued to fair value at the end of each reporting period. In order to hedge the variability of cash flows and, to a lesser extent, earnings associated with these awards, Tim Hortons has entered into a number of TRS, which are also revalued to fair value at the end of each reporting period. It is expected that future equity compensation will be accounted for as equity-settled awards, in line with Burger King Worldwide's current practice, and not cash-settled awards. Therefore, due to the variability in accounting for cash-settled awards, the historical DSU expense, stock options with tandem SARs and associated TRS gain/loss have been eliminated.

DSUs will be settled on the date of the effective time of the transactions. At the effective time of the transactions, all outstanding DSUs will be settled for the equivalent of C\$65.50 cash plus the value of 0.8025 newly issued Holdings common shares. The settlement of outstanding DSUs has been included in the calculation of the purchase price. DSUs are not expected to be issued subsequent to the transactions.

Vested stock options surrendered by the employee will be settled on the date of the effective time of the transactions, in the same manner as outstanding common shares. The settlement of vested surrendered stock options has been included in the calculation of the purchase price, on the assumption that all vested stock options will be surrendered. Vested stock options not surrendered and unvested options will be exchanged for replacement awards. Unvested options have not been included in the calculation of the purchase price as these awards will be replaced.

The TRS derivative contracts are required to be settled at the time of the transactions.

- ii. Future grants of new stock options expected to be granted prospectively will be equity classified consistent with Burger King Worldwide's current practice. The expense associated with these new awards replaces Tim Hortons historical stock option compensation expense (which has been eliminated per above due to the variability in accounting for liability-classified awards). The incremental expense amount for these new awards is based on historical RSU expense since RSU awards have historically been equity classified by Tim Hortons and represent approximately 50% of total equity-related compensation. This incremental expense, combined with the historical RSU expense that was not eliminated above, represents a reasonable proxy for prospective stock compensation expense associated with future grants of equity-classified awards.

The unvested stock options with associated tandem SARs of Tim Hortons have historically been liability classified, with mark-to-market expense. Approximately 898,000 stock options will be replaced with new awards using a conversion ratio of 3.0879. Each of the new awards will have materially equivalent economic terms and conditions as each exchanged award. Accordingly, we do not believe any material incremental stock-based compensation expense will arise from the replacement awards relating to unvested stock options with associated tandem SARs. Additionally, since these awards will be liability classified, consistent with the awards they will replace, no amount of expense has been attributed to the replacement awards due to an inability to forecast expense associated with awards that will be marked-to-market.

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- (D) The pro forma adjustment to interest expense related to the issuance of New Term Loan Facilities and Notes by Holdings and elimination of historical indebtedness at Burger King Worldwide and Tim Hortons consists of the following adjustments:

Interest on New Term Loan Facility and Notes of approximately \$9.0 billion principal amount at a weighted average interest rate of 4.88% ⁽ⁱ⁾	\$217.5
Agency fees and unused fee on new Revolver	1.3
Amortization on \$183.1 million of debt issuance costs arising from the New Term Loan Facility and Notes and \$67.5 million of original issue discount on New Term Loan Facility ⁽ⁱⁱ⁾	17.7
Total interest expense on the New Term Loan Facility and Notes	<u>\$236.5</u>
Reversal of historical:	
Historical interest expense on existing indebtedness ⁽ⁱⁱⁱ⁾	\$109.6
Historical amortization of deferred financing fees ^(iv)	5.9
Cancellation of Tim Hortons interest rate forward	1.0
Total historical interest expense on existing indebtedness	<u>\$116.5</u>
Total pro forma adjustment to interest expense	<u>\$120.0</u>

- i. The estimated interest rate set forth above reflects assumption with respect to the debt financing for the transactions. The weighted average interest rate of 4.88% was determined based on a 6.0% stated interest rate for the Notes and a 4.5% interest rate for the New Term Loan Facility. The New Term Loan Facility interest rate will be based on 350 basis points, plus LIBOR, subject to a 1.0% per annum floor. A 0.125% change in the assumed interest rate of the New Term Loan Facility and Notes would change aggregate pro forma interest expense for the six months ended June 30, 2014, by approximately \$5.6 million.
- ii. This amount represents six months of amortization expense recognized for debt issuance costs arising from the New Term Loan Facility and Notes, and original issue discount on New Term Loan Facility. Amortization is calculated on a straight-line basis over 7 years for the New Term Loan Facility and original issue discount, and 7.5 years for the Notes.
- iii. Historical interest expense on existing indebtedness for Burger King Worldwide and Tim Hortons was \$90.0 million and \$19.6 million, respectively.
- iv. This amount represents amortization of historical deferred financing costs for Burger King Worldwide and Tim Hortons in the amounts of \$5.2 million and \$0.7 million, respectively.

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- (E) The historical tax impacts related to the pro forma adjustments are represented in the pro forma statement of operations based on the tax rates when the expenses were originally recognized. The pro forma adjustment to income tax expense (benefit) reflects the tax effect of the pro forma adjustments using a statutory rate of approximately 26%, based on jurisdictions where income is generated. The effective tax rate of the combined company could be significantly different depending on post-acquisition activities, including cash needs and the geographical mix of income.

Tax effect of eliminating interest expense on existing indebtedness ⁽ⁱ⁾	\$ 39.9
Tax effect on interest expense of New Term Loan Facility and Notes	(62.6)
	<u>\$(22.7)</u>
Tax effect of eliminating stock-based compensation expense ⁽ⁱⁱ⁾	\$ 0.6
Tax effect on amortization expense for new intangible assets	(1.2)
	<u>\$ (0.6)</u>

- i. Tax effect of historical interest expense on existing indebtedness of Burger King Worldwide and Tim Hortons is \$36.5 million and \$3.4 million, respectively. The tax effect interest expense on existing indebtedness related to discount notes held by Burger King Capital Holdings, LLC and Burger King Capital Finance, Inc. is calculated based on a 37.4% tax rate. Interest expense related to senior notes issued by Burger King Corporation is calculated using a tax rate of 38.8%. Tim Hortons tax effect of eliminating existing indebtedness was calculated using a rate of 15.8%.
 - ii. A tax rate of approximately 25.0% - 26.9% was used to calculate the tax effect of eliminating Tim Hortons stock-based compensation expense, including the effect from the TRS.
- (F) Pro forma basic earnings per common share (“EPS”) is calculated by dividing net income applicable to common stockholders by the weighted average number of common shares outstanding. Pro forma diluted earnings per share is computed by dividing net income applicable to common stockholders by the weighted average number of common shares outstanding during the period adjusted for the dilutive effect of stock options. We exclude stock options from the calculation of diluted earnings per share if the effect of including such stock options is anti-dilutive.

Numerator:	
Net income attributable to Holdings	\$ 229.8
Preferred shares dividends ⁽ⁱ⁾	(135.0)
Net loss attributable to common stockholders	<u>\$ 94.8</u>
Denominator:	
Weighted average common shares outstanding - basic ⁽ⁱⁱ⁾	459.5
Effect of dilutive securities ⁽ⁱⁱⁱ⁾	<u>16.9</u>
Weighted average common shares outstanding - diluted	<u>476.4</u>
Basic earnings per share	\$ 0.21
Diluted earnings per share	\$ 0.20
Anti-dilutive stock options outstanding	3.6

- i. Includes 9% cumulative dividends related to our preferred shares held by Berkshire.
- ii. Includes Burger King Worldwide weighted average common shares outstanding of 352.3 million and Tim Hortons weighted average common shares in Holdings of 107.2 million as of June 30, 2014. The pro forma shares used to calculate earnings per share assume that Tim Hortons shareholders will receive 107.2 million common shares in Holdings immediately following the closing of the transactions, which is

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based on 133,639,410 existing Tim Hortons diluted common shares at a 0.8025 exchange ratio per share in Tim Hortons. The pro forma shares used to calculate earnings per share also reflect that outstanding shares of common stock of Burger King Worldwide which will be converted on a one for one basis into common shares of Holdings resulting in 352.3 million weighted average common shares outstanding. The Partnership exchangeable units are designed to have substantially equivalent rights to distributions and voting as the Holdings common shares. Specifically, pursuant to the terms of the limited partnership agreement of Partnership each Partnership exchangeable unit will be entitled to distributions from Partnership in an amount equal to any dividends or distributions that have been declared and are payable in respect of a Holdings common share. In addition, holders of exchangeable units are entitled to one vote per unit (through a special voting share of Holdings, held in trust for the unit holders) and vote together with the Holdings common shares and the preferred shares as a single class. Accordingly, the Partnership exchangeable units are reflected in the pro forma financial information in the same manner as the Holdings common shares.

iii. Includes effect of Burger King Worldwide unvested options and RSUs, Tim Hortons unvested options, and the warrant held by Berkshire. The components of the effect of dilutive securities are comprised of 1.2 million in Tim Hortons Unvested Options, 7.4 million in Burger King Worldwide Outstanding Options, and 8.3 million for the warrant held by Berkshire. The dilutive effects of options and the warrant were computed on the treasury stock method. The dilutive effect of Tim Hortons unvested options of 898,000 was computed using a 3.0879 exchange ratio into Holdings options, with a weighted average exercise price of C\$19.11 (on an as converted basis) and an approximate share price of C\$33.27. The dilutive effect of Burger King Worldwide's 19.4 million outstanding options and 0.2 million RSUs were computed on the treasury stock method, segmented by grant date, using a 1.0 exchange ratio into Holdings options and a weighted average share price of \$30.67. The exercise price of the warrant held by Berkshire is \$0.01 per share and the assumed proceeds had no material effect on the dilution calculation.

(G) As a direct result of the transactions, Holdings expects to incur certain material, nonrecurring charges in the amount of an estimated \$49.7 million and \$79.6 million for Burger King Worldwide and Tim Hortons, respectively. These charges include financial advisory fees, legal, accounting, other professional fees, and post-combination expense attributable to the accelerated vesting of outstanding Tim Hortons RSUs and PSUs. These charges are included as a reduction to cash and shareholders equity in the accompanying unaudited pro forma condensed consolidated balance sheet as of June 30, 2014. Due to the absence of a continuing impact on our operations, these charges have been excluded from the pro forma adjustments in the statement of operations. In addition to the above expenses, total financing fees of \$183.1 million is also estimated to be incurred in relation to the New Term Loan Facility and Notes and the extinguishment of existing indebtedness.

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Consolidated Capitalization of Holdings and Partnership

The following table sets forth the consolidated unaudited capitalization and indebtedness of Burger King Worldwide and Tim Hortons, prepared under GAAP, as of the dates set forth below and should be read in conjunction with the section entitled “ *Unaudited Pro Forma Condensed Consolidated Financial Statements* ” and the other financial information contained elsewhere in this joint information statement/circular, including the financial statements included elsewhere herein.

	Tim Hortons as of June 29, 2014 <u>(in millions C\$)</u>	Burger King Worldwide as of June 30, 2014 <u>(in millions \$)</u>	Holdings as of June 30, 2014 <u>(in millions)</u>
Total short-term borrowings and current portion of long-term debt and capital leases			
Unguaranteed/Unsecured	33.3	94.1	92.7
Total non-current debt and capital leases			
Unguaranteed/Unsecured	1,418.1	2,930.0	9,160.0
Preferred Equity			
Preferred Capital	—	—	2,772.7
Shareholders' equity			
Share capital	384.4	1,537.5	4,836.6

MARKET PRICE AND DIVIDEND DATA OF BURGER KING WORLDWIDE AND TIM HORTONS

Shares of Burger King Worldwide common stock are listed and traded on the NYSE under the symbol BKW. Tim Hortons common shares are listed and traded on the TSX and the NYSE under the symbol THI. The following table sets forth, for the calendar quarters indicated, the high and low sales prices per share of shares of Burger King Worldwide common stock, as reported on the NYSE, and of Tim Hortons common shares, as reported on the NYSE and the TSX. In addition, the table also sets forth the cash dividends per share declared by Burger King Worldwide with respect to its common stock and Tim Hortons with respect to its common shares. On [•], the latest practicable date before the mailing of this joint information statement/circular, there were [•] shares of Burger King Worldwide common stock outstanding. On November 3, 2014, the Tim Hortons record date, there were [•] Tim Hortons common shares outstanding. Each of Burger King Worldwide and Tim Hortons have paid regular dividends with respect to their common stock and common shares, respectively.

	NYSE Burger King Worldwide ⁽¹⁾		NYSE Tim Hortons ⁽¹⁾		TSX Tim Hortons ⁽¹⁾	
	High (U.S. \$)	Low (U.S. \$)	High (U.S. \$)	Low (U.S. \$)	High (C \$)	Low (C \$)
<i>For the quarterly period: ⁽²⁾</i>						
2012						
First Quarter	N/A	N/A	\$ 55.31	\$ 46.55	\$54.92	\$47.36
Second Quarter ⁽³⁾	\$ 15.85	\$ 14.97	\$ 58.47	\$ 50.43	\$57.91	\$56.90
Third Quarter	\$ 15.88	\$ 13.03	\$ 55.02	\$ 49.59	\$55.73	\$49.62
Fourth Quarter	\$ 17.74	\$ 14.10	\$ 53.91	\$ 45.41	\$52.60	\$45.11
2013 ⁽¹⁾						
First Quarter	\$ 19.95	\$ 16.26	\$ 54.62	\$ 47.76	\$55.50	\$47.83
Second Quarter	\$ 21.00	\$ 17.90	\$ 58.01	\$ 51.86	\$58.85	\$53.25
Third Quarter	\$ 20.42	\$ 18.97	\$ 59.72	\$ 53.74	\$61.52	\$56.06
Fourth Quarter	\$ 22.86	\$ 18.91	\$ 61.46	\$ 56.77	\$64.18	\$58.67
2014 ⁽³⁾						
First Quarter	\$ 27.52	\$ 22.03	\$ 58.47	\$ 50.67	\$62.80	\$56.11
Second Quarter	\$ 27.18	\$ 24.92	\$ 56.67	\$ 53.76	\$62.38	\$57.76
Third Quarter	\$ 33.82	\$ 26.05	\$ 82.16	\$ 54.23	\$92.73	\$57.89
Fourth Quarter (through October 30, 2014)	\$ 32.13	\$ 28.48	\$ 80.65	\$ 75.75	\$90.20	\$85.75

- (1) Burger King Worldwide high and low sales prices per share information is based off of adjusted close amounts. Tim Hortons information is based on any point in time (unadjusted) consistent with methodologies used for quarterly information presented in each company's 2013 10-K.
- (2) Assumes strict calendar quarters are used for both Burger King Worldwide and Tim Hortons.
- (3) Represents period from June 20, 2012 through the end of the quarter as this was the date Burger King Worldwide common stock was first listed.
- (4) 2014 NYSE information from Yahoo! Finance and TSX information from TMXMoney.com.

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The following table sets forth, for the months indicated, the high and low sales prices per share of shares of Burger King Worldwide common stock, as reported on the NYSE, and of Tim Hortons common shares, as reported on the NYSE and the TSX. In addition, the table also sets forth the average daily trading volume of the relevant security on such exchange.

	NYSE Burger King Worldwide ⁽¹⁾			NYSE Tim Hortons ⁽¹⁾			TSX Tim Hortons ⁽¹⁾		
	High (U.S. \$)	Low (U.S. \$)	Average Volume	High (U.S. \$)	Low (U.S. \$)	Average Volume	High (C\$)	Low (C\$)	Average Volume
<i>For the monthly period ⁽²⁾ :</i>									
2013									
July	20.09	18.97	529,014	58.19	53.74	325,391	59.79	56.03	651,430
August	20.30	19.32	265,723	59.72	54.64	341,882	61.52	57.39	733,076
September	20.42	19.22	662,745	58.34	54.74	246,340	60.18	57.54	637,900
October	21.11	18.91	564,978	61.46	56.77	165,848	64.18	58.67	604,907
November	21.30	20.27	1,325,825	60.51	57.93	256,775	63.48	61.11	618,502
December	22.86	20.79	658,729	59.48	57.06	224,105	63.25	60.63	712,595
2014									
January	24.13	22.03	781,114	58.47	51.19	271,424	62.05	57.20	712,893
February	26.45	24.01	857,963	54.75	50.67	412,437	60.50	56.11	793,408
March	27.52	25.78	930,438	56.83	53.41	256,681	62.80	59.00	960,807
April	26.74	24.94	655,495	56.67	54.20	214,419	62.38	59.43	666,997
May	26.28	24.92	456,438	55.30	53.76	199,257	60.40	58.35	945,953
June	27.18	25.39	382,948	55.68	53.88	128,367	59.97	57.76	651,283
July	27.34	26.05	376,536	56.32	54.38	136,200	61.24	57.89	540,560
August	32.40	26.05	3,355,605	82.16	54.32	2,065,714	92.73	59.47	2,852,360
September	33.82	29.66	1,934,414	82.15	78.64	1,321,914	89.45	86.47	1,853,703

(1) Burger King Worldwide high and low sales prices per share information is based off of adjusted close amounts. Tim Hortons information is based on any point in time (unadjusted) consistent with methodologies used for quarterly information presented in each company's 2013 10-K.

(2) Assumes strict calendar months are used for both Burger King Worldwide and Tim Hortons.

The table below sets forth, for the calendar quarters indicated, quarterly dividends paid per Tim Hortons common share, in Canadian dollars per share and in U.S. dollars per share (calculated using the Bank of Canada nominal noon exchange rate on the date Tim Hortons paid the applicable dividend).

			C\$ / \$ Exchange	
	Date Paid	C\$ Per Share	Rate on Date Paid ⁽¹⁾	\$ Per Share
2012				
Quarter ended April 4	03/20/12	\$ 0.21	\$ 1.0067	\$ 0.21
Quarter ended July 4	06/08/12	\$ 0.21	\$ 0.9679	\$ 0.20
Quarter ended September 30	09/05/12	\$ 0.21	\$ 1.0099	\$ 0.21
Quarter ended December 30	12/12/12	\$ 0.21	\$ 1.0148	\$ 0.21
2013				
Quarter ended March 31	03/19/13	\$ 0.26	\$ 0.9733	\$ 0.25
Quarter ended June 30	06/07/13	\$ 0.26	\$ 0.9794	\$ 0.25
Quarter ended September 29	09/04/13	\$ 0.26	\$ 0.9540	\$ 0.25
Quarter ended December 29	12/10/13	\$ 0.26	\$ 0.9414	\$ 0.24
2014				
Quarter ended March 30, 2014	03/18/14	\$ 0.32	\$ 0.9020	\$ 0.29
Quarter ended June 30, 2014	06/05/14	\$ 0.32	\$ 0.9146	\$ 0.29
Quarter ended September 28, 2014	09/03/14	\$ 0.32	\$ 0.9197	\$ 0.29
Quarter ended December 28, 2014		\$ [•]	\$ [•]	\$ [•]

(1) Exchange rates are based on Bank of Canada nominal noon exchange rates.

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Tim Hortons declares and pays dividends in Canadian dollars, eliminating the foreign exchange exposure for our shareholders ultimately receiving Canadian dollars. For U.S. beneficial shareholders, however, CDS Clearing and Depository Services Inc. (“CDS”) will convert, and for U.S. registered shareholders, Tim Hortons converts, the Canadian dividend amounts into U.S. dollars based on exchange rates prevailing at the time of conversion and pay such dividends in U.S. dollars. Shareholders ultimately receiving U.S. dollars are exposed to foreign exchange risk from the date the dividend is declared until the date CDS or Tim Hortons, as applicable, convert the dividend payment to U.S. dollars.

On August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, the closing sale price per Tim Hortons common share was \$62.84 on the NYSE and C\$68.78 on the TSX. On September 12, 2014, the latest practicable date before the date of this joint information statement/circular, the closing sale price per Tim Hortons common share was \$79.67 on the NYSE and C\$88.36 on the TSX.

The table below sets forth, for the calendar quarters indicated, quarterly dividends paid per share of Burger King Worldwide common stock.

	<u>Date Paid</u>	<u>\$ Per Share</u>
2012		
Quarter ended December 31	11/29/12	\$ 0.04
2013		
Quarter ended March 31	03/15/13	\$ 0.05
Quarter ended June 30	05/15/13	\$ 0.06
Quarter ended September 30	08/30/13	\$ 0.06
Quarter ended December 31	11/26/13	\$ 0.07
2014		
Quarter ended March 31, 2014	03/12/14	\$ 0.07
Quarter ended June 30, 2014	05/27/14	\$ 0.07
Quarter ended September 30, 2014	08/26/14	\$ 0.08
Quarter ended December 31, 2014 (through [•], 2014)		\$ [•]

On August 22, 2014, the last trading day before the public announcement of the negotiations between Burger King Worldwide and Tim Hortons, the closing sale price per share of Burger King Worldwide common stock was \$27.11 on the NYSE. On September 12, 2014, the latest practicable date before the date of this joint information statement/circular, the closing sale price per share of Burger King Worldwide common stock was \$30.67 on the NYSE.

COMPARISON OF RIGHTS OF HOLDERS OF BURGER KING WORLDWIDE COMMON STOCK, HOLDINGS COMMON SHARES AND PARTNERSHIP EXCHANGEABLE UNITS

If the merger is completed, stockholders of Burger King Worldwide will become holders of Holdings common shares and Partnership exchangeable units. The rights of Burger King Worldwide stockholders are currently governed by the DGCL and the amended and restated certificate of incorporation (referred to herein as its “certificate of incorporation”) and amended and restated bylaws of Burger King Worldwide (referred to herein as its “bylaws”). If the merger is completed, the rights of holders of Holdings common shares will be governed by the CBCA and the articles of amendment of Holdings (referred to herein as the “Holdings articles”, to be substantially in the form attached to this joint information statement/circular as Annex D) and amended and restated by-law no. 1 of Holdings (referred to herein as the “Holdings by-laws”, to be substantially in the form attached to this joint information statement/circular as Annex E). If the merger is completed, the rights of holders of Partnership exchangeable units will be governed by the Ontario Limited Partnerships Act and the partnership agreement (to be substantially in the form attached to this joint information statement/circular as Annex F).

This section of the joint information statement/circular describes the material differences between the existing rights of Burger King Worldwide stockholders and the expected rights of Holdings shareholders and Partnership exchangeable unitholders following the merger. This section does not include a complete description of all differences among the existing rights of Burger King Worldwide stockholders and the expected rights of the Holdings shareholders and Partnership exchangeable unitholders, nor does it include a complete description of the specific rights of these persons.

The following summary is qualified in its entirety by reference to, and you are urged to read carefully, the certificate of incorporation and bylaws of Burger King Worldwide, the Holdings articles and Holdings by-laws, and the partnership agreement. This summary does not reflect any of the rules of the NYSE or the TSX, as applicable, that may apply to Burger King Worldwide, Holdings or Partnership in connection with the merger. Copies of the amended and restated certificate of incorporation and amended and restated bylaws of Burger King Worldwide are filed as exhibits to the reports of Burger King Worldwide incorporated by reference in this joint information statement/circular. Definitive copies of the Holdings articles, Holdings by-laws and partnership agreement will be filed with the SEC and CSA following completion of the merger. See the section “Where You Can Find More Information” elsewhere in this joint information statement/circular.

BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
Outstanding Capital Stock Burger King Worldwide has outstanding only one class of common stock. Holders of Burger King Worldwide common stock are entitled to all of the respective rights and obligations provided to common stockholders under Delaware law and Burger King Worldwide’s sixth restated certificate of incorporation and bylaws. As of [•], 2014, there were (i) [•] shares of Burger King Worldwide common stock outstanding and (ii) no shares of Burger King Worldwide preferred stock outstanding.	Immediately following the consummation of the Transactions, Holdings expects that [•] Holdings common shares, one Special Voting Share and [•] Preferred Shares will be outstanding. Holders of Holdings common shares will be entitled to all of the respective rights and obligations provided to shareholders under the CBCA, the Holdings articles and Holdings by-laws.	Interests of the general partner will be represented by Class A partnership units (“common units”) and preferred partnership units (“preferred units”). Interests of Limited Partners will be represented by Class B exchangeable limited partnership units (“exchangeable units”). Upon the closing of the transactions, the exchangeable units to be issued as merger consideration pursuant to the arrangement agreement, the common units held by Holdings as General Partner, the nominal

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
Authorized Capital Stock The authorized capital stock of Burger King Worldwide consists of (i) 2,000,000,000 shares of common stock, \$0.01 par value, and (ii) 200,000,000 shares of preferred stock, \$0.01 par value.	Immediately prior to the consummation of the transactions, the authorized share capital of Holdings will consist of an unlimited number of common shares, one Special Voting Share and a number of Preferred Shares equal to the number of Preferred Shares to be issued to Berkshire.	limited partnership interest held by 8997896 Canada Inc., the preferred units, and the exchangeable units to be issued to Holdings pursuant to s. 7.15 of the arrangement agreement will represent all of the issued and outstanding units of Partnership as of such time. Partnership is authorized to issue an unlimited number of each of the three authorized classes of units (common units, preferred units and exchangeable units). The exchangeable units will be substantially the economic equivalent of the Holdings common shares. From and after the one year anniversary of the date of the effective time of the merger, the exchangeable units will be exchangeable at any time, at the option of the holder, on a one-for-one basis for Holdings common shares, subject to the right of Partnership to settle any such exchange for a cash payment in lieu of Holdings common shares.
Under Burger King Worldwide’s certificate of incorporation, Burger King Worldwide’s board of directors has the authority to provide for the issuance of shares of preferred stock in one or more series, to establish from time to time the number of shares to be included in each such series and to fix the designations, powers, preferences and rights, and any qualifications, limitations or restrictions thereof, as the board of directors may determine.		

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
Designations of Preferred Stock Burger King Worldwide’s certificate of incorporation authorizes preferred stock. No series of preferred stock have been designated and no shares of preferred stock are outstanding. Voting Rights Each holder of Burger King Worldwide common stock is entitled to one vote per share on all matters to be voted on by stockholders.	Holders of Holdings common shares are entitled to receive notice of and to attend all meetings of the shareholders of Holdings, and shall have one vote for each Holdings common share held at all meetings of the shareholders of Holdings. The Holdings common shares, the preferred shares and the special voting share shall vote together as a single class.	See above. Except as otherwise required by the partnership agreement or applicable law, the holders of the exchangeable units shall not be entitled to receive notice of or to attend any meeting of the unitholders of Partnership or to vote at any such meeting. Under the voting trust agreement, Holdings will issue one special voting share to the trustee for the benefit of the holders of exchangeable units (other than Holdings and its subsidiaries). Each holder of an exchangeable unit (other than Holdings and its subsidiaries) on the record date for any meeting or shareholder consent at which holders of Holdings common shares are entitled to vote will be entitled to instruct the trustee to exercise the votes attached to the special voting share for each exchangeable unit held by the exchangeable unitholder. The trustee will exercise (either by proxy, in person or by consent) each vote attached to the special voting share only as directed by the relevant holder of exchangeable units and, in the absence of instructions from a holder of an exchangeable unit as to voting, will not exercise those votes.

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
Dividend Rights The DGCL generally provides that, subject to certain restrictions, the directors of every corporation may declare and pay dividends upon the shares of its capital stock either out of its surplus or, in case there is no such surplus, out of its net profits for the fiscal year in which the dividend is declared and the preceding fiscal year.	Under the CBCA, a corporation may pay a dividend by issuing fully paid shares of the corporation. A corporation may also pay a dividend in money or property unless there are reasonable grounds for believing that: (i) the corporation is, or would after the payment be, unable to pay its liabilities as they become due; or (ii) the realizable value of the corporation’s assets would thereby be less than the aggregate of its liabilities and stated capital of all classes.	If a dividend has been declared and is payable in respect of a Holdings common share, Partnership will make a distribution in the same amount in respect of each corresponding exchangeable unit. The record date and payment date for distributions on the exchangeable units will be the same as the relevant record date and payment date for the dividends on the Holdings common shares. In no case will Partnership be required to make a distribution if such distribution would violate the Ontario Limited Partnerships Act or any other applicable law.
Size of the Board of Directors The DGCL provides that the board of directors of a Delaware corporation must consist of one or more directors as fixed by the corporation’s certificate of incorporation or bylaws.	See description under “Tim Hortons” regarding requirements under the CBCA.	Partnership does not have a board of directors. The General Partner has the exclusive right, power and authority to manage, control, administer and operate the business and affairs and to make decisions regarding the undertaking and business of Partnership. Among other things, the General Partner is empowered to negotiate, execute and perform all agreements, conveyances or other instruments on behalf of Partnership, and to mortgage, charge or otherwise create a security interest over any or all of the property of Partnership or its subsidiaries, and to sell property subject to such a security interest.

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
Burger King Worldwide’s board of directors currently has eight members.	The Holdings Articles provide that Holdings may have a minimum of three and a maximum of fifteen directors.	Holdings is the initial sole General Partner and will manage all of Partnership’s operations and activities in accordance with the partnership agreement. In the event Holdings ceases to be the General Partner of Partnership, Holdings, as the holder of the common units, will have the right to appoint the new General Partner.
Burger King Worldwide’s certificate of incorporation and bylaws provide that the number of directors on Burger King Worldwide’s board of directors are fixed by one or more resolutions adopted by the majority of the board of directors.	Holdings’ Board of Directors is expected to have 11 members following completion of the merger.	See the column at left and under “Tim Hortons” for information regarding the board of directors of Holdings and requirements under the CBCA.
Classification of the Board of Directors Burger King Worldwide’s certificate of incorporation does not divide Burger King Worldwide’s directors into different classes.	Not applicable.	Not applicable.
Election of Directors The DGCL provides that, unless the certificate of incorporation or bylaws provide otherwise, directors will be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote. Burger King Worldwide’s bylaws provide that each director will be elected by the vote of the plurality of votes cast by stockholders entitled to vote on the election.	The CBCA and the Holdings by-laws provide that directors will be elected by ordinary resolution passed at a meeting of the shareholders called for that purpose.	Partnership does not have a board of directors. As noted above, each holder of an exchangeable unit (other than Holdings and its subsidiaries) on the record date for any meeting or shareholder consent at which holders of Holdings common shares are entitled to vote will be entitled to instruct the trustee to exercise the votes attached to the special voting share for each exchangeable unit held by the exchangeable unitholder.
Removal of Directors Under the Burger King Worldwide certificate of incorporation and bylaws, Burger King Worldwide’s stockholders may remove directors with or without cause by the affirmative vote of the holders of a majority of the total voting power of	Under the CBCA, provided that articles of a corporation do not provide for cumulative voting, shareholders of the corporation may, by ordinary resolution passed at a special meeting, remove any director or directors	See above.

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
all the shares of Burger King Worldwide entitled to vote generally in the election of directors, voting together as a single class.	from office. Holdings articles do not provide for cumulative voting. If holders of a class or series of shares have the exclusive right to elect one or more directors, a director elected by them may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series. If the arrangement is completed, the directors of Holdings will serve until the earlier of the next meeting of shareholders at which an election of directors is required or until their successors are elected or until their earlier death, resignation or removal.	
Filling of Vacancies on the Board of Directors Under the DGCL, a majority of the directors in office can fill any vacancy or newly created directorship. Burger King Worldwide’s certificate of incorporation and bylaws provide that any vacancies occurring on the Burger King Worldwide board of directors for any reason may be filled only by (a) the Burger King Worldwide board of directors, acting by a majority of the remaining directors then in office, even if less than a quorum, or by a sole remaining director or (b) if 3G Capital Partners Ltd., 3G Special Situations Fund II, L.P. and any of their respective affiliates (collectively, “3G Capital”) collectively own at least 35% of the outstanding shares of Common Stock, by the affirmative vote of the holders of a majority of the total voting power of all the shares of Burger King Worldwide entitled to vote generally in the election of directors, voting together as a single class. A director elected to fill a vacancy holds office until a successor is duly elected and qualified or until such director’s earlier death, resignation or removal.	Under the CBCA and the Holdings by-laws, a vacancy among the directors created by the removal of a director may be filled at a meeting of shareholders at which the director is removed. The CBCA also allows a vacancy on the board of directors to be filled by a quorum of directors, except when the vacancy results from an increase in the number or minimum or maximum number of directors or from a failure to elect the number or minimum number of directors required by the articles.	Partnership does not have a board of directors. See column at left for information regarding the filling of vacancies on the Holdings board of directors.

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
Ability to Call Special Meetings of Stockholders/Shareholders/Unitholders Under the DGCL, a special meeting of stockholders may be called by the board of directors or by any other person authorized to do so in the corporation's certificate of incorporation or bylaws. Burger King Worldwide's bylaws provide that special meetings of stockholders may be called at any time only by the board of directors, the chairman of the board of directors or the holders of 35% of the total voting power of all the Burger King Worldwide stock entitled to vote generally in the election of directors (provided that, with respect to the 35% requirement, the meeting date is not less than 6 months from the last annual meeting).	Under the CBCA, the holders of not less than 5% of the issued shares of a corporation that carry the right to vote at the special meeting sought to be held may require that the directors call a meeting of shareholders. Upon meeting the technical requirements set out in the CBCA for making such a requisition, the directors of the corporation must call a meeting of shareholders. If they do not call such meeting within 21 days after receiving the requisition, any shareholder who signed the requisition may call the special meeting. In addition, the Holdings by-laws provide that the directors may call special meetings of shareholders at any time. The Holdings by-laws require shareholders wishing to nominate directors or propose business for a meeting of shareholders to give timely advance notice in writing as described below under “—<i>Advance Notice Requirements for Director Nominations and Other Proposals by Stockholders/Shareholders</i>”.	The General Partner may call a general meeting of partners at any time and place as it deems appropriate in its absolute discretion. Holders of exchangeable units do not have the ability to requisition a meeting of partners. See column at left for information regarding the ability to call special meetings of shareholders of Holdings.
Notice of Annual and Special Meetings of Stockholders/Shareholders/Unitholders Burger King Worldwide's bylaws provide that, except as otherwise provided by law, written notice of every meeting of stockholders must be given to each stockholder of record not less than ten nor more than 60 days before the date of the meeting.	Under the CBCA and the Holdings by-laws, notice of the date, time and place of a meeting of shareholders of Holdings must be given not less than 21 days nor more than 60 days prior to the meeting to each director, auditor and to each shareholder entitled to vote at the meeting. Under the CBCA, the directors may fix in advance a date as the record date for the determination	Except as otherwise required by the partnership agreement or applicable law, the holders of the exchangeable units shall not be entitled to receive notice of or to attend any meeting of the unitholders of Partnership or to vote at any such meeting. In respect of Holdings, the trustee will mail or cause to be mailed (or otherwise communicate) to the holders of exchangeable units the notice of

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
	of shareholders entitled to receive notice of a meeting of shareholders, but the record date must not precede by more than 60 days or less than 21 days the date on which the meeting is to be held. If no record date is fixed, the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders will be at the close of business on the day immediately preceding the day on which the notice is given or, if no notice is given, the day on which the meeting is held.	each meeting at which the holders of Holdings common shares are entitled to vote, together with the related materials and a statement as to the manner in which the holder may instruct the trustee to exercise the votes attaching to the special voting share, on the same day as Holdings mails (or otherwise communicates) the notice and materials to the holders of Holdings common shares. The trustee will also send to the holders of exchangeable units copies of proxy materials, all information statements, reports (including interim and annual financial statements) and other written communications sent by Holdings to the holders of Holdings common shares at the same time as the materials are sent to Holdings shareholders.
Stockholder/Shareholder/ Unitholder Action by Written Consent The DGCL provides that, except as otherwise stated in the certificate of incorporation, stockholders may act by written consent without a meeting. The Burger King Worldwide certificate of incorporation and bylaws provide that any action required or permitted to be taken at any annual or special meeting of the stockholders of Burger King Worldwide may be taken without a meeting, without prior notice and without a vote only if (a) a written consent setting forth the action taken, signed by the holders of outstanding shares having the minimum number of votes needed to authorize such action at a meeting at which all shares entitled to vote were present and voted, and such consent shall be delivered to Burger King Worldwide and (b) 3G Capital owns at least 35% of the outstanding shares of Common Stock.	Under the CBCA, shareholder action without a meeting may be taken by written resolution signed by all shareholders who would be entitled to vote on the relevant issue at a meeting (other than where a written statement is submitted by a director or auditor giving reasons for resigning or for opposing any proposed action or resolution, in accordance with the CBCA). The Holdings by-laws reflect the CBCA provisions in this regard.	Not applicable in respect of Partnership. See column at left for information regarding the ability of shareholders of Holdings to take action by written consent. As noted above, each holder of an exchangeable unit (other than Holdings and its subsidiaries) on the record date for any shareholder consent at which holders of Holdings common shares are entitled to vote will be entitled to instruct the trustee to exercise the votes attached to the special voting share for each exchangeable unit held by the exchangeable unitholder.

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
Advance Notice Requirements for Director Nominations and Burger King Worldwide’s bylaws permit stockholders to nominate director candidates at annual and special meetings of stockholders only at a meeting called for the purpose of electing directors. The nomination must be specified in the notice of meeting and made by either the board of directors or any Burger King Worldwide stockholder who is a stockholder of record on the notice date and on the record date and who complies with the notice procedures set forth in the bylaws. In addition, the stockholder intending to make such nomination must give timely notice thereof in writing in proper form. To be timely, Burger King Worldwide’s bylaws require, subject to certain limited exceptions, that written notice of an intention to nominate a director candidate at an annual meeting be received at the principal executive offices of Burger King Worldwide, no fewer than 90 nor more than 120 days prior to the first anniversary of the immediately preceding annual meeting, and in the case of a special meeting, not less than 60 days prior to the meeting. To be in proper written form, a stockholder’s notice must set forth as to each matter such stockholder proposes to bring before the annual meeting: (i) a brief description of the business desired to be brought before the annual meeting and the reasons for conducting such business at the annual meeting; (ii) as to the stockholder giving the notice and the	Other Proposals by Stockholders/Shareholders For purpose of providing advance notice for director nominations, to be timely, a shareholder’s notice to the secretary must be made: (i) in the case of an annual meeting of shareholders, not less than 90 days and not more than 120 days prior to the date of the annual meeting of shareholders; provided, however, that in the event that the annual meeting of shareholders is to be held on a date that is less than 50 days after the date (the “notice date”) on which the first public announcement (as defined in the Holdings by-laws) of the date of the annual meeting of shareholders was made, notice by the nominating shareholder may be made not later than the close of business on the tenth day following the notice date; and (ii) in the case of a special meeting of shareholders (which is not also an annual meeting of shareholders) called for the purpose of electing directors (whether or not called for other purposes), not later than the close of business on the sixtieth day following the day on which the first public announcement of the date of the special meeting of shareholders was made. Notwithstanding the foregoing, in the event that less than 70 days’ notice of the date of the meeting is given or made to shareholders, notice by the shareholder to be timely must be so received not later than the close of business on the tenth day following the earlier of the day on which such notice	Not applicable.

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BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
beneficial owner, if any, on whose behalf the proposal is made (A) the name and address of such stockholder, as they appear on Burger King Worldwide’s books, and of such beneficial owner, (B) the class or series and number of shares of Burger King Worldwide stock which are directly or indirectly (including through any derivative arrangement) owned (1) beneficially and (2) of record by such stockholder and by such beneficial owner, (C) a description of all arrangements or understandings between such stockholder or such beneficial owner and any other person or entity (including, without limitation, their names) in connection with the ownership of Burger King Worldwide stock and the proposal of such business by such stockholder and such beneficial owner, and any material interest (financial or otherwise) of such stockholder or such beneficial owner in such business, and (D) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of at least the percentage of Burger King Worldwide’s voting shares required under applicable law to approve the proposal; and (iii) a representation that such stockholder is a holder of record of Burger King Worldwide stock entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to introduce the business specified in the notice.	or public announcement of the date of the meeting was mailed or made (as applicable). The time periods for the giving of notice by a nominating shareholder set out above shall in all cases be determined based on the original date of the applicable annual meeting of shareholders or special meeting of shareholders, as applicable.	
Amendments to the Certificate of Incorporation/Partnership Agreement The DGCL generally provides that amendments to the certificate of incorporation must be approved by the board of directors and then adopted by the vote of a majority of the outstanding voting power entitled to vote thereon, unless the certificate of incorporation requires a greater vote. Under Burger King	Under the CBCA, certain fundamental changes such as articles amendments, certain by-law amendments, certain amalgamations (other than with certain affiliated corporations), continuances to another jurisdiction and sales, leases or exchanges of all or substantially	Subject to the right of the General Partner to amend the partnership agreement described below, the partnership agreement may only be amended in writing with the consent of a majority of the holders of the common units and with the consent of the General

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BURGER KING WORLDWIDE

Worldwide's certificate of incorporation, amendments to Burger King Worldwide's certificate of incorporation generally may be made in accordance with the default positions of Delaware law. However, the Burger King Worldwide certificate of incorporation, in addition to any affirmative vote of the holders of any series of preferred stock required by law, by the Burger King Worldwide certificate of incorporation or by any preferred stock designation providing for any such preferred stock, the affirmative vote of the holders of at least 66 ²/₃ % of the total voting power of all the shares of Burger King Worldwide entitled to vote generally in the election of directors, voting together as a single class, is required to amend, alter, change or repeal, or adopt any provision inconsistent with, certain specified articles (including the amendment provision) of the Burger King Worldwide charter.

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all of the property of a corporation (other than in the ordinary course of business) and

other extraordinary corporate actions such as liquidations, dissolutions and arrangements (if ordered by a court) are required to be approved by special resolution. A special resolution is a resolution (i) passed by not less than two-thirds of the votes cast by the shareholders who voted in respect of the resolution at a meeting duly called and held for

that purpose or (ii) signed by all

shareholders entitled to vote on the resolution. In certain cases, a special resolution to approve an extraordinary corporate action is

also required to be approved separately by the holders of a class or series of shares, including in certain cases a class

or series of shares not otherwise

carrying voting rights (unless in certain cases the share provisions with respect to such class or series of shares otherwise provides).

In addition, the CBCA provides that, where it is not practicable for a corporation (that is not an insolvent corporation) to effect such a fundamental change under any other provision contemplated under the CBCA, the corporation may apply to a court for an order approving an arrangement.

In general, a plan of arrangement is approved by a corporation's board of directors and then is submitted to a court for approval. It is not unusual for a corporation in such circumstances to apply to court initially for an interim order governing various procedural

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Partner. However, any amendment seeking to convert Partnership into a general partnership would require unanimous written consent of the Partners. Further, no amendment may give anyone other than the General Partner the right to dissolve Partnership.

The General Partner may make the following amendments to the partnership agreement without the consent of the Limited Partners:

- A change in the name of Partnership, the location of Partnership's principal place of business or the registered office of Partnership;
- The admission, substitution, withdrawal or removal of the Limited Partners in accordance with the partnership agreement;
- A change that, in the sole discretion of the General Partner, is reasonable and necessary or appropriate to continue to qualify Partnership as a limited partnership;
- With the prior approval of the Holdings conflicts committee, a change that the General Partner determines is reasonable and necessary or appropriate to enable Partners to take advantage of, or not be detrimentally affected by, changes or differing interpretations with respect to Canadian or U.S. income tax regulations, legislation or interpretation;

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	matters prior to calling any security holder meeting to consider the proposed arrangement. The court determines to whom notice shall be given and whether, and in what manner, approval of any person is to be obtained, and also determines whether any shareholders may dissent from the proposed arrangement and receive payment other fair value of their shares. Following compliance with the procedural steps contemplated in any such interim order (including as to obtaining security holder approval), the court would conduct a final hearing and approve or reject the proposed arrangement. Subject to approval by the persons entitled to notice and to issuance of the final order, articles of arrangement are executed and filed by the corporation. The articles of arrangement must contain details of the plan, the court’s approval and the manner in which the plan was approved, if so required by the court order. Finally, the articles of arrangement are filed with Industry Canada, which after such filing issues a certificate of arrangement. The arrangement becomes effective on the date shown in the certificate of arrangement.	• A change to amend or add any provision or to cure any ambiguity in the partnership agreement that may be defective or inconsistent with any other provision contained in the partnership agreement or this joint information statement/circular; • A change that, in the sole discretion of the General Partner, does not materially adversely affect the Limited Partners; • A change that the General Partner determines to be necessary or appropriate to satisfy requirements of a governmental authority, to comply with a requirement of a national securities exchange on which the units of Partnership are listed or is required to effect the intent expressed in the partnership agreement or this joint information statement/ circular; • A change in the fiscal year or taxable year of Partnership and any other related changes; • An amendment that is necessary, in the opinion of counsel to Partnership, to prevent Partnership, the General Partner or its directors, officers, trustees or agents from having a material risk of being in any manner subjected to the provisions of the U.S. Investment Company Act of 1940, as amended, the U.S. Investment Advisers Act of 1940, as amended,

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		or “plan asset” regulations adopted under the U.S. Employee Retirement Income Security Act of 1974, as amended, regardless of whether such are substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor; • An amendment that the General Partner determines in its sole discretion to be necessary or appropriate in connection with the creation, authorization or issuance of any class or series of equity in Partnership; • An amendment that the General Partner determines in its sole discretion to be necessary or appropriate to reflect and account for the formation by Partnership of, or investment by Partnership in, any corporation, partnership, joint venture, limited liability company or other entity; and • Any other amendments substantially similar to any of the matters described in the bullet points above. Despite the power of Holdings to amend the partnership agreement, either in its capacity as the General Partner or as the holder of all of the outstanding common units, the partnership agreement requires the approval of the holders of the exchangeable units for any amendment that would alter the economic rights that attach to the exchangeable units or that

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		would affect the rights or privileges attaching to the exchangeable units in a manner
		adverse to the interests of the exchangeable unit holders.
		Approval of the exchangeable units to any such amendment must be approved by an ordinary resolution either approved by a resolution approved by more than 50% of the votes cast by holders of exchangeable units entitled to vote on the resolution at a meeting of holders of exchangeable units, or by a written resolution signed by holders of more than 50% of the
		aggregate number of exchangeable units outstanding
		that are held by holders entitled
		to vote on that resolution.
Amendments to Bylaws Under the DGCL, stockholders of a corporation entitled to vote and, if so provided in the certificate of incorporation, the directors of the corporation, each have the power, separately, to adopt, amend and repeal the bylaws of a corporation. Burger King Worldwide’s bylaws provide that its board of directors may amend and repeal Burger King Worldwide’s bylaws and adopt new bylaws, subject to the power of Burger King Worldwide’s stockholders to adopt, amend or repeal any of Burger King Worldwide’s bylaws. In addition to any affirmative vote of the holders of any series of preferred stock of Burger King Worldwide required by law, by Burger King Worldwide’s charter or by any instrument designating any class or series of preferred stock of Burger King Worldwide, the affirmative vote of the holders of 66 2/3 % of the total voting power of the shares of Burger	See “ <i>Amendments to the Certificate of Incorporation , Partnership Agreement</i> ” above.	Not applicable.

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King Worldwide entitled to vote generally in the election of directors, voting together as a single class, are required for Burger King Worldwide’s stockholders of the Corporation to alter, amend or repeal, or adopt any provision inconsistent with, certain provisions of Burger King Worldwide’s bylaws. Statutory Anti-Takeover Statutes Section 203 of the DGCL prohibits a Delaware corporation from engaging in a business combination with a stockholder acquiring more than 15% but less than 85% of the corporation’s outstanding voting stock for three years following the time that person becomes an “interested stockholder,” unless prior to such date the board of directors approves either the business combination or the transaction which resulted in the stockholder becoming an interested stockholder or the business combination is approved by the board of directors and by the affirmative vote of at least 66 2/3 % of the outstanding voting stock that is not owned by the interested stockholder. Burger King Worldwide is not governed by section 203 of the DGCL.	The CBCA provides that if, within 120 days after the date of a take-over bid made to shareholders of a corporation, the bid is accepted by the holders of not less than 90% of the shares (other than the shares held by the offeror or an affiliate of the offeror) of any class of shares to which the bid relates, the offeror is entitled to acquire (on the same terms on which the offeror acquired shares under the take-over bid) the shares held by those holders of shares of that class who did not accept the take-over bid. If a shareholder who did not accept the take-over bid (a dissenting offeree) does not receive an offeror’s notice, with respect to a compulsory acquisition (as described in the preceding sentence), that shareholder may require the offeror to acquire those shares on the same terms under which the offeror acquired (or will acquire) the shares owned by the shareholders who accepted the take-over bid.	Not applicable.

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Mergers, Consolidations and Other Transactions Under the DGCL, the approval of the board of directors and the holders of a majority of the shares entitled to vote is required for a merger, consolidation or sale of all of substantially all of a corporation's assets. However, unless the corporation provides otherwise in its certificate of incorporation, no stockholder vote of a constituent corporation surviving a merger is required if: - the merger agreement does not amend the constituent corporation's certificate of incorporation; - each share of stock of the constituent corporation outstanding before the merger is an identical outstanding or treasury share of the surviving corporation after the merger; and - either no shares of common stock of the surviving corporation and no shares, securities or obligations convertible into such stock are to be issued or delivered under the plan of merger, or the authorized unissued shares or the treasury shares of common stock of the surviving corporation to be issued or delivered under the plan of merger plus those initially issuable upon conversion of any other shares, securities or obligations to be issued or delivered under such plan do not exceed 20% of the shares of common stock of such constituent corporation outstanding immediately prior to the effective date of the merger.	Multilateral Instrument 61-101 – <i>Protection of Minority Security Holders in Special Transactions</i> (“MI 61-101”) of the Canadian Securities Administrators contains detailed requirements in connection with “related party transactions.” A related party transaction means, generally, any transaction by which an issuer, directly or indirectly, consummates one or more specified transactions with a related party, including purchasing or disposing of an asset, issuing securities or assuming liabilities. “Related party” as defined in MI 61-101 includes (i) directors and senior officers of the issuer, (ii) holders of voting securities of the issuer carrying more than 10% of the voting rights attached to all the issuer's outstanding voting securities and (iii) holders of a sufficient number of any securities of the issuer to materially affect control of the issuer. MI 61-101 requires, subject to certain exceptions, specific detailed disclosure in the proxy (information) circular sent to security holders in connection with a related party transaction where a meeting is required and, subject to certain exceptions, the preparation of a formal valuation of the subject matter of the related party transaction and any non-cash consideration offered in connection therewith, and the inclusion of a summary of the valuation in the proxy circular. MI 61-101 also requires, subject to certain exceptions, that an issuer not engage in a related party	For so long as exchangeable units remain outstanding, Holdings will not (i) propose or recommend a formal offer for Holdings common shares unless holders of exchangeable units are entitled to participate in the offer to the same extent as the holders of Holdings common shares; or (ii) propose or recommend a formal offer for exchangeable units unless holders of Holdings common shares are entitled to participate in the offer to the same extent and on an equitably equivalent basis as the holders of exchangeable units. As long as any exchangeable units are outstanding, Holdings cannot consummate a transaction in which all or substantially all of its assets would become the property of any other person or entity. This does not apply to a transaction if such other person or entity becomes bound by the partnership agreement and assumes Holdings' obligations, as long as the transaction does not materially impair the rights of other parties to the partnership agreement. Nothing in the partnership agreement prevents Holdings from amalgamating or merging with any wholly owned direct or indirect subsidiary provided that all assets of such a subsidiary are transferred either to Holdings, to another wholly owned subsidiary of Holdings, or are distributed among the subsidiary's shareholders.

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	transaction unless the disinterested shareholders of the issuer have approved the related party transaction by a simple majority of the votes cast.	
Preemptive Rights of Stockholders/ Shareholders Under Delaware law, stockholders of a corporation do not have preemptive rights to subscribe to an additional issue of stock or to any security convertible into such stock, unless such right is expressly included in the certificate of incorporation. Because the Burger King Worldwide certificate of incorporation does not include any provision in this regard, holders of shares of Burger King Worldwide common stock do not have preemptive rights.	Under the CBCA, holders of Holdings shares are not entitled to statutory pre-emptive or subscription rights.	Subject to the below, unless otherwise determined by the General Partner, no person shall have any preemptive, preferential or other similar right with respect to the issuance of any units of Partnership.
Directors’ and Officers’ Liability and Indemnification Burger King Worldwide’s certificate of incorporation provides that, to the fullest extent permitted by the DGCL (as it may be amended after the date of Burger King Worldwide’s certificate of incorporation), a director of Burger King Worldwide will not be personally liable to Burger King Worldwide or its stockholders for monetary for breach of fiduciary duty as a director (it being understood that, without limiting the foregoing, if in the future the DGCL is amended or modified (including with respect to section 102(b)(7)) to permit the further limitation of elimination of the personal liability of a director of Burger King Worldwide to a greater extent than contemplated above, then the provisions of the Burger King Worldwide certificate of incorporation will be deemed to be automatically amended to provide for the elimination of the personal liability of the directors of Burger King Worldwide to such greater extent).	Under the CBCA, a corporation may indemnify a director or officer, a former director or officer or a person who acts or acted at the corporation’s request as a director or officer or an individual acting in a similar capacity of another entity (an “indemnifiable person”), against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him or her in respect of any civil, criminal, administrative, investigative or other proceeding in which he or she is involved because of that association with the corporation or other entity, if: (i) the individual acted honestly and in good faith with a view to the best interests of such corporation (or the other entity, as the case may be); and (ii) in the case of a criminal or administrative action or	Under the partnership agreement, in most circumstances Partnership will indemnify the following parties to the fullest extent permitted by law against any and all losses, claims, damages, liabilities, joint or several expenses, judgments, fines and settlements: • the General Partner; • any former general partner; • any affiliate of the General Partner or a former general partner; and • any officer, director, employee, partner, agent or trustee of the General Partner, a former general partner or any of their affiliates. This indemnification will only be available if the Partnership indemnitee acted honestly and in

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The Burger King Worldwide certificate of incorporation and bylaws provide for indemnification of Burger King Worldwide’s directors to the full extent permitted by law. Delaware law provides that, subject to certain limitations in the case of derivative suits brought by a corporation’s stockholders in its name, a corporation may indemnify any person who is made a party to any third-party action, suit or proceeding (other than an action by or in the right of the corporation) on account of being a current or former director, officer, employee or agent of the corporation (or is or was serving at the request of the corporation in such capacity for another corporation, partnership, joint venture, trust or other enterprise) against expenses, including attorneys’ fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit or proceeding if the person (i) acted in good faith and in a manner reasonably believed to be in the best interests of the corporation (or in some circumstances, at least not opposed to its best interests), and (ii) in a criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.	proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual’s conduct was lawful. An indemnifiable person may require the corporation to indemnify the individual in respect of all costs, charges and expenses reasonably incurred by the individual in connection with the defense of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual’s association with the corporation (or other entity, as the case may be) if the individual was not judged by the court or other competent authority to have committed any fault or omitted to do anything that the individual ought to have done and the individual fulfills the conditions set out in (i) and (ii) above. A corporation may, with the approval of a court, also indemnify an indemnifiable person against all costs, charges and expenses in respect of an action by or on behalf of the corporation or other entity to procure a judgment in its favor, to which such person is made a party by reason of being or having been a director or an officer of the corporation or other entity, if he or she fulfills the conditions set forth in (i) and (ii), above.	good faith with a view to the best interests of Partnership. The indemnity extends to criminal or administrative action or proceedings that are enforced by a monetary penalty as long as the Partnership indemnitee had reasonable grounds for believing that its conduct was lawful. No indemnification will be available to a Partnership indemnitee where a final decision of a court of competent jurisdiction that is not appealable has found the Partnership indemnitee to be in breach of, or negligent in the performance of, its obligations under the partnership agreement. The termination of an action, suit or proceeding by judgment, order or settlement will not create a presumption that the Partnership indemnitee acted in breach of, or was negligent in the performance of, its obligations.

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Delaware law also permits a corporation to indemnify any person who is made a party to any third-party action, suit or proceeding on account of being a current or former director, officer, employee or agent of the corporation (or is or was serving at the request of the corporation in such capacity for another corporation, partnership, joint venture, trust or other enterprise) against expenses (including attorneys' fees) actually and reasonably incurred by such persons in connection with the defense or settlement of a derivative action or suit, except that no indemnification may be made in respect of any claim, issue or matter as to which the person is adjudged to be liable to the corporation unless the Delaware Court of Chancery or the court in which the action or suit was brought determines upon application that the person is fairly and reasonably entitled to indemnity for the expenses which the court deems to be proper.	As permitted by the CBCA, the Holdings by-laws require Holdings to indemnify directors and officers of Holdings, former directors or officers of Holdings or other individuals who, at Holdings' request, act or acted as directors or officers or in a similar capacity of another entity against all costs, charges, and expenses reasonably incurred (including amounts paid to settle an action or satisfy a judgment) in respect of any civil, criminal, administrative, investigative or other proceeding in which they are involved because of their association with Holdings or such other entity. To be entitled to indemnification, the Holdings by-laws state that such persons must have acted honestly and in good faith with a view to the best interest of Holdings or the other entity, as the case may be, and, in any criminal or administrative action or proceeding that is enforced by a monetary penalty, they must have had reasonable grounds for believing that their conduct was lawful. As permitted by the CBCA, the by-laws also require Holdings to advance money to such individual for costs, charges and expenses of any such proceeding but only upon receipt of an undertaking that he or she will repay the same if it is ultimately determined that such party is not entitled to indemnification. In the case of an action by or on behalf of Holdings or the other entity, as the case may be, to procure a judgment in its favor to which the person is made a party because of his or her association with Holdings or the other entity,	
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To the extent that a current or former director or officer is successful on the merits or otherwise in the defense of such an action, suit or proceeding, the corporation is required by Delaware law to indemnify such person for expenses actually and reasonably incurred thereby.	as the case may be, then if the individual fulfills the conditions set out in the Holdings by-laws, Holdings shall seek and obtain approval of a court before indemnifying the person against costs, charges and expenses he or she reasonably incurred in connection with such action or prior to advancing any moneys to such individual. The rights of indemnification provided by the Holdings by-laws are not exhaustive and are in addition to any rights to which a director, officer or other employee may otherwise be entitled by contract or as a matter of law. Irrespective of the provisions of the Holdings by-laws, Holdings may, at any time and from time to time, indemnify directors, officers, employees and other persons to the full extent permitted by the provisions of applicable law at the time in effect, whether on account of past or future transactions. Holdings expects to enter into indemnification agreements with its directors, executive officers and with certain other officers and employees (including officers and employees of its subsidiaries). The indemnification agreements will generally require that Holdings indemnify and hold an indemnitee harmless to the fullest extent permitted by law for liabilities arising out of the indemnitee's association with Holdings or another entity where he or she acts or acted as a director or officer or in a similar capacity at Holdings' request, if the indemnitee acted honestly and in good faith with a view to the best interests of Holdings or other entity, as the case may be	

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	and, with respect to a criminal or administrative action or proceeding that is enforced by monetary penalty, if the indemnitee had no reasonable grounds to believe that his or her conduct was unlawful. The indemnification agreements also will provide for the advancement of defense expenses by Holdings.	
Stockholder/Shareholder Rights Agreement Burger King Worldwide currently has no stockholder rights plan. The Burger King Worldwide board of directors could, pursuant to its authority to issue preferred stock, adopt a stockholder rights plan without stockholder approval at any future time.	Holdings is not expected to adopt a shareholder rights plan upon the closing of the transactions. The Holdings board of directors could adopt a shareholder rights plan without prior shareholder approval at any future time. However, securities regulators in Canada will in most circumstances cease trade (i.e. terminate) a rights plan after a certain period of time to allow shareholders to decide whether they want to tender to a takeover bid. The CSA has recently proposed significant amendments to the take-over bid regime in Canada which, if adopted, would require all formal take-over bids to remain open for a minimum of 120 days (rather than 35 days) unless waived by the target board and a mandatory 50% minimum tender condition, among others. If these proposed rules are adopted, the importance of shareholder rights plans in Canada will be reduced.	Not applicable.
Oppression Remedy The DGCL does not provide for a similar remedy.	The CBCA provides an oppression remedy that enables a court to make any order, whether interim or final, to rectify matters that are oppressive or unfairly prejudicial to, or that unfairly disregard the interests of, any	Not applicable.

BURGER KING WORLDWIDE	HOLDINGS	PARTNERSHIP
	securityholder, director or officer of the corporation if an application is made to a court by a “complainant,” which includes: • a present or former registered holder or beneficial owner of securities of the corporation or any of its affiliates; • a present or former officer or director of the corporation or any of its affiliates; • the director appointed under the CBCA; and • any other person who in the discretion of the court is a proper person to make such application. The oppression remedy provides the court with very broad and flexible powers to intervene in corporate affairs to protect shareholders and other complainants. While conduct that is in breach of fiduciary duties of directors or that is contrary to the legal right of a complainant will normally trigger the court’s jurisdiction under the oppression remedy, the exercise of that jurisdiction does not depend on a finding of a breach of those legal and equitable rights. Furthermore, the court may order a corporation to pay the interim expenses of a complainant seeking an oppression remedy, but the complainant may be held accountable for interim costs on final disposition of the complaint (as in the case of a derivative action).	
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Quorum of Shareholders Burger King Worldwide’s bylaws provide that the holders of a majority of the outstanding shares of Burger King Worldwide stock entitled to vote at any meeting of shareholders, present in person or represented by proxy, constitute a quorum for the transaction of business at all meetings of the Burger King Worldwide stockholders. If a quorum is not present, the chairman of the meeting or the holders of a majority of the shares of Burger King Worldwide stock present in person or represented by proxy at the meeting, and entitled to vote at the meeting, may adjourn the meeting to another place, if any, date and time. When a quorum is once present to commence a meeting of Burger King Worldwide stockholders, it is not broken by the subsequent withdrawal of any stockholders or their proxies. Inspection of Corporate Records Under the DGCL, any stockholder may inspect Burger King Worldwide’s stock ledger, a list of its stockholders, and its other books and records for a proper purpose during usual business hours. Moreover, under the DGCL and Burger King Worldwide’s bylaws, Burger King Worldwide must make available, before every meeting of stockholders, a complete list of stockholders entitled to vote at the meeting, showing the address of each stockholder and the number of registered shares in the name of each stockholder. The list must be open to the examination of any stockholder for any purpose germane to the meeting for a period of at least ten days prior to the meeting on a	Holdings’ by-laws will provide that quorum for any meeting shall be persons present not being less than two in number and holding or representing by proxy shares to which are attached a majority of the votes attached to all the issued shares of Holdings enjoying voting rights at such meeting. Under the CBCA, shareholders, creditors, and their representatives, after giving the required notice, may examine certain of the records of a corporation and financial statements of certain of its subsidiary bodies corporate during usual business hours and take copies of extracts free of charge.	A quorum at any meeting of Partners will consist of one or more Partners present in person or by proxy holding a majority of the voting power which may be exercised at such meeting. The General Partner is required to keep appropriate books and records with respect to Partnership’s business at the principal office of Partnership. The General Partner will forward to the Limited Partners all reports and financial statements that may be required under applicable securities legislation or stock exchange rules. Subject to the right of the General Partner to keep Partnership information confidential, each Limited Partner has the right, for a purpose reasonably related to that Limited Partner’s own interest as a limited partner in

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reasonably accessible electronic network (provided that the information required to gain access to such list is provided with notice of the meeting) or during normal business hours, at the principal place of business of Burger King Worldwide. The list must also be produced at the time and place of the meeting during the whole time thereof.

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Partnership, to receive the following:

- a current list of the name and last known address of each Limited Partner;
- copies of the partnership agreement and the declaration of limited partnership for Partnership;
- copies of all documents filed by Partnership with a securities regulator or stock exchange where the units are listed for trading;
- copies of minutes of meetings of the Partners; and
- any other information regarding the affairs of Partnership as is just and reasonable.

COMPARISON OF RIGHTS OF TIM HORTONS SHAREHOLDERS AND HOLDINGS SHAREHOLDERS

If the arrangement is completed, shareholders of Tim Hortons will become holders of Holdings common shares. The rights of Tim Hortons shareholders are currently governed by the CBCA, Tim Hortons articles of amendment and the Tim Hortons by-laws. If the merger is completed, the rights of holders of Holdings common shares will be governed by the CBCA and the articles of amendment of Holdings (referred to herein as the “Holdings articles”, to be substantially in the form attached to this joint information statement/circular as Annex D) and amended and restated by-law no. 1 of Holdings (referred to herein as the “Holdings by-laws”, to be substantially in the form attached to this joint information statement/circular as Annex E).

This section of the joint information statement/circular describes the material differences between the existing rights of Tim Hortons shareholders and the expected rights of Holdings shareholders following the arrangement. This section does not include a complete description of all differences among the existing rights of Tim Hortons shareholders and the expected rights of the Holdings shareholders, nor does it include a complete description of the specific rights of these persons.

The following summary is qualified in its entirety by reference to, and you are urged to read carefully, the articles and by-laws of Tim Hortons and the Holdings articles and Holdings by-laws. This summary does not reflect any of the rules of the NYSE or the TSX, as applicable, that may apply to Tim Hortons or Holdings in connection with the arrangement. Copies of the articles and amended and restated by-laws of Tim Hortons are filed as exhibits to the reports of Tim Hortons incorporated by reference in this joint information statement/circular. Definitive copies of the Holdings articles, Holdings by-laws will be filed with the SEC and CSA following consummation of the transactions. See the section “ *Where You Can Find More Information* ” elsewhere in this joint information statement/circular.

TIM HORTONS	HOLDINGS
Outstanding Capital Stock Tim Hortons has only one class of common shares outstanding. Holders of Tim Hortons common shares are entitled to all of the respective rights and obligations provided to shareholders under the CBCA, Tim Hortons articles and the Tim Hortons by-laws. As of [•], 2014, there were (i) [•] Tim Hortons common shares outstanding and (ii) no Tim Hortons Class A preferred share or Tim Hortons preferred shares outstanding. Authorized Capital Stock Tim Hortons is authorized under its articles of incorporation to issue an unlimited number of shares of Tim Hortons, one Class A preferred share and an unlimited number of preferred shares, issuable in series.	Immediately following the consummation of the transactions, Holdings expects that [•] Holdings common shares, one special voting share and [•] preferred shares will be outstanding. Holders of Holdings common shares will be entitled to all of the respective rights and obligations provided to shareholders under the CBCA, the Holdings articles and Holdings by-laws. Immediately prior to the consummation of the transactions, the authorized share capital of Holdings will consist of an unlimited number of common shares, one special voting share and a number of preferred shares equal to the number of preferred shares to be issued to Berkshire.

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TIM HORTONS

Voting Rights

Holders of Tim Hortons common shares are entitled to receive notice of and to attend all meetings of shareholders of Tim Hortons and to vote thereat, except at meetings at which only holders of a specified class of shares (other than Tim Hortons common shares) or specified series of shares are entitled to vote. At all meetings for which notice must be given to the holders of Tim Hortons shares, each holder of Tim Hortons common shares is entitled to one vote in respect of each Tim Hortons common shares held by such holder.

Tim Hortons shareholders have no cumulative voting rights and all of the members of Tim Hortons Board of Directors are elected annually. Under the Tim Hortons by-laws, shareholders take action by a majority of votes cast, unless otherwise provided by the CBCA or Tim Hortons articles or the Tim Hortons by-laws.

Under the CBCA, some matters, such as changing Tim Hortons name, the creation of a new class of authorized shares, voluntarily winding-up Tim Hortons and others, require the approval of shareholders by a special resolution. A special resolution is a resolution that is either passed at a meeting duly called and held for that purpose by not less than two-thirds of the votes cast by the shareholders who voted in respect of that resolution or that is signed by all the shareholders entitled to vote on that resolution.

There are no limitations imposed by the CBCA or Tim Hortons articles or the Tim Hortons by-laws on the right of shareholders residing outside of Canada to hold or vote their Tim Hortons common shares.

Dividend Rights

Under the CBCA, a corporation may pay a dividend by issuing fully paid shares of the corporation. A corporation may also pay a dividend in money or property unless there are reasonable grounds for believing that: (i) the corporation is, or would after the payment be, unable to pay its liabilities as they become due; or (ii) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities and stated capital of all classes.

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Same as for Tim Hortons, with the exception of the first paragraph, which is replaced with the following.

Holders of Holdings common shares are entitled to receive notice of and to attend all meetings of the shareholders of Holdings, and shall have one vote for each Holdings common share held at all meetings of the shareholders of Holdings. The Holdings common shares, the Class A Preferred Shares and the Special Voting Share shall vote together as a single class.

Same as for Tim Hortons.

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TIM HORTONS	HOLDINGS
Size of the Board of Directors The CBCA provides that a corporation shall have one or more directors, but a corporation whose shares are publicly traded shall have not fewer than three directors, at least two of whom are not officers or employees of the corporation or its affiliates. Tim Hortons articles provide that Tim Hortons may have a minimum of nine and a maximum of fifteen directors. Tim Hortons board of directors currently has 12 members.	See description under “Tim Hortons” regarding requirements under the CBCA. The Holdings articles provide that Holdings may have a minimum of three and a maximum of fifteen directors. Holdings’ Board of Directors is expected to have 11 members following consummation of the transactions.
Election of Directors The CBCA and the Tim Hortons by-laws provide that directors will be elected by ordinary resolution passed at a meeting of the shareholders called for that purpose.	Same as for Tim Hortons.
Removal of Directors Under the CBCA, provided that articles of a corporation do not provide for cumulative voting, shareholders of the corporation may, by ordinary resolution passed at a special meeting, remove any director or directors from office. Tim Hortons articles do not provide for cumulative voting. If holders of a class or series of shares have the exclusive right to elect one or more directors, a director elected by them may only be removed by an ordinary resolution at a meeting of the shareholders of that class or series.	Same as for Tim Hortons. If the arrangement is completed, the directors of Holdings will serve until the earlier of the next meeting of shareholders at which an election of directors is required or until their successors are elected or until their earlier death, resignation or removal.
Filling of Vacancies on the Board of Directors Under the CBCA and the Tim Hortons by-laws, a vacancy among the directors created by the removal of a director may be filled at a meeting of shareholders at which the director is removed. The CBCA also allows a vacancy on the board of directors to be filled by a quorum of directors, except when the vacancy results from an increase in the number or minimum or maximum number of directors or from a failure to elect the number or minimum number of directors required by the articles.	Same as for Tim Hortons.

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Constitution and Residency of Directors The CBCA provides that at least 25% of the directors (or if a corporation has less than four directors, at least one director) must be resident Canadians. Except as permitted by the CBCA, no business may be transacted by the board of directors except at a meeting of directors at which a quorum is present and at least 25% of the directors present are resident Canadians or, if the corporation has less than four directors, at least one director present is a resident Canadian. There is no residency requirement with respect to board committees.	Same as for Tim Hortons. Canadian residents will comprise at least 25% of the Holdings Board of Directors.
Ability to Call Special Meetings of Stockholders/Shareholders Under the CBCA, the holders of not less than 5% of the issued shares of a corporation that carry the right to vote at the special meeting sought to be held may require that the directors call a meeting of shareholders. Upon meeting the technical requirements set out in the CBCA for making such a requisition, the directors of the corporation must call a meeting of shareholders. If they do not call such meeting within 21 days after receiving the requisition, any shareholder who signed the requisition may call the special meeting. In addition, the Tim Hortons by-laws provide that the directors may call special meetings of shareholders at any time. The Tim Hortons by-laws require shareholders wishing to nominate directors or propose business for a meeting of shareholders to give timely advance notice in writing as described below under “— <i>Advance Notice Requirements for Director Nominations and Other Proposals by Stockholders/Shareholders</i> ”.	Same as for Tim Hortons.
Notice of Annual and Special Meetings of Stockholders/Shareholders Under the CBCA and the Tim Hortons by-laws, notice of the date, time and place of a meeting of shareholders of Tim Hortons must be given not less than 21 days nor more than 60 days prior to the meeting to each director, auditor and to each shareholder entitled to vote at the meeting. Under the CBCA, the directors may fix in advance a date as the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders, but the record date must not precede by more than 60 days or less than 21 days the date on which the meeting is to be held. If no record date is fixed, the record date for the determination of shareholders entitled to receive notice of a meeting of shareholders will be at the close of business on the day	Same as for Tim Hortons.

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immediately preceding the day on which the notice is given or, if no notice is given, the day on which the meeting is held.

Stockholder/Shareholder Action by Written Consent

Under the CBCA, shareholder action without a meeting may be taken by written resolution signed by all shareholders who would be entitled to vote on the relevant issue at a meeting (other than where a written statement is submitted by a director or auditor giving reasons for resigning or for opposing any proposed action or resolution, in accordance with the CBCA). The Tim Hortons by-laws reflect the CBCA provisions in this regard.

Advance Notice Requirements for Director Nominations and Other Proposals by Stockholders/Shareholders

Under the CBCA, proposals with respect to the nomination of candidates for election to the board of directors may be made by certain registered or beneficial holders of shares entitled to be voted at an annual meeting of shareholders. To be eligible to submit a proposal, a shareholder must be the registered or beneficial holder of, or have the support of the registered or beneficial holders of, (i) at least 1% of the total number of outstanding voting shares of the corporation; or (ii) voting shares whose fair market value is at least C\$2,000 and such registered or beneficial holder(s) must have held such shares for at least six months immediately prior to the day upon which the shareholder submits the proposal. In order for a proposal to include nominations of directors, it must be signed by one or more holders of shares representing not less than 5% of the shares (or shares of a class) entitled to vote at the special meeting.

A proposal under the CBCA must include the name and address of the person submitting the proposal, the names and addresses of the person's supporters (if applicable), the number of shares of the corporation owned by such persons, the date upon which such shares were acquired and such other information as may be required in the by-laws.

If the proposal is submitted at least 90 days before the anniversary date of the notice of meeting sent to shareholders in connection with the previous annual meeting and the proposal meets other specified requirements, then the corporation shall either set out the proposal in the proxy circular of the corporation or attach the proposal thereto. In addition, if so requested

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Same as for Tim Hortons.

Same as for Tim Hortons, with the exception that, for purpose of providing advance notice for director nominations, to be timely, a shareholder's notice to the secretary must be made: (i) in the case of an annual meeting of shareholders, not less than 90 days and not more than 120 days prior to the date of the annual meeting of shareholders; provided, however, that in the event that the annual meeting of shareholders is to be held on a date that is less than 50 days after the date (the "notice date") on which the first public announcement (as defined in the Holdings by-laws) of the date of the annual meeting of shareholders was made, notice by the nominating shareholder may be made not later than the close of business on the tenth day following the notice date; and (ii) in the case of a special meeting of shareholders (which is not also an annual meeting of shareholders) called for the purpose of electing directors (whether or not called for other purposes), not later than the close of business on the sixtieth day following the day on which the first public announcement of the date of the special meeting of shareholders was made.

Notwithstanding the foregoing, in the event that less than 70 days' notice of the date of the meeting is given or made to shareholders, notice by the shareholder to be timely must be so received not later than the close of business on the tenth day following the earlier of the day on which such notice or public announcement of the date of the meeting was mailed or made (as applicable). The time periods for the giving of notice by a nominating shareholder set out above shall in all cases be determined based on the

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by the person submitting the proposal, the corporation shall include in or attach to the proxy circular a statement in support of the proposal by the person and the name and address of the person.	original date of the applicable annual meeting of shareholders or special meeting of shareholders, as applicable.
If a corporation refuses to include a proposal in a management proxy circular, the corporation shall notify the person in writing within 21 days after its receipt of the proposal (or proof of the person’s ownership of securities) of its intention to omit the proposal and the reasons therefor. In any such event, the person submitting the proposal may make application to a court and a court may restrain the holding of the special meeting and make any further order it sees fit. In addition, a corporation may apply to a court for an order permitting the corporation to omit the proposal from the management proxy circular and the court may make such order as it determines appropriate. The Tim Hortons by-laws require shareholders wishing to nominate directors for a meeting of shareholders to give timely advance notice in writing to the Secretary of Tim Hortons. To be timely, a shareholder’s notice to the Secretary must be received by the Secretary at the principal executive offices of Tim Hortons (i) in the case of an annual meeting of shareholders, not later than the close of business on the 30th day nor earlier than the opening of business on the 65th day prior to the date of the annual meeting of shareholders; <i>provided, however</i>, that if the first public announcement of the date of such meeting is less than 40 days prior to the annual meeting, the close of business on the 10th day following the day on which public announcement of the date of the annual meeting was first made by Tim Hortons; and (ii) in the case of a special meeting (which is not also an annual meeting) of shareholders called for the purpose of electing directors (whether or not called for other purposes), not later than the close of business on the tenth day following the day on which public announcement of the date of the special meeting is first made by Tim Hortons. Compulsory Acquisitions The CBCA provides that if, within 120 days after the date of a take-over bid made to shareholders of a corporation, the bid is accepted by the holders of not less than 90% of the shares (other than the shares held by the offeror or an affiliate of the offeror) of any class of shares to which the bid relates, the offeror is entitled to acquire (on the same terms on which the offeror acquired shares under the take-over bid) the shares held	Same as for Tim Hortons.

TIM HORTONS	HOLDINGS
by those holders of shares of that class who did not accept the take-over bid. If a shareholder who did not accept the take-over bid (a dissenting offeree) does not receive an offeror’s notice, with respect to a compulsory acquisition (as described in the preceding sentence), that shareholder may require the offeror to acquire those shares on the same terms under which the offeror acquired (or will acquire) the shares owned by the shareholders who accepted the take-over bid. Stockholder/Shareholder Approval of Business Combinations; Fundamental Changes Under the CBCA, certain fundamental changes such as articles amendments, certain by-law amendments, certain amalgamations (other than with certain affiliated corporations), continuances to another jurisdiction and sales, leases or exchanges of all or substantially all of the property of a corporation (other than in the ordinary course of business) and other extraordinary corporate actions such as liquidations, dissolutions and arrangements (if ordered by a court) are required to be approved by special resolution. A special resolution is a resolution (i) passed by not less than two-thirds of the votes cast by the shareholders who voted in respect of the resolution at a meeting duly called and held for that purpose or (ii) signed by all shareholders entitled to vote on the resolution. In certain cases, a special resolution to approve an extraordinary corporate action is also required to be approved separately by the holders of a class or series of shares, including in certain cases a class or series of shares not otherwise carrying voting rights (unless in certain cases the share provisions with respect to such class or series of shares otherwise provides). In addition, the CBCA provides that, where it is not practicable for a corporation (that is not an insolvent corporation) to effect such a fundamental change under any other provision contemplated under the CBCA, the corporation may apply to a court for an order approving an arrangement. In general, a plan of arrangement is approved by a corporation’s board of directors and then is submitted to a court for approval. It is not unusual for a corporation in such circumstances to apply to court initially for an interim order governing various procedural matters prior to calling any security holder meeting to consider the proposed arrangement. The court determines to whom notice shall be given and whether, and in what manner, approval of any person is to be obtained, and also determines whether any shareholders may dissent from	Same as for Tim Hortons.

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the proposed arrangement and receive payment other fair value of their shares. Following compliance with the procedural steps contemplated in any such interim order (including as to obtaining security holder approval), the court would conduct a final hearing and approve or reject the proposed arrangement. Subject to approval by the persons entitled to notice and to issuance of the final order, articles of arrangement are executed and filed by the corporation. The articles of arrangement must contain details of the plan, the court’s approval and the manner in which the plan was approved, if so required by the court order. Finally, the articles of arrangement are filed with Industry Canada, which after such filing issues a certificate of arrangement. The arrangement becomes effective on the date shown in the certificate of arrangement. Special Vote Required for Combinations with Interested Stockholders/Shareholders Multilateral Instrument 61-101 – <i>Protection of Minority Security Holders in Special Transactions</i> (“MI 61-101”) of the Canadian Securities Administrators contains detailed requirements in connection with “related party transactions.” A related party transaction means, generally, any transaction by which an issuer, directly or indirectly, consummates one or more specified transactions with a related party, including purchasing or disposing of an asset, issuing securities or assuming liabilities. “Related party” as defined in MI 61-101 includes (i) directors and senior officers of the issuer, (ii) holders of voting securities of the issuer carrying more than 10% of the voting rights attached to all the issuer’s outstanding voting securities and (iii) holders of a sufficient number of any securities of the issuer to materially affect control of the issuer. MI 61-101 requires, subject to certain exceptions, specific detailed disclosure in the proxy (information) circular sent to security holders in connection with a related party transaction where a meeting is required and, subject to certain exceptions, the preparation of a formal valuation of the subject matter of the related party transaction and any non-cash consideration offered in connection therewith, and the inclusion of a summary of the valuation in the proxy circular. MI 61-101 also requires, subject to certain exceptions, that an issuer not engage in a related party transaction unless the disinterested shareholders of the issuer have approved the related party transaction by a simple majority of the votes cast.	Same as for Tim Hortons.

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Preemptive Rights of Stockholders/ Shareholders Under the CBCA, holders of Tim Hortons common shares are not entitled to statutory pre-emptive or subscription rights.	Same as for Tim Hortons.
Directors’ and Officers’ Liability and Indemnification Under the CBCA, a corporation may indemnify a director or officer, a former director or officer or a person who acts or acted at the corporation’s request as a director or officer or an individual acting in a similar capacity of another entity (an “indemnifiable person”), against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him or her in respect of any civil, criminal, administrative, investigative or other proceeding in which he or she is involved because of that association with the corporation or other entity, if: (i) the individual acted honestly and in good faith with a view to the best interests of such corporation (or the other entity, as the case may be); and (ii) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual’s conduct was lawful. An indemnifiable person may require the corporation to indemnify the individual in respect of all costs, charges and expenses reasonably incurred by the individual in connection with the defense of any civil, criminal, administrative, investigative or other proceeding to which the individual is subject because of the individual’s association with the corporation (or other entity, as the case may be) if the individual was not judged by the court or other competent authority to have committed any fault or omitted to do anything that the individual ought to have done and the individual fulfills the conditions set out in (i) and (ii) above. A corporation may, with the approval of a court, also indemnify an indemnifiable person against all costs, charges and expenses in respect of an action by or on behalf of the corporation or other entity to procure a judgment in its favor, to which such person is made a party by reason of being or having been a director or an officer of the corporation or other entity, if he or she fulfills the conditions set forth in (i) and (ii), above. As permitted by the CBCA, the Tim Hortons by-laws require Tim Hortons to indemnify directors and officers of Tim Hortons, former directors or officers of Tim Hortons or other individuals who, at Tim Hortons request, act or acted as directors or officers or in a similar capacity of another entity against all costs, charges, and expenses reasonably incurred (including	Same as for Tim Hortons. Holdings expects to enter into indemnification agreements with its directors, executive officers and with certain other officers and employees (including officers and employees of its subsidiaries) in substantially similar to the existing Tim Hortons indemnification agreements. The indemnification agreements will generally require that Holdings indemnify and hold an indemnitee harmless to the fullest extent permitted by law for liabilities arising out of the indemnitee’s association with Holdings or another entity where he or she acts or acted as a director or officer or in a similar capacity at Holdings’ request, if the indemnitee acted honestly and in good faith with a view to the best interests of Holdings or other entity, as the case may be and, with respect to a criminal or administrative action or proceeding that is enforced by monetary penalty, if the indemnitee had no reasonable grounds to believe that his or her conduct was unlawful. The indemnification agreements also provide for the advancement of defense expenses by Holdings.

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amounts paid to settle an action or satisfy a judgment) in respect of any civil, criminal, administrative, investigative or other proceeding in which they are involved because of their association with Tim Hortons or such other entity. To be entitled to indemnification, the Tim Hortons by-laws state that such persons must have acted honestly and in good faith with a view to the best interest of Tim Hortons or the other entity, as the case may be, and, in any criminal or administrative action or proceeding that is enforced by a monetary penalty, they must have had reasonable grounds for believing that their conduct was lawful. As permitted by the CBCA, the by-laws also require Tim Hortons to advance money to such individual for costs, charges and expenses of any such proceeding but only upon receipt of an undertaking that he or she will repay the same if it is ultimately determined that such party is not entitled to indemnification. In the case of an action by or on behalf of Tim Hortons or the other entity, as the case may be, to procure a judgment in its favor to which the person is made a party because of his or her association with Tim Hortons or the other entity, as the case may be, if the individual fulfills the conditions set out in the Tim Hortons by-laws, Tim Hortons shall seek and obtain approval of a court before indemnifying the person against costs, charges and expenses he or she reasonably incurred in connection with such action or prior to advancing any moneys to such individual. The rights of indemnification provided by the Tim Hortons by-laws are not exhaustive and are in addition to any rights to which a director, officer or other employee may otherwise be entitled by contract or as a matter of law. Irrespective of the provisions of the Tim Hortons by-laws, Tim Hortons may, at any time and from time to time, indemnify directors, officers, employees and other persons to the full extent permitted by the provisions of applicable law at the time in effect, whether on account of past or future transactions. Stockholder/Shareholder Rights Agreement The shareholder rights plan was entered into to provide holders of Tim Hortons, and the board of directors of Tim Hortons, with the time necessary to ensure that, in the event of a take-over bid (the Canadian term for a tender offer) for Tim Hortons, alternatives to the bid which may be in the best interests of Tim Hortons are identified and fully explored. The shareholder rights plan provided that one right to purchase a common share (a “share purchase right”) was to be issued in respect of	Holdings is not expected to adopt a shareholder rights plan upon the closing of the transactions. The Holdings board of directors could adopt a shareholder rights plan without prior shareholder approval at any future time. However, securities regulators in Canada will in most cases cease trade (i.e. terminate) a rights plan after a certain period of time to allow shareholders to decide whether they want to tender to a takeover bid. The CSA has recently proposed

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each of the outstanding Tim Hortons common shares to holders as of September 28, 2009, as well as in respect of each Tim Hortons common share issued after such date and prior to the Separation Time (as defined in the shareholder rights plan). The share purchase right may be exercisable in certain circumstances, including a person or group acquiring, or the commencement of a tender or exchange offer that would result in a person or group acquiring, beneficial ownership of 20% or more of the outstanding Tim Hortons common shares.

Upon exercise of a share purchase right, each share purchase right holder, other than the person or group triggering the shareholder rights plan, will have the right to receive upon exercise common shares with a market value equal to twice the then Exercise Price (as defined in the Share Purchase Plan) of the share purchase rights.

Oppression Remedy

The CBCA provides an oppression remedy that enables a court to make any order, whether interim or final, to rectify matters that are oppressive or unfairly prejudicial to, or that unfairly disregard the interests of, any securityholder, director or officer of the corporation if an application is made to a court by a “complainant,” which includes:

- a present or former registered holder or beneficial owner of securities of the corporation or any of its affiliates;
- a present or former officer or director of the corporation or any of its affiliates;
- the director appointed under the CBCA; and
- any other person who in the discretion of the court is a proper person to make such application.

The oppression remedy provides the court with very broad and flexible powers to intervene in corporate affairs to protect shareholders and other complainants. While conduct that is in breach of fiduciary duties of directors or that is contrary to the legal right of a complainant will normally trigger the court’s jurisdiction under the oppression remedy, the exercise of that jurisdiction does not depend on a finding of a breach of those legal and equitable rights.

Furthermore, the court may order a corporation to pay the interim expenses of a complainant seeking an oppression remedy, but the complainant may be held accountable for interim costs on final disposition of the complaint (as in the case of a derivative action).

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significant amendments to the take-over bid regime in Canada which, if adopted, would require all formal take-over bids to remain open for a minimum of 120 days (rather than 35 days) unless waived by the target board and a mandatory 50% minimum tender condition, among others. If these proposed rules are adopted, the importance of shareholder rights plans in Canada will be reduced.

Same as for Tim Hortons.

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Quorum of Shareholders The Tim Hortons by-laws provide that the presence, in person or by proxy, at the opening of a shareholders meeting of a minimum number of at least five shareholders, holding, in the aggregate, at least 51% of the shares entitled to vote at such meeting shall constitute a quorum for the transaction of business at such meeting, except that when specified business is to be voted on by a class or series of shares voting as a class holding, in the aggregate, at least 51% of the voting power of the outstanding shares of such class or series shall constitute a quorum of such class or series for the transaction of such business	Holdings' by-laws will provide that quorum for any meeting shall be persons present not being less than two shareholders in number and holding or representing by proxy shares to which are attached a majority of the votes attached to all the issued shares of Holdings enjoying voting rights at such meeting.
Inspection of Corporate Records Under the CBCA, shareholders, creditors, and their representatives, after giving the required notice, may examine certain of the records of a corporation during usual business hours and take copies of extracts free of charge.	Same as Tim Hortons.

LEGAL MATTERS

Davies Ward Phillips & Vineberg LLP, Canadian counsel for Burger King Worldwide, will provide an opinion regarding the validity of the Holdings common shares and Partnership exchangeable units to be issued in the transactions.

INDEBTEDNESS OF DIRECTORS AND OFFICERS

As at the date of this joint information statement/circular, no directors, executive officers or employees of Burger King Worldwide or any subsidiary thereof, or any associates of the foregoing, and no former directors, executive officers or employees of Burger King Worldwide or any subsidiary thereof, were indebted to Burger King Worldwide or any of its subsidiaries.

As at the date of this joint information statement/circular, no current or former directors, executive officers or employees of Tim Hortons or any subsidiary thereof, or any associates of the foregoing, and no former directors, executive officers or employees of Tim Hortons or any subsidiary thereof, are currently indebted to Tim Hortons or any of its subsidiaries other than “routine indebtedness” (as defined under Canadian securities laws) of certain employees.

AUDITORS, TRANSFER AGENTS AND REGISTRARS

The auditors of Tim Hortons are PricewaterhouseCoopers LLP, at their principal office in Toronto, Ontario, which is located at 18 York St., Suite 2600, Toronto, Ontario M5J0B2. The auditors are independent of Tim Hortons in accordance with the applicable rules and regulations of the SEC and the Public Company Accounting Oversight Board (United States). The transfer agent and registrar for the Tim Hortons common shares is Computershare Trust Company of Canada, through its principal offices in Toronto, Ontario.

The auditors of Burger King Worldwide are KPMG LLP, at their principal office in Miami, FL which is located at 200 S. Biscayne Blvd #2000, Miami, FL 33131. KPMG LLP is independent of Burger King Worldwide in accordance with the applicable rules and regulations of the SEC and the Public Company Accounting Oversight Board (United States). The transfer agent and registrar for Burger King Worldwide common stock is Computershare Trust Company, N.A. through its principal offices in Providence, RI.

Upon consummation of the transactions, the auditors of Holdings and Partnership are expected to be KPMG LLP.

EXPERTS

Burger King Worldwide

The consolidated financial statements of Burger King Worldwide as of December 31, 2013 and 2012, and for each of the years in the three-year period ended December 31, 2013, and management's assessment of the effectiveness of internal control over financial reporting as of December 31, 2013 have been incorporated in this joint information statement/circular by reference to the Annual Report on Form 10-K of Burger King Worldwide in reliance upon the report of KPMG LLP, independent registered public accounting firm, incorporated by reference herein, and upon the authority of said firm as experts in accounting and auditing.

Tim Hortons

The financial statements, the financial statement schedule and management's assessment of the effectiveness of internal controls over financial reporting (which is included in Management's Report on Internal Control over Financial Reporting) incorporated in this joint information statement/circular by reference to the Annual Report on Form 10-K of Tim Hortons for the year ended December 29, 2013, have been so incorporated in reliance on the report of PricewaterhouseCoopers LLP, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting.

REGULATORY ACTIONS

Holdings has not had since its incorporation any penalties or sanctions imposed on it by, or entered into any settlement agreements with, a court or a securities regulator relating to securities laws. In the past three years, neither Tim Hortons or Burger King Worldwide have had any penalties or sanctions imposed on them by, or entered into any settlement agreements with, a court or a securities regulator relating to securities laws.

ENFORCEABILITY OF CIVIL LIABILITIES

CERTAIN OF THE PERSONS WHO MAY BE DIRECTORS AND EXECUTIVE OFFICERS OF HOLDINGS AND PARTNERSHIP MAY BE NON-RESIDENTS OF THE UNITED STATES. ALL OR A SUBSTANTIAL PORTION OF THE ASSETS OF SUCH NON-RESIDENT PERSONS AND OF HOLDINGS AND PARTNERSHIP MAY BE LOCATED OUTSIDE THE UNITED STATES. AS A RESULT, IT MAY NOT BE POSSIBLE TO EFFECT SERVICE OF PROCESS WITHIN THE UNITED STATES UPON SUCH PERSONS, HOLDINGS OR PARTNERSHIP, OR TO ENFORCE AGAINST SUCH PERSONS, HOLDINGS OR PARTNERSHIP IN U.S. COURTS JUDGMENTS OBTAINED IN SUCH COURTS PREDICATED UPON THE CIVIL LIABILITY PROVISIONS OF THE FEDERAL SECURITIES LAWS OF THE UNITED STATES. HOLDINGS AND PARTNERSHIP HAVE BEEN ADVISED BY COUNSEL THAT THERE IS DOUBT AS TO THE ENFORCEABILITY IN CANADA, IN ORIGINAL ACTIONS OR IN ACTIONS FOR ENFORCEMENT OF JUDGMENTS OF U.S. COURTS, OF LIABILITIES PREDICATED SOLELY UPON THE SECURITIES LAWS OF THE UNITED STATES.

HOUSEHOLDING OF JOINT INFORMATION STATEMENT/CIRCULAR

The SEC has adopted rules that permit companies and intermediaries (such as brokers) to satisfy the delivery requirements for proxy materials with respect to two or more shareholders sharing the same address by delivering a single set of proxy materials addressed to those shareholders. This process, which is commonly referred to as “householding,” potentially means extra convenience for shareholders and cost savings for companies.

Burger King Worldwide has adopted SEC householding procedures. As a result of these householding procedures, a number of brokers with account holders who are Burger King Worldwide stockholders will be “householding” this joint information statement/circular. A single joint information statement/circular may be delivered to multiple shareholders sharing an address unless contrary instructions have been received from the affected shareholders. Burger King Worldwide will promptly deliver, upon written or oral request to the address or telephone number below, a separate copy of this joint information statement/circular to a shareholder at a shared address to which a single joint information statement/circular was delivered. Requests for additional copies and/or notice that a shareholder wishes to receive a separate annual report or proxy statement in the future should be directed to: Burger King Worldwide, Inc., Attention: Investor Relations, at 5505 Blue Lagoon Drive, Miami, FL 33126, or by telephone to Burger King Worldwide’s Investor Relations department at (305) 378-7696. Shareholders who currently receive multiple copies of the proxy materials at their address and would like to request “householding” of their communications should contact their broker.

Prior to its public company reorganization in 2009, when Tim Hortons was an SEC-registered U.S. public company, Tim Hortons had adopted householding procedures. While Canada does not have similar provisions, Tim Hortons is allowed to ask shareholders for their consent to its use of householding to reduce printing and mailing costs. Tim Hortons is only able to provide householding to registered shareholders. Registered shareholders of Tim Hortons can request the service by marking their preference on the proxy form in this package. Registered shareholders of Tim Hortons can also call Computershare at (781) 575-3100 (or toll-free at (888) 705-1022), or send a note to Computershare at 250 Royal Street, Canton, MA USA 02021. Tim Hortons will continue to follow such shareholders’ instructions regarding householding until they tell Tim Hortons otherwise.

SHAREHOLDER PROPOSALS**Burger King Worldwide**

If the arrangement and merger are completed, Burger King Worldwide will become an indirect subsidiary of Holdings and will not have any public stockholders. As a result, there will be no public participation in any future meetings of Burger King Worldwide stockholders.

However, if the arrangement and the merger are not completed and Burger King Worldwide does hold an annual meeting of stockholders in 2015, proposals of stockholders intended to be presented at the 2015 annual meeting of stockholders of Burger King Worldwide pursuant to Rule 14a-8 promulgated under the Exchange Act, must be received by Burger King Worldwide no later than the close of business on December 2, 2014, and must comply with the requirements of Rule 14a-8. Written requests for inclusion should be addressed to: Burger King Worldwide, Inc., 5505 Blue Lagoon Drive, Miami, FL 33126. Any such proposal should be sent to the attention of Burger King Worldwide's corporate secretary.

Pursuant to the bylaws of Burger King Worldwide, stockholder proposals submitted for consideration at the 2015 meeting (if held) but not submitted for inclusion in Burger King Worldwide's proxy statement pursuant to Rule 14a-8, including stockholder nominations for candidates for election as directors, generally must be delivered to the Burger King Worldwide corporate secretary not later than 90 days nor earlier than 120 days before the first anniversary of the date of the 2014 annual meeting of stockholders. As a result, notice given by a stockholder pursuant to the provisions of Burger King Worldwide's bylaws, rather than pursuant to Rule 14a-8, must be received no earlier than January 15, 2015, and no later than February 14, 2015. Burger King Worldwide's bylaws require that any stockholder proposal must set forth a brief description of the business desired to be brought before the annual meeting, the name and address of the proposing stockholder as they appear in Burger King Worldwide's records, the number of shares of Burger King Worldwide common stock that the stockholder owns, any material interest the stockholder has in the proposal and whether the stockholder intends to deliver a proxy statement and form of proxy to holders of at least the percentage of voting shares required to approve the proposal. In addition to these requirements, a stockholder intending to nominate a person for election as a director must also provide the name, age, address and principal occupation or employment of the person who the stockholder proposes to nominate, as well as the number of shares of Burger King Worldwide common stock that that person owns.

Tim Hortons

If the arrangement and merger are completed, Tim Hortons will become an indirect subsidiary of Holdings and will not have any public shareholders. As a result, there will be no public participation in any future meetings of Tim Hortons shareholders.

However, if the arrangement and the merger are not completed and Tim Hortons does hold an annual meeting of shareholders in 2015, the CBCA permits eligible shareholders to submit shareholder proposals to Tim Hortons, which proposals may be included in a management proxy circular relating to the annual meeting of shareholders. In order to make a proposal, a shareholder must hold, or have the support of persons who, in the aggregate, including or not including the shareholder hold, at least 1% of the outstanding voting shares or the fair market value of the shares held must be at least C\$2,000 and such shares must have been held for at least six months. A shareholder proposal to nominate a director must be signed by one or more holders of shares representing in the aggregate not less than 5% of the shares entitled to vote at the meeting and must otherwise comply with the requirements of Tim Hortons by-laws. The final date by which Tim Hortons must receive shareholder proposals, other than proposals including nominations for the election of directors, for the annual meeting of shareholders to be held in 2015, if any, is December 12, 2014. Pursuant to the Tim Hortons by-laws, the final date for receipt by Tim Hortons of proposals for nominations for election of directors is the close of business on the 30th day (but not earlier than the opening of business on the 65th day) prior to the date of the Tim Hortons 2015 annual meeting of shareholders, provided that if the first public announcement of the date of such annual meeting is made by Tim Hortons less than 40 days prior to the date of such annual meeting, any proposal for nominations for election of directors must be received by Tim Hortons by the close of business of the tenth day following the day on which public announcement of the date of such annual meeting was first made.

WHERE YOU CAN FIND MORE INFORMATION

Tim Hortons and Burger King Worldwide file annual, quarterly and special reports, proxy statements and other information with the SEC and Tim Hortons files continuous disclosure documents and other information with securities commissions or similar authorities in Canada. Such documents are available to the public on the SEC's website at www.sec.gov and Tim Hortons documents are also available to the public on SEDAR at www.sedar.com. The information contained on the SEC's website is expressly not incorporated by reference into this joint information statement/circular. You may also read and copy any of this information filed with the SEC at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. Please call the SEC at 1-800-SEC-0330 for more information about the operation of the public reference room.

Holdings and Partnership have filed with the SEC a registration statement of which this joint information statement/circular forms a part. The registration statement registers the Holdings common shares and the Partnership exchangeable units to be issued or that are issuable in connection with the transactions. The registration statement, including the attached exhibits, contains additional relevant information about Holdings, Partnership, Holdings common shares and Partnership exchangeable units. The rules and regulations of the SEC allow Tim Hortons and Burger King Worldwide to omit certain information included in the registration statement from this joint information statement/circular. As allowed by SEC rules, this joint information statement/circular does not contain all of the information you can find in the registration statement or the exhibits to the registration statement. You may inspect and copy the registration statement at any of the addresses listed above.

The SEC and the CSA allow Tim Hortons and Burger King Worldwide to incorporate by reference the information Tim Hortons and Burger King Worldwide file with it, which means that Tim Hortons and Burger King Worldwide can disclose important information to you by referring you to other documents filed separately with the SEC and the CSA. You should read the information incorporated by reference because it is an important part of this joint information statement/circular.

The following documents, which have been filed with the SEC by Tim Hortons (SEC File No. 000-32843) and Burger King Worldwide (SEC File No. 000-35511), and, for purposes of the management proxy circular, with the CSA by Tim Hortons under its SEDAR profile, are hereby incorporated by reference into this joint information statement/circular.

Tim Hortons

- Tim Hortons Annual Report on Form 10-K for the fiscal year ended December 29, 2013, filed with the SEC on February 25, 2014, as amended by the amendment to the Annual Report on Form 10-K/A for the fiscal year ended December 29, 2013, filed with the SEC on March 21, 2014;
- Tim Hortons Quarterly Reports on Form 10-Q for the quarterly periods ended March 30, 2014 and June 29, 2014, filed with the SEC on May 7, 2014 and August 6, 2014, respectively; and
- Tim Hortons Current Reports on Form 8-K, filed with the SEC on February 25, 2014 (as amended on March 19, 2014), March 14, 2014 (as amended on May 23, 2014), March 21, 2014, March 28, 2014, May 1, 2014, May 2, 2014, May 6, 2014, May 7, 2014, May 14, 2014, August 6, 2014, August 25, 2014, August 26, 2014, August 24, 2014, September 2, 2014, September 15, 2014 and September 16, 2014 (in each case other than the portions of these documents not deemed to be filed).

Burger King Worldwide

- Burger King Worldwide's Annual Report on Form 10-K for the fiscal year ended December 31, 2013, filed with the SEC on February 21, 2014;
- Burger King Worldwide's Quarterly Report on Form 10-Q for the quarterly periods ended March 31, 2014 and June 30, 2014, filed with the SEC on April 25, 2014 and August 1, 2014, respectively; and

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- Burger King Worldwide's Current Reports on Form 8-K, filed with the SEC on May 16, 2014, August 25, 2014, August 26, 2014, August 26, 2014, August 29, 2014, September 15, 2014, September 16, 2014 and October 15, 2014 (in each case other than the portions of these documents not deemed to be filed).

Any information in any of the foregoing documents will automatically be deemed to be modified or superseded to the extent that information in this joint information statement/circular or in a later filed document that is incorporated or deemed to be incorporated herein by reference modifies or replaces such information.

Any future filings (other than current reports furnished under Item 2.02 or Item 7.01 of Form 8-K and exhibits filed on such form that are related to such items) made with the SEC by Tim Hortons or Burger King Worldwide pursuant to sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this joint information statement/circular and prior to the earlier of the effective time and the termination of the arrangement agreement, shall also be deemed incorporated by reference. Equivalent documents will be filed with the CSA by Tim Hortons under its SEDAR profile and shall also be deemed incorporated by reference. Information in such future filings updates and supplements the information provided in this joint information statement/circular. Any statements in any such future filings will automatically be deemed to modify and supersede any information in any document previously filed with the SEC or the CSA by Tim Hortons or Burger King Worldwide, as applicable, that is incorporated or deemed to be incorporated herein by reference to the extent that statements in the later filed document modify or replace such earlier statements.

You can obtain any of the documents incorporated by reference into this joint information statement/circular through Burger King Worldwide or Tim Hortons, as the case may be, or from the SEC through the SEC's website at the address described above or from the CSA through the SEDAR website at the address described above. Documents incorporated by reference are available from Tim Hortons or Burger King Worldwide without charge, excluding any exhibits to those documents, unless the exhibit is specifically incorporated by reference as an exhibit in this joint information statement/circular.

Tim Hortons and Burger King Worldwide will furnish without charge to you, upon written or oral request, a copy of any or all of the documents incorporated by reference, including exhibits to these documents. You should direct any requests for documents to:

Tim Hortons Inc.
874 Sinclair Road
Oakville, ON, Canada
(905) 339-4940
Attn: Investor Relations

Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126
(305) 378-3000
Attn: Investor Relations

If you would like to request documents, please do so by [•], 2014, in order to receive them before the Tim Hortons special meeting.

Approval by the Burger King Worldwide and Tim Hortons Boards of Directors

The contents and the sending of this joint information statement/circular were approved by the Tim Hortons board of directors on [•], 2014 and the Burger King Worldwide board of directors on [•], 2014.

DATED at Oakville, Ontario this [•], 2014.

DATED at Miami, Florida this [•], 2014.

ARRANGEMENT AGREEMENT AND PLAN OF MERGER
BY AND AMONG
BURGER KING WORLDWIDE, INC.,
1011773 B.C. UNLIMITED LIABILITY COMPANY,
NEW RED CANADA PARTNERSHIP,
BLUE MERGER SUB, INC.,
8997900 CANADA INC.
AND
TIM HORTONS INC.
AUGUST 26, 2014

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ARRANGEMENT AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT is made as of August 26, 2014 by and among Burger King Worldwide, Inc., a corporation incorporated under the laws of Delaware (“**Parent**”), 1011773 B.C. Unlimited Liability Company, an unlimited liability company organized under the laws of British Columbia (“**Holdings**”), New Red Canada Partnership, a general partnership organized under the laws of Ontario and wholly-owned Subsidiary of Holdings (“**Partnership**”), Blue Merger Sub, Inc., a corporation incorporated under the laws of Delaware and a wholly-owned Subsidiary of Partnership (“**Merger Sub**”), 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly-owned Subsidiary of Partnership (“**Amalgamation Sub**” and, together with Parent, Holdings, Partnership and Merger Sub, the “**Parent Parties**”), and Tim Hortons Inc., a corporation organized under the laws of Canada (the “**Company**”). Defined terms used in this Agreement shall have the meanings ascribed to them in Section 1.1.

W I T N E S S E T H:

WHEREAS, the parties desire to enter into a business combination transaction (the “**Combination**”) upon the terms and subject to the conditions set forth in this Agreement;

WHEREAS, in furtherance of the Combination, the Parties intend that the Company proceed with an arrangement under section 192 of the CBCA involving the acquisition by Amalgamation Sub of all of the issued and outstanding shares of the Company followed by an amalgamation of the Company and Amalgamation Sub, pursuant to and in the manner provided for in the Plan of Arrangement;

WHEREAS, in furtherance of the Combination, the Parties intend that Merger Sub be merged with and into Parent, with Parent being the surviving corporation (the “**Merger**”) and a Subsidiary of Holdings;

WHEREAS, the Company Board of Directors has unanimously (i) determined that the Arrangement is in the best interests of the Company and that the consideration to be received by the Company Shareholders pursuant to this Arrangement is fair, from a financial point of view, to the Company Shareholders, and (ii) resolved to recommend that the Company Shareholders vote in favor of the Arrangement Resolution, in each case upon the terms and subject to the conditions of this Agreement;

WHEREAS, the Parent Board of Directors has unanimously (i) approved and declared advisable this Agreement and the transactions contemplated by this Agreement, including the Arrangement and the Merger, (ii) determined that this Agreement and such transactions are fair to, and in the best interests of, its stockholders, and (iii) resolved to recommend that its stockholders adopt this Agreement, in each case upon the terms and subject to the conditions of this Agreement;

WHEREAS, the respective boards of directors of each of Holdings and Merger Sub have unanimously, and Holdings, as a general partner and on behalf of Partnership, has, and the sole shareholder of Amalgamation Sub has, approved this Agreement, the Arrangement, the Merger and the other transactions contemplated by this Agreement;

WHEREAS, within three (3) Business Days following the date of this Agreement and in furtherance of the Combination, the directors of the Company (the “**Specified Company Shareholders**”) shall enter into voting agreements with Parent providing that, among other things, the Specified Company Shareholders will vote their Company Common Shares in favor of the Arrangement and the other transactions contemplated by this Agreement upon the terms and subject to the conditions set forth therein substantially in the form attached hereto as Schedule B (the “**Company Voting Agreements**”);

WHEREAS, within twenty-four (24) hours, following the execution of this Agreement, the holders of a majority of the outstanding Parent Common Shares will execute and deliver to Parent and the Company the Parent Shareholder Voting Agreement; and

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WHEREAS, the Company, Parent, Holdings, Partnership, Merger Sub, and Amalgamation Sub desire to make certain representations, warranties, covenants and agreements in connection with this Agreement.

NOW THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained herein, and intending to be legally bound hereby, the Parties agree as follows:

ARTICLE 1 **INTERPRETATION**

Section 1.1 Definitions. For purposes of this Agreement:

“ **1933 Securities Act** ” means the United States Securities Act of 1933.

“ **1934 Exchange Act** ” means the United States Securities Exchange Act of 1934.

“ **2014 Share Repurchase Program** ” means the repurchase program of the Company of up to C\$440,000,000 of Company Common Shares that commenced on February 28, 2014.

“ **Acceptable Confidentiality Agreement** ” means one or more executed confidentiality agreements on customary terms that are not materially less favorable in the aggregate to the Disclosing Party (as defined in the Non-Disclosure Agreement) than those contained in the Non-Disclosure Agreement.

“ **Adjusted EBITDA** ” means earnings (net income or loss) before interest, taxes, and depreciation and amortization, excluding (i) the impact of share-based compensation and non-cash incentive compensation expense, and other operating (income) expenses, and (ii) all other specifically identified costs associated with non-recurring projects such as severance payments, expenses incurred or reimbursed by the Company in connection with the Combination, including without limitation with respect to this Agreement and the transactions contemplated hereby. For purposes of this definition, other (income) expense, net includes income expenses that are not directly derived from the Company’s primary businesses, such as foreign currency adjustments, gains and losses on asset sales, and other asset write-offs.

“ **Advance Ruling Certificate** ” means an advance ruling certificate issued by the Commissioner pursuant to section 102 of the Competition Act in respect of the transactions contemplated by this Agreement.

“ **Affected Employees** ” shall have the meaning ascribed to it in Section 7.4(a).

“ **Affiliate** ” means with respect to any Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person. As used in this definition, “control” (including, with its correlative meanings, “controlled by” and “under common control with”) shall mean the possession, directly or indirectly, through one or more intermediaries, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that (a) each Parent Party (other than Parent) shall be deemed to be an “Affiliate” of Parent for purposes of this Agreement and (b) prior to the Closing, the Parent Parties shall not be deemed to be “Affiliates” of the Company for purposes of this Agreement.

“ **Agreement** ” means this Arrangement Agreement and Plan of Merger (including the Schedules attached hereto and the Company Disclosure Letter and Parent Disclosure Letter delivered concurrently herewith) as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with the terms hereof.

“ **Alternative Acquisition Agreement** ” shall have the meaning ascribed to it in Section 6.4(a)(iv).

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“ **Alternative Financing** ” means alternative financing and/or additional sources of funds pursued solely during the Alternative Financing Period, if any, in an amount or amounts sufficient, together with the net proceeds contemplated by the Equity Purchase Agreement and Company and Parent cash, to allow Parent to pay the Required Payments.

“ **Alternative Financing Period** ” means the period beginning on the date of any Closing Failure Notice and ending on the earliest to occur of (1) the tenth Business Day after delivery of a Closing Failure Notice if Parent has not commenced (or if commenced, has ceased to diligently pursue) Financing Proceedings prior to or as of such date, (2) if Parent has commenced (and not ceased to diligently pursue) Financing Proceedings prior to or as of the tenth Business Day after the delivery of a Closing Failure Notice, the date that is four months after the delivery of a Closing Failure Notice, (3) following the tenth Business Day after the delivery of a Closing Failure Notice, the date on which Parent has ceased to diligently pursue Financing Proceedings, and (4) the date on which the proceeds of all or part of the Debt Financing and/or the Alternative Financing in an aggregate amount or amounts sufficient, together with the net proceeds contemplated by the Equity Purchase Agreement and Company and Parent cash, to allow Parent to pay the Required Payments, are obtained.

“ **Amalgamation Sub** ” shall have the meaning ascribed to it in the preamble.

“ **Arrangement** ” means an arrangement of the Company under section 192 of the CBCA upon the terms and subject to the conditions set forth in the Plan of Arrangement as the same may be amended, supplemented, restated or otherwise modified from time to time in accordance with its terms and the terms of this Agreement.

“ **Arrangement Cash Consideration** ” means C\$65.50 per Company Common Share.

“ **Arrangement Consideration** ” means, collectively, the Arrangement Cash Consideration and the Arrangement Share Consideration.

“ **Arrangement Exchange Agent** ” means the bank or trust company, reasonably acceptable to the Company, appointed by Parent prior to the Effective Time, to act as exchange agent for the payment and delivery of the Arrangement Cash Consideration and the Arrangement Share Consideration.

“ **Arrangement Resolution** ” means the special resolution of the Company to be considered and, if thought fit, passed by the Company Shareholders at the Company Meeting to approve the Arrangement, to be substantially in the form and substance of Schedule A hereto.

“ **Arrangement Share Consideration** ” means 0.8025 Holdings Common Shares per Company Common Share.

“ **Articles of Arrangement** ” means the articles of arrangement of the Company in respect of the Arrangement to be filed with the Director after the Final Order is made, which shall be in form and substance satisfactory to Parent and the Company, each acting reasonably.

“ **Authorizations** ” shall have the meaning ascribed to it in Section 3.11(b).

“ **Bankruptcy and Equity Exception** ” means any bankruptcy, insolvency, fraudulent transfer or conveyance, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors’ rights generally, general equitable principles (whether considered in a proceeding in equity or at law) and any implied covenant of good faith and fair dealing.

“ **Burdensome Impact** ” means a direct (and, for the avoidance of doubt, not consequential or indirect) reduction in the Company’s (assuming for this purpose that it remained a stand-alone enterprise) full calendar year Adjusted EBITDA (less Capital Expenditures), relative to what the such Adjusted EBITDA (less Capital Expenditures) would have been absent such direct (and not consequential or indirect) reduction, of greater than

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C\$140 million, for any of the full calendar years ended December 31, 2015, December 31, 2016 or December 31, 2017; provided, that (i) the cost of the commitments set out in Section 7.2 of the Company Disclosure Letter shall not either alone or in combination be taken into account in determining whether there has been, or would reasonably be expected to be, any Burdensome Impact; (ii) the expenditures and costs of any matters and related amounts included in the Company's current strategic plan shall not either alone or in combination be taken into account in determining whether there has been, or would reasonably be expected to be, any Burdensome Impact; and (iii) for the avoidance of doubt, for purposes of this definition, if any undertaking or commitment is not expressed as an annualized commitment, but, rather, is expressed to be satisfied over the applicable term of such undertaking or commitment, the related expenditure or cost will be divided on an equal annualized basis over such applicable term. With respect to clause (iii), for example, if a capital expenditure commitment (not otherwise excluded from the determination of Burdensome Impact by clauses (i) or (ii) hereof) is for C\$180 million over a 3-year period, then it shall be counted as C\$60 million per each such year.

“ **Business Day** ” means a day other than a Saturday, a Sunday or any other day on which major commercial banking institutions in Toronto, Ontario or New York, New York are authorized by law to be closed.

“ **C\$** ” means Canadian dollars, the lawful currency of Canada.

“ **Canada Transportation Act** ” means the Canada Transportation Act (Canada), 1996, c.10.

“ **Canada Transportation Act Approval** ” means that the Minister of Transport shall have provided (a) notice under subsection 53.1(4) of the Canada Transportation Act that the Minister is of the opinion that the transactions contemplated by this Agreement do not raise issues with respect to the public interest as it relates to national transportation or (b) approval of the transactions contemplated by this Agreement under subsection 53.2(7) of the Canada Transportation Act.

“ **Canadian Securities Laws** ” means the Securities Act and all other applicable Canadian provincial securities Laws.

“ **Capitalization Date** ” shall have the meaning ascribed to it in Section 3.3(a).

“ **Capital Expenditures** ” means the amount of all expenditures of the Company and its Subsidiaries for tangible or fixed or capital assets which, in accordance with GAAP, would be classified as capital expenditures on the consolidated balance sheet of the Company.

“ **CBCA** ” means the Canada Business Corporations Act.

“ **Certificate** ” shall have the meaning ascribed to it in Section 2.3(e)(iii).

“ **Certificate of Merger** ” shall have the meaning ascribed to it in Section 2.3(b)(i).

“ **Circular** ” means the notice of meeting and accompanying information circular (including all schedules, appendices and exhibits thereto) to be sent to the Company Shareholders in connection with the Company Meeting, including any amendments or supplements thereto.

“ **Closing** ” shall have the meaning ascribed to it in Section 2.4.

“ **Closing Failure Notice** ” shall have the meaning ascribed to it in Section 2.4.

“ **Closing Date** ” shall have the meaning ascribed to it in Section 2.4.

“ **Code** ” means the United States Internal Revenue Code of 1986.

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“ **Combination** ” shall have the meaning ascribed to it in the recitals.

“ **Commissioner** ” means the Commissioner of Competition appointed under subsection 7(1) of the Competition Act and includes any Person designated by the Commissioner to act on his behalf.

“ **Common Units** ” means the common units of Partnership having substantially the rights, privileges, restrictions and conditions set forth in the Partnership Agreement.

“ **Company** ” shall have the meaning ascribed to it in the preamble.

“ **Company Acquisition Proposal** ” means, at any time any bona fide proposal, offer, inquiry or indication of interest with respect to (a) any acquisition by any Person or group of Persons (other than the Parent Parties) of the Company’s voting equity securities (or securities convertible into or exchangeable or exercisable for the Company’s voting equity securities) representing 20% or more of the Company’s voting equity securities then outstanding (assuming, if applicable, the conversion, exchange or exercise of such securities convertible into or exchangeable or exercisable for such voting equity securities), (b) any acquisition by any Person or group of Persons (other than the Parent Parties) of any assets of the Company or one or more of its Subsidiaries (including Equity Interests of any Subsidiary of the Company) individually or in the aggregate contributing 20% or more of the consolidated revenue or representing 20% or more of the assets of the Company and its Subsidiaries taken as a whole (in each case based on the consolidated financial statements of the Company most recently filed prior to such time as part of the Company Public Disclosure Record) (or any lease, license, royalty, long-term supply agreement or other arrangement having a similar economic effect), in each case of subclauses (a) and (b), whether by plan of arrangement, amalgamation, merger, consolidation, recapitalization, liquidation, dissolution or other business combination, sale of assets, joint venture, take-over bid, tender offer, share exchange, exchange offer or otherwise, in each case excluding the Arrangement and the other transactions contemplated by this Agreement, or (c) any combination of the foregoing, in each case of subclauses (a) and (b), whether in a single transaction or a series of related transactions.

“ **Company Adverse Recommendation Change** ” shall have the meaning ascribed to it in Section 6.4(d).

“ **Company Annual Financial Statements** ” means the audited consolidated financial statements of the Company for the years ending December 29, 2013 and December 30, 2012, together with the notes thereto.

“ **Company Articles of Incorporation** ” shall have the meaning ascribed to it in Section 3.1.

“ **Company Benefit Agreement** ” shall have the meaning ascribed to it in Section 3.13(j).

“ **Company Benefit Plan** ” shall have the meaning ascribed to it in Section 3.13(j).

“ **Company Board of Directors** ” means the board of directors of the Company.

“ **Company Bylaws** ” shall have the meaning ascribed to it in Section 3.1.

“ **Company Class A Preferred Share** ” shall have the meaning ascribed to it in Section 3.3(a).

“ **Company Common Shares** ” means the common shares in the capital of the Company.

“ **Company Disclosure Letter** ” means the disclosure letter dated the date hereof regarding this Agreement that has been delivered to Parent concurrently with the execution of this Agreement.

“ **Company DSU** ” means, at any time, each deferred stock unit with respect to Company Common Shares granted pursuant to the Company Stock Plans or otherwise which is, at such time, outstanding, whether or not vested.

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“ **Company Equity Awards** ” shall have the meaning ascribed to it in Section 3.3(a) .

“ **Company Fairness Opinions** ” means the opinions of the Company Financial Advisors to the effect that, as of the date of such opinions and based upon and subject to the assumptions, procedures, factors, limitations and qualifications set forth therein, the consideration to be received by the Company Shareholders under the Arrangement is fair, from a financial point of view, to the Company Shareholders.

“ **Company FDD** ” shall have the meaning ascribed to it in Section 3.19(h) .

“ **Company Financial Advisors** ” shall have the meaning ascribed to it in Section 3.26 .

“ **Company Financial Statements** ” means the Company Annual Financial Statements and the Company Interim Financial Statements.

“ **Company Franchise** ” shall have the meaning ascribed to it in Section 3.19(a) .

“ **Company Franchisee** ” shall have the meaning ascribed to it in Section 3.19(h) .

“ **Company Indemnified Party** ” shall have the meaning ascribed to it in Section 7.5(a) .

“ **Company Intellectual Property** ” shall have the meaning ascribed to it in Section 3.16(a) .

“ **Company Interim Financial Statements** ” means the unaudited interim consolidated financial statements of the Company for the quarterly period ended June 30, 2014, together with the notes thereto.

“ **Company Material Adverse Effect** ” means any fact, circumstance, change, effect, event or occurrence that individually or in the aggregate with all other changes, effects, events or occurrences, has had or would reasonably be expected to have a material adverse effect on (a) the business, condition (financial or otherwise), assets, liabilities or results of operations of the Company and its Subsidiaries, taken as a whole; provided that none of the following shall either alone or in combination constitute, or be taken into account in determining whether there has been, a Company Material Adverse Effect for purposes of this clause (a): any fact, circumstance, change, effect, event or occurrence directly arising out of or directly resulting from (i) general economic, credit, capital or financial markets or political conditions in Canada or elsewhere in the world, including with respect to interest rates or currency exchange rates, (ii) any outbreak or escalation of hostilities, acts of war (whether or not declared), sabotage or terrorism, (iii) any hurricane, tornado, flood, volcano, earthquake or other natural or man-made disaster occurring after the date of this Agreement, (iv) any change in applicable Law or GAAP (or authoritative interpretation or enforcement thereof) which is proposed, approved or enacted on or after the date of this Agreement, (v) general conditions in the industries in which the Company and its Subsidiaries primarily operate, (vi) the failure, in and of itself, of the Company to meet any internal or published projections, forecasts, estimates or predictions in respect of revenues, earnings or other financial or operating metrics before, on or after the date of this Agreement, or changes after the date of this Agreement in the market price or trading volume of the Company Common Shares or the credit rating of the Company (it being understood that the underlying facts giving rise or contributing to such failure or change may be taken into account in determining whether there has been a Company Material Adverse Effect), (vii) the negotiation, execution, announcement, performance or pendency of this Agreement or the consummation of the transactions contemplated hereby (it being understood that the exception in this clause (vii) shall not apply to the representations and warranties in Section 3.5), (viii) any action taken by the Company or its Subsidiaries at Parent’s written request or any other action taken by any Party required by this Agreement, (ix) any pandemic or widespread illness, or (x) the identity of, or any facts or circumstances relating to the Parent Parties or their respective Affiliates, except in the cases of clauses (i), (ii), (iii), (iv) or (v), to the extent that the Company and its Subsidiaries, taken as a whole, are disproportionately affected thereby as compared with other participants in the industries in which the Company and its Subsidiaries primarily operate (in which case the incremental disproportionate impact or impacts may be taken into account in determining whether there has been, or is

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reasonably expected to be, a Company Material Adverse Effect), or (b) the ability of the Company to consummate the transactions contemplated by this Agreement, including the Arrangement.

“ **Company Material Contract** ” shall have the meaning ascribed to it in Section 3.10(a).

“ **Company Meeting** ” means the special meeting of the Company Shareholders, including any adjournment or postponement thereof, to be called and held in accordance with this Agreement and the Interim Order for the purpose of considering and, if thought fit, approving the Arrangement Resolution.

“ **Company Optionholder** ” means a holder of one or more Company Options.

“ **Company Options** ” means, at any time, compensatory options to acquire Company Common Shares granted pursuant to the Company Stock Plans or otherwise which are, at such time, outstanding and unexercised, whether or not vested.

“ **Company Owned Real Property** ” shall have the meaning ascribed to it in Section 3.15(a).

“ **Company Preferred Shares** ” shall have the meaning ascribed to it in Section 3.3(a).

“ **Company PSU** ” means, at any time, each performance stock unit with respect to Company Common Shares granted pursuant to the Company Stock Plans or otherwise which is, at such time, outstanding, whether or not vested.

“ **Company Public Disclosure Record** ” means all documents filed by or on behalf of the Company on SEDAR, filed or furnished to the SEC by or on behalf of the Company or incorporated by reference into such documents, on or after December 31, 2012 and publicly available prior to the date of this Agreement.

“ **Company Recommendation** ” means the unanimous recommendation of the Company Board of Directors that the Company Shareholders vote in favor of the Arrangement Resolution.

“ **Company RSU** ” means, at any time, each restricted stock unit with respect to Company Common Shares granted pursuant to the Company Stock Plans or otherwise which is, at such time, outstanding, whether or not vested.

“ **Company SARs** ” means, at any time, stock appreciation rights relating to Company Common Shares granted pursuant to the Company Stock Plans or otherwise which are, at such time, outstanding and unexercised, whether or not vested.

“ **Company Shareholder** ” means a holder of one or more Company Common Shares.

“ **Company Shareholder Approval** ” means the affirmative vote of at least 66 ²/₃ % of the votes cast on the Arrangement Resolution by the Company Shareholders present in Person or represented by proxy at the Company Meeting.

“ **Company Specified Agreements** ” shall have the meaning ascribed to it in Section 3.19(a).

“ **Company Specified Leased Real Property** ” shall have the meaning ascribed to it in Section 3.15(b).

“ **Company Specified Real Property Landlord Leases** ” shall have the meaning ascribed to it in Section 3.15(c).

“ **Company Specified Real Property Leases** ” shall have the meaning ascribed to it in Section 3.15(b).

“ **Company Stock Plans** ” means the Company 2006 Stock Incentive Plan, the Company 2012 Stock Incentive Plan and the Company Non-Employee Director Deferred Stock Unit Plan.

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“ **Company Superior Proposal** ” means any *bona fide* , written Company Acquisition Proposal (with references to “20%” in the definition of Company Acquisition Proposal being substituted with references to “50%” for purposes of this definition) made by a third party or third parties acting jointly (other than any Parent Party and any of their respective Affiliates) that the Company Board of Directors (or any committee thereof) determines in good faith and in the proper discharge of its fiduciary duties (after consultation with its financial advisor and outside legal counsel) (i) is reasonably likely to be consummated in accordance with its terms and (ii) is more favorable to the Company Shareholders from a financial point of view than the Arrangement, the Merger and the other transactions contemplated by this Agreement, taken as a whole, in each case taking into account all financial, legal, financing, regulatory and other aspects of such Company Acquisition Proposal (including the identity of the Person or group making the Company Acquisition Proposal) and of this Agreement (including any changes to the terms of this Agreement proposed by Parent).

“ **Company Superior Proposal Notice** ” shall have the meaning ascribed to it in Section 6.4(e).

“ **Company Termination Fee Event** ” shall have the meaning ascribed to it in Section 9.2(b).

“ **Company Voting Agreements** ” shall have the meaning ascribed to it in the recitals.

“ **Competition Act** ” means the Competition Act (Canada).

“ **Contract** ” means any legally binding contract, agreement, indenture, note, instrument, license, franchise, lease, arrangement, commitment, understanding or other right or obligation (whether written or oral) to which a Person is a party or by which a Person is bound or affected or to which any of its properties or assets is subject, but excluding any Company Benefit Agreement, Company Benefit Plan, Parent Benefit Agreement or Parent Benefit Plan.

“ **Controlled Group Liability** ” means any and all liabilities (a) under Title IV of ERISA, (b) under Section 302 of ERISA, (c) under Sections 412 and 4971 of the Code, or (d) as a result of a failure to comply with the continuation coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

“ **Court** ” means the Ontario Superior Court of Justice (Commercial List).

“ **Debt Commitment Letter** ” shall have the meaning ascribed to it in Section 5.4.

“ **Debt Financing** ” shall have the meaning ascribed to it in Section 5.4.

“ **Debt Financing Agreements** ” shall have the meaning ascribed to it in Section 5.4.

“ **Debt Financing Sources** ” shall have the meaning ascribed to it in Section 5.4.

“ **Debt Tender Offer** ” shall have the meaning ascribed to it in Section 7.17(a).

“ **DGCL** ” shall have the meaning ascribed to it in Section 2.3(a).

“ **Director** ” means the Director appointed pursuant to section 260 of the CBCA.

“ **Disclosure Letter** ” means the Company Disclosure Letter or Parent Disclosure Letter, as applicable.

“ **Dissent Rights** ” means the rights of dissent of the Company Shareholders in respect of the Arrangement pursuant to Article 4 of the Plan of Arrangement.

“ **Effective Date** ” means the date upon which the Arrangement becomes effective in accordance with the CBCA and the Final Order, which shall occur on the Closing Date.

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“ **Effective Time** ” shall have the meaning ascribed to it in Section 1.1 of the Plan of Arrangement.

“ **Election Deadline** ” shall have the meaning ascribed to it in Section 2.3(f)(ii)(B).

“ **Election Form** ” shall have the meaning ascribed to it in Section 2.3(f)(ii)(A).

“ **Environmental Claims** ” shall have the meaning ascribed to it in Section 3.17(b).

“ **Environmental Law** ” shall have the meaning ascribed to it in Section 3.17(b).

“ **Equity Financing** ” shall have the meaning ascribed to it in Section 5.4.

“ **Equity Financing Source** ” shall have the meaning ascribed to it in Section 5.4.

“ **Equity Interest** ” means any share, capital stock, partnership, limited liability company, member or similar interest in any Person and any option, warrant, right or security convertible, exchangeable or exercisable therefor or other instrument, obligation or right the value of which is based on any of the foregoing.

“ **Equity Purchase Agreement** ” shall have the meaning ascribed to it in Section 5.4.

“ **ERISA** ” shall have the meaning ascribed to it in Section 3.13(a).

“ **ERISA Affiliate** ” means, with respect to any entity, trade or business, any other entity, trade or business that is, or was at the relevant time, a member of a group described in Section 414(b) or (c) of the Code (or, for purposes of Section 412 of the Code, under Section 414(m) or (o) of the Code) or Section 4001(b)(1) of ERISA that includes or included the first entity, trade or business, or that is, or was at the relevant time, a member of the same “controlled group” as the first entity, trade or business pursuant to Section 4001(a)(14) of ERISA;

“ **Exchange Agent** ” shall have the meaning ascribed to it in Section 2.3(f)(i).

“ **Exchange Fund** ” shall have the meaning ascribed to it in Section 2.3(f)(i).

“ **Exchangeable Election** ” means an election to receive the Exchangeable Security Consideration as contemplated by Section 2.3(f)(ii).

“ **Exchangeable Election Share** ” means a Parent Common Share with respect to which an Exchangeable Election has been validly made pursuant to Section 2.3(f)(ii) and not revoked or lost prior to the Election Deadline pursuant to Section 2.3(f)(ii).

“ **Exchangeable Security Consideration** ” shall have the meaning ascribed to it in Section 2.3(e)(iii)(B).

“ **Exchangeable Unit Election Number** ” shall have the meaning ascribed to it in Section 2.3(f)(iii).

“ **Exchangeable Unit Proration Factor** ” shall have the meaning ascribed to it in Section 2.3(f)(iii)(A).

“ **Exchangeable Units** ” means the exchangeable units of Partnership having substantially the rights, privileges, restrictions and conditions set forth in the Partnership Agreement.

“ **Exchanged Parent Option** ” shall have the meaning ascribed to it in Section 2.3(g)(i)(A).

“ **Exchanged Parent RSU** ” shall have the meaning ascribed to it in Section 2.3(g)(i)(B).

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“ **Final Order** ” means the order of the Court in a form acceptable to the Company and Parent, each acting reasonably, approving the Arrangement under section 192(4) of the CBCA, as such order may be affirmed, amended, modified, supplemented or varied by the Court (following the prior written consent of the Company and Parent, such consent not to be unreasonably withheld, delayed or conditioned) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn, abandoned or denied, as affirmed or amended (following the prior written consent of the Company and Parent, such consent not to be unreasonably withheld, delayed or conditioned) on appeal.

“ **Financing** ” shall have the meaning ascribed to it in Section 5.4.

“ **Financing Failure** ” shall have the meaning ascribed to it in Section 2.4.

“ **Financing Letters** ” shall have the meaning ascribed to it in Section 5.4.

“ **Financing Proceedings** ” means legal proceedings commenced by Parent (or any of the other Parent Parties) against the sources of the Debt Financing seeking to cause the Debt Financing to be funded as promptly as possible.

“ **Financing Sources** ” means the Debt Financing Sources and Equity Financing Sources, as applicable.

“ **Foreign Company Plan** ” shall have the meaning ascribed to it in Section 3.13(i).

“ **Foreign Parent Plan** ” shall have the meaning ascribed to it in Section 4.13(i).

“ **Form S-4** ” shall have the meaning ascribed to it in Section 2.5(b).

“ **Franchise Laws** ” shall have the meaning ascribed to it in Section 3.11(a).

“ **FTC Rule** ” shall have the meaning ascribed to it in Section 3.11(a).

“ **GAAP** ” means U.S. generally accepted accounting principles, consistently applied.

“ **Governmental Authority** ” means any international, multinational, federal, provincial, territorial, state, regional, municipal, local or other government or governmental body and any ministry, department, division, bureau, agent, official, agency, commission, board or authority of any government, governmental body, quasi-governmental or private body (including the TSX, the NYSE, or any other stock exchange), domestic or foreign, exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing and any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel, arbitrator or arbitral body acting under the authority of any of the foregoing.

“ **Hazardous Materials** ” shall have the meaning ascribed to it in Section 3.17(b).

“ **Holdings** ” shall have the meaning ascribed to it in the preamble.

“ **Holdings Arrangement Options** ” means options to acquire Holdings Common Shares received in exchange for Company Options pursuant to the Plan of Arrangement.

“ **Holdings Common Share** ” means the common shares in the capital of Holdings.

“ **Holdings Consideration** ” shall have the meaning ascribed to it in Section 2.3(e)(iii)(A).

“ **Holdings Preferred Shares** ” means shares designated as preferred shares in the capital of Holdings.

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“ **HSR Act** ” means the United States Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“ **Indemnified Party** ” and “ **Indemnified Parties** ” shall have the meanings ascribed thereto in Section 7.5(a).

“ **Information Statement** ” a written information statement of the type contemplated by Rule 14c-2 of the 1934 Exchange Act containing the information specified in Schedule 14C under the 1934 Exchange Act concerning the form of Parent Shareholder Consent, the Merger and the other transactions contemplated by this Agreement.

“ **Intellectual Property** ” shall have the meaning ascribed to it in Section 3.16(e).

“ **Interim Order** ” means the interim order of the Court in a form reasonably acceptable to each of the Company and Parent to be issued following the application therefor contemplated by Section 2.2(d) providing for, among other things, the calling and holding of the Company Meeting, as such order may be amended, modified, supplemented or varied by the Court with the prior written consent of both the Company and Parent, such consent not to be unreasonably withheld, conditioned or delayed.

“ **Investment Canada Act** ” means the Investment Canada Act (Canada).

“ **Investment Canada Act Approval** ” means that the responsible Minister under the Investment Canada Act is satisfied, or the responsible Minister by expiry of the applicable review period under the Investment Canada Act shall be deemed to be satisfied, that the transactions contemplated by this Agreement are likely to be of net benefit to Canada.

“ **IRS** ” means the U.S. Internal Revenue Service.

“ **Joint Information Statement/Circular** ” shall have the meaning ascribed to it in Section 2.5(b).

“ **Knowledge** ” means, with respect to the Company, the actual knowledge of the Company’s officers listed on Section 1.1 of the Company Disclosure Letter and, with respect to Parent, the actual knowledge of the Parent officers listed on Section 1.1 of the Parent Disclosure Letter.

“ **Law** ” means any and all laws, statutes, codes, ordinances (including zoning), approvals, decrees, rules, regulations, bylaws, notices, policies, protocols, guidelines, treaties or other requirements of any Governmental Authority and any legal requirements arising under the common law or principles of law or equity.

“ **Liens** ” means any pledge, claim, lien, charge, option, hypothec, mortgage, security interest, restriction, adverse right, prior assignment, lease, sublease, license, sublicense, right to possession or any other encumbrance, right or restriction of any kind or nature whatsoever, whether contingent or absolute.

“ **Liquidation** ” means the distribution by Tim Hortons US LLC of its common shares of The TDL Group Co. to Tim Hortons Delaware Limited Partnership in liquidation of Tim Hortons US LLC.

“ **Litigation** ” shall have the meaning ascribed to it in Section 3.9.

“ **Marketing Period** ” means the first period of 20 consecutive Business Days after the date of this Agreement beginning on the first day on which (a) Parent shall have the Required Information and (b) the conditions set forth in Section 8.1 have been satisfied (other than those conditions that by their terms are to be satisfied at the Closing) and nothing has occurred and no condition exists that would cause any of the conditions set forth in clause (a), (b) or (c) of Section 8.3 to fail to be satisfied, assuming that the Closing Date were to be

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scheduled for any time during such 20 consecutive Business Day period; provided that (i) November 28, 2014 shall be excluded as a Business Day and (ii) such period shall either end prior to December 19, 2014 or commence no earlier than January 5, 2015. Notwithstanding the foregoing, the Marketing Period shall not commence and shall be deemed not to have commenced (i) prior to the mailing of the Joint Information Statement/Circular, (ii) if, prior to the completion of the Marketing Period, the Company's auditors shall have withdrawn any audit opinion contained in the Required Information, in which case the Marketing Period shall not be deemed to commence unless and until a new unqualified audit opinion is issued with respect thereto by the Company's auditors or another independent public accounting firm reasonably acceptable to Parent, (iii) if prior to the completion of the Marketing Period, the Company issues a public statement indicating its intent to restate any historical financial statements of the Company or that any such restatement is under consideration or may be a possibility, in which case the Marketing Period shall not be deemed to commence unless and until such restatement has been completed and the relevant financial statements have been amended or the Company has announced that it has concluded that no restatement shall be required in accordance with GAAP, (iv) if the financial statements included in the Required Information that are available to Parent on the first day of the Marketing Period would not be sufficiently current on any day during such period to satisfy the requirements of Rule 3-12 of Regulation S-X to permit a registration statement of the Company using such financial statements to be declared effective by the SEC on the last day of such period, in which case the Marketing Period shall not be deemed to commence until the receipt by Parent of updated Required Information that would be required under Rule 3-12 of Regulation S-X to permit a registration statement of the Company using such financial statements to be declared effective by the SEC on the last day of such new 20 consecutive Business Day period, or (v) if prior to the completion of the Marketing Period, the Company shall have been delinquent in filing any annual financial statements, interim financial statements, management's discussion and analysis or Annual Information Form in accordance with National Instrument 51-102— *Continuous Disclosure Obligations* , or any Annual Report on Form 10-K or Quarterly Report on Form 10-Q, in which case the Marketing Period shall not be deemed to commence unless and until all such delinquencies have been cured; provided that the Marketing Period shall end on any earlier date on which the placement of senior notes contemplated by the Debt Commitment Letter has been consummated if, as of or prior to such date, the Marketing Period would have ended (without giving effect to clause (b)).

“ **Merger** ” shall have the meaning ascribed to it in the recitals.

“ **Merger Consideration** ” shall have the meaning ascribed to it in Section 2.3(e)(iii)(B).

“ **Merger Effective Time** ” shall have the meaning ascribed to it in Section 2.3(b)(i).

“ **New Holdings Articles of Amendment** ” shall have the meaning ascribed to it in Section 7.13(c).

“ **Merger Sub** ” shall have the meaning ascribed to it in the preamble.

“ **New Holdings Bylaws** ” shall have the meaning ascribed to it in Section 7.13(d).

“ **NI 41-101** ” shall have the meaning ascribed to it in Section 7.7(c).

“ **No-Action Letter** ” shall mean a letter or other notification in writing from the Commissioner to Holdings, the Company or Parent, or any of their Affiliates as the case may be, that the Commissioner does not, at that time, intend to make an application under section 92 of the Competition Act in respect of any of the transactions contemplated by this Agreement, and letter or other written notification having not been modified or withdrawn prior to Closing.

“ **Non-Disclosure Agreement** ” means the non-disclosure agreement dated as of July 9, 2014 among the Company, Parent and 3G Special Situations Fund II, L.P.

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“ **Non-Election Share** ” means all Parent Common Shares with respect to which a valid Exchangeable Election has not been validly made and not revoked or lost prior to the Election Deadline pursuant to Section 2.3(f)(ii) .

“ **Non-Prorated Exchangeable Units** ” shall have the meaning ascribed to it in Section 2.3(f)(iii) .

“ **NYSE** ” means the New York Stock Exchange.

“ **Offering Documents** ” means prospectuses, private placement memoranda, information memoranda and packages and lender and investor presentations, in connection with the Financing.

“ **Order** ” means all judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, injunctions, orders, decisions, rulings, determinations, awards, decrees or similar actions taken by, or applied by, any Governmental Authority (in each case, whether temporary, preliminary or permanent).

“ **ordinary course of business** ”, or any phrase of similar import, means, with respect to an action taken or to be taken by any Person, that such action is consistent with the past practices of such Person (including with respect to amount and frequency) and is taken in the ordinary course of the normal day-to-day business and operations of such Person.

“ **Outside Date** ” shall have the meaning ascribed to it in Section 9.1(b)(i) .

“ **Parent** ” shall have the meaning ascribed to it in the preamble.

“ **Parent Benefit Agreement** ” shall have the meaning ascribed to it in Section 4.13(j) .

“ **Parent Benefit Plan** ” shall have the meaning ascribed to it in Section 4.13(j) .

“ **Parent Board of Directors** ” means the board of directors of Parent.

“ **Parent Bonus Swap Programs** ” means the Parent 2012 Bonus Swap Program, the Parent 2013 Bonus Swap Program, the Parent 2014 Bonus Swap Program and any other bonus swap program adopted by Parent after the date hereof.

“ **Parent Book Entry Shares** ” shall have the meaning ascribed to it in Section 2.3(e)(iii) .

“ **Parent Bylaws** ” shall have the meaning ascribed to it in Section 4.1 .

“ **Parent Certificate of Incorporation** ” shall have the meaning ascribed to it in Section 4.1 .

“ **Parent Common Share** ” means a share of common stock, par value U.S.\$0.01, of Parent.

“ **Parent Disclosure Letter** ” means the disclosure letter dated the date hereof regarding this Agreement that has been delivered to the Company concurrently with the execution of this Agreement.

“ **Parent Equity Awards** ” shall have the meaning ascribed to it in Section 4.3(a) .

“ **Parent Fairness Opinion** ” means the opinion of the Parent Financial Advisor to the effect that, as of the date of such opinion and based upon and subject to the assumptions, procedures, factors, limitations and qualifications set forth therein, the consideration to be received by the Parent Shareholders under the Merger is fair, from a financial point of view, to such Parent Shareholders (other than Affiliates of Parent).

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“ **Parent FDD** ” shall have the meaning ascribed to it in Section 4.19(h).

“ **Parent Financial Advisor** ” shall have the meaning ascribed to it in Section 4.26.

“ **Parent Franchise** ” shall have the meaning ascribed to it in Section 4.19(a).

“ **Parent Franchisee** ” shall have the meaning ascribed to it in Section 4.19(h).

“ **Parent Indemnified Party** ” shall have the meaning ascribed to it in Section 7.5(a).

“ **Parent Intellectual Property** ” shall have the meaning ascribed to it in Section 4.16(a).

“ **Parent Material Adverse Effect** ” means any fact, circumstance, change, effect, event or occurrence that individually or in the aggregate with all other changes, effects, events or occurrences, has had or would reasonably be expected to have a material adverse effect on (a) the business, condition (financial or otherwise), assets, liabilities or results of operations of Parent and its Subsidiaries, taken as a whole; provided that none of the following shall either alone or in combination constitute, or be taken into account in determining whether there has been, a Parent Material Adverse Effect for purposes of this clause (a): any fact, circumstance, change, effect, event or occurrence directly arising out of or directly resulting from (i) general economic, credit, capital or financial markets or political conditions in the United States or elsewhere in the world, including with respect to interest rates or currency exchange rates, (ii) any outbreak or escalation of hostilities, acts of war (whether or not declared), sabotage or terrorism, (iii) any hurricane, tornado, flood, volcano, earthquake or other natural or man-made disaster occurring after the date of this Agreement, (iv) any change in applicable Law or GAAP (or authoritative interpretation or enforcement thereof) which is proposed, approved or enacted on or after the date of this Agreement, (v) general conditions in the industries in which Parent and its Subsidiaries primarily operate, (vi) the failure, in and of itself, of Parent to meet any internal or published projections, forecasts, estimates or predictions in respect of revenues, earnings or other financial or operating metrics before, on or after the date of this Agreement, or changes after the date of this Agreement in the market price or trading volume of the Parent Common Shares or the credit rating of Parent (it being understood that the underlying facts giving rise or contributing to such failure or change may be taken into account in determining whether there has been a Parent Material Adverse Effect), (vii) the negotiation, execution, announcement, performance or pendency of this Agreement or the consummation of the transactions contemplated hereby (it being understood that the exception in this clause (vii) shall not apply to the representations and warranties in Section 4.5), (viii) any action taken by Parent or its Subsidiaries at the Company’s written request or any other action taken by any Party required by this Agreement, (ix) any pandemic or widespread illness, or (x) the identity of, or any facts or circumstances relating to the Company or its Affiliates, except in the cases of clauses (i), (ii), (iii), (iv) or (v), to the extent that Parent and its Subsidiaries, taken as a whole, are disproportionately affected thereby as compared with other participants in the industries in which Parent and its Subsidiaries primarily operate (in which case the incremental disproportionate impact or impacts may be taken into account in determining whether there has been, or is reasonably expected to be, a Parent Material Adverse Effect), or (b) the ability of Parent or any other Parent Party to consummate the transactions contemplated by this Agreement, including the Merger.

“ **Parent Material Contract** ” shall have the meaning ascribed to it in Section 4.10(a).

“ **Parent Options** ” means, at any time, compensatory options to acquire Parent Common Shares granted pursuant to the Parent Stock Plans or otherwise which are, at such time, outstanding and unexercised, whether or not vested.

“ **Parent Owned Real Property** ” shall have the meaning ascribed to it in Section 4.15(a).

“ **Parent Parties** ” shall have the meaning ascribed to it in the preamble.

“ **Parent Preferred Stock** ” shall have the meaning ascribed to it in Section 4.3(a).

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“ **Parent Public Disclosure Record** ” means all documents filed or furnished to the SEC by or on behalf of Parent, or incorporated by reference into such documents, on or after December 31, 2012 and publicly available prior to the date of this Agreement.

“ **Parent Recommendation** ” means the unanimous recommendation of the Parent Board of Directors that the Parent Shareholders vote in favor of the adoption of this Agreement and the Merger.

“ **Parent Related Parties** ” means (i) the Financing Sources or any of their respective former, current or future general or limited partners, shareholders, financing sources, managers, members, directors, officers, employees, advisors, counsel or Affiliates and (ii) the Parent Shareholders party to the Parent Shareholder Voting Agreement.

“ **Parent RSU** ” means, at any time, each restricted stock unit with respect to Parent Common Shares granted pursuant to the Parent Stock Plans or otherwise which is, at such time, outstanding, whether or not vested.

“ **Parent Shareholder** ” means a holder of one or more Parent Common Shares.

“ **Parent Shareholder Approval** ” shall have the meaning ascribed to it in Section 4.4(a).

“ **Parent Shareholder Consent** ” shall mean the irrevocable action by written consent evidencing the approval and adoption of this Agreement in the form attached as Exhibit A to the Parent Shareholder Voting Agreement.

“ **Parent Shareholder Voting Agreement** ” means the Voting Agreement to be entered into by 3G Special Situations Fund II, L.P., in the form attached hereto as Schedule C.

“ **Parent Specified Agreements** ” shall have the meaning ascribed to it in Section 4.19(a).

“ **Parent Specified Leased Real Property** ” shall have the meaning ascribed to it in Section 4.15(b).

“ **Parent Specified Real Property Landlord Leases** ” shall have the meaning ascribed to it in Section 4.15(c).

“ **Parent Specified Real Property Leases** ” shall have the meaning ascribed to it in Section 4.15(b).

“ **Parent Stock Plans** ” means the Parent 2011 Omnibus Incentive Plan and the Parent 2012 Omnibus Incentive Plan.

“ **Parent Termination Fee** ” shall have the meaning ascribed to it in Section 9.2(a).

“ **Parent Termination Fee Event** ” shall have the meaning ascribed to it in Section 9.2(c).

“ **Parties** ” means the parties to this Agreement and “ **Party** ” means any one of them.

“ **Partnership** ” shall have the meaning ascribed to it in the preamble.

“ **Partnership Agreement** ” shall have the meaning ascribed to it in Section 7.13(e).

“ **Permit** ” means any lease, license, permit, certificate, consent, order, grant, approval, classification, registration or other authorization of or from any Governmental Authority.

“ **Permitted Liens** ” means, for the Company or any of its Subsidiaries, or Parent or any of its Subsidiaries, as the context requires: (i) any Liens for Taxes not yet due and payable or which are being contested in good faith by appropriate proceedings and for which adequate reserves have been provided in conformity with GAAP;

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(ii) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other similar Liens arising in the ordinary course of business; (iii) pledges or deposits in connection with workers' compensation, unemployment insurance, and other social security legislation arising in the ordinary course of business; (iv) easements, rights-of-way, covenants, restrictions and other encumbrances with respect to tangible properties incurred in the ordinary course of business that, in the aggregate, are not material in amount and that do not, in any case, materially detract from the value or the use of the property subject thereto; (v) gaps in the chain of title evident from the records of the applicable Governmental Authority maintaining such records, easements, rights-of-way, covenants, restrictions and other encumbrances of record with respect to tangible properties as of the date hereof; (vi) statutory landlords' Liens and Liens granted to landlords under any lease, (vii) non-exclusive licenses of non-material Intellectual Property in the ordinary course of business; (viii) any purchase money security interests, equipment leases or similar financing arrangements; (ix) any Liens which are disclosed on the most recent consolidated balance sheet of the Company or Parent, as applicable, or the notes thereto; and (x) any Liens that are not material to the Company, its Subsidiaries or their businesses, taken as a whole, or Parent, its Subsidiaries or their businesses, taken as a whole, as applicable.

“ **Person** ” includes an individual, sole proprietorship, corporation, body corporate, incorporated or unincorporated association, syndicate or organization, partnership, limited partnership, limited liability company, unlimited liability company, joint venture, joint stock company, trust, natural Person in his or her capacity as trustee, executor, administrator or other legal representative, a government or Governmental Authority or other entity, whether or not having legal status.

“ **Plan of Arrangement** ” means the plan of arrangement substantially in the form and substance set out in Schedule D hereto, as the same may be amended, supplemented or varied from time to time in accordance with Article 6 of the Plan of Arrangement or at the direction of the Court in the Final Order with the prior written consent of the Company and Parent, each of such consents not to be unreasonably withheld, conditioned or delayed.

“ **Pre-Closing Reorganization** ” shall have the meaning ascribed to it in Section 7.10.

“ **Proceeding** ” shall have the meaning ascribed to it in Section 3.14(c).

“ **Prorated Exchangeable Units** ” shall have the meaning ascribed to it in Section 2.3(f)(iii).

“ **Registration Rights Agreements** ” shall mean (i) the Registration Rights Agreement dated June 19, 2012 by and among Parent and 3G Special Situations Fund II, L.P. and (ii) the Registration Rights Agreement dated June 19, 2012 by and among Parent, Pershing Square, L.P., Pershing Square II, L.P., Pershing Square International, Ltd. and William Ackman.

“ **Reimbursement Payment** ” shall have the meaning ascribed to it in Section 9.2(a).

“ **Relationship Laws** ” shall have the meaning ascribed to it in Section 3.11(a).

“ **Release** ” shall have the meaning ascribed to it in Section 3.17(b).

“ **Relevant Laws** ” shall have the meaning ascribed to it in Section 7.2(a).

“ **Representatives** ” shall have the meaning ascribed to it in Section 6.4(a).

“ **Required Information** ” means (i) all customary financial information of the Company and its Subsidiaries that is required to permit Parent or Holdings to prepare a pro forma consolidated balance sheet and related pro forma consolidated statement of income of the Company as of and for the twelve (12)-month period ending on the last day of the most recently completed four-fiscal quarter period ended at least 45 days prior to the Closing

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Date (or 90 days in case such four-fiscal quarter period is the end of the Company's fiscal year), prepared after giving effect to the Arrangement and the Merger as if the Arrangement and the Merger had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such statement of income) and (ii) financial statements prepared in accordance with GAAP, audit reports, and other financial information and financial data regarding the Company and its Subsidiaries of the type and form required by (and which will remain in compliance with in all material respects during the Marketing Period) Regulation S-X and Regulation S-K under U.S. Securities Laws for registered offerings of securities on Form S-3 (or any successor form thereto) under U.S. Securities Laws (excluding information required by Rules 3-10 and 3-16 under Regulation S-X), and of the type and form, and for the periods, customarily included in Offering Documents used in private placements of debt securities under Rule 144A of U.S. Securities Laws, to consummate the offerings or placements of any debt securities, in each case assuming that such offering(s) of debt securities were consummated at the same time during the Company's fiscal year as such offering(s) of debt securities will be made; provided that with respect to the pro forma data described in clause (i) above, the following shall not be considered part of the Required Information: (a) any post-Closing or pro forma cost savings, capitalization and other post-Closing or pro forma adjustments (and the assumptions relating thereto) desired by Parent to be reflected in such pro forma data, and (b) any other information concerning the assumptions underlying the post-Closing or pro forma adjustments to be made in such pro forma and summary financial data, which assumptions shall be the responsibility of Parent.

" Required Payments " shall have the meaning ascribed to it in Section 5.4.

" Required Regulatory Approvals " means those sanctions, rulings, consents, orders, exemptions, permits, waivers, early terminations, authorizations, clearances, written confirmations of no intention to initiate legal proceedings and other approvals (including the lapse, without objection, of a prescribed time under a statute or regulation that states that a transaction may be implemented if a prescribed time lapses following the giving of notice without an objection being made) of Governmental Authorities as set forth in Schedule E hereto.

" Restraint " means any Law or Order, whether temporary, preliminary or permanent, which is then in effect and has the effect of enjoining, restraining, prohibiting or otherwise preventing the consummation of the transactions contemplated by this Agreement including the Arrangement and the Merger.

" Returns " means all reports, forms, elections, designations, schedules, statements, estimates, claims for refund, declarations of estimated tax, information statements and returns filed or required to be filed with any Governmental Authority in respect of Taxes.

" Rights Agreement " means that certain Shareholder Rights Plan Agreement, dated as of August 6, 2009, between the Company and Computershare Trust Company of Canada.

" SEC " means the United States Securities and Exchange Commission or any successor entity.

" Securities Act " means the Securities Act (Ontario).

" SEDAR " means the System for Electronic Document Analysis and Retrieval.

" Special Voting Share " means the special voting share in the capital of Holdings.

" Specified Company Shareholders " shall have the meaning ascribed to it in the recitals hereto.

" Subsidiary " means, with respect to any Person, any other Person of which (a) more than 50% of the outstanding voting securities are directly or indirectly owned by such Person (excluding joint ventures that are neither operated nor managed by such Person), or (b) such Person or any Subsidiary of such Person is a general partner (excluding partnerships in which such party or any Subsidiary of such Person does not have a majority of the voting interests in such partnership).

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“ **Surviving Company** ” shall have the meaning ascribed to it in Section 2.3(a) .

“ **Takeover Law** ” shall have the meaning ascribed to it in Section 7.8 .

“ **Tax** ” or “ **Taxes** ” means all taxes, duties, imposts, levies or other governmental assessments, tariffs, charges or obligations of the same or similar nature, however denominated, imposed, assessed or collected by any Governmental Authority, including all income taxes, including any tax on or based on net income, gross income, earnings, gross receipts, capital gains, profits, and specifically including any federal, provincial, state, territorial, county, municipal, local or foreign taxes, state profit share taxes, windfall or excess profit taxes, capital taxes, royalty taxes, production taxes, payroll taxes, health taxes, employment taxes, withholding taxes (including all withholdings on amounts paid to or by the relevant Person), sales taxes, use taxes, goods and services taxes, custom duties, value added taxes, ad valorem taxes, excise taxes, alternative or add-on minimum taxes, franchise taxes, license taxes, occupation taxes, real and personal property taxes, land transfer taxes, severance taxes, capital stock taxes, stamp taxes, anti-dumping taxes, countervailing taxes, occupation taxes, unclaimed property or escheatment taxes, environmental taxes, transfer taxes, and employment or unemployment insurance premiums, social insurance premiums and worker’s compensation premiums and pension (including Canada Pension Plan) payments, and other taxes of any kind whatsoever, together with any interest, penalties and additional amounts imposed in respect thereof.

“ **Tax Act** ” means the Income Tax Act (Canada) or any successor act.

“ **Termination Fee** ” shall have the meaning ascribed to it in Section 9.2(a) .

“ **Title IV Plan** ” shall have the meaning ascribed to it in Section 4.13(e) .

“ **Trustee** ” means such trustee reasonably acceptable to Holdings and Parent to act as trustee.

“ **TSX** ” means the Toronto Stock Exchange.

“ **U.S.\$** ” means United States dollars, the lawful currency of the United States.

“ **U.S.** ” or “ **United States** ” means the United States of America, its territories and possessions, any State of the United States and the District of Columbia and all other areas subject to its jurisdiction.

“ **U.S. Securities Laws** ” means the 1933 Securities Act, the 1934 Exchange Act and all other state and federal securities Laws.

“ **Voting Trust Agreement** ” means an agreement to be made between Holdings, Partnership and the Trustee substantially in the form and substance of Schedule F , with such changes thereto as the Parties, acting reasonably, may agree, it being understood that each Party will not unreasonably withhold agreement with respect to any suggested change that effectuates, or that does not adversely affect or interfere with, the principles set forth in Section 3.4(a) of the form of Partnership Agreement attached hereto as Schedule I, including the intended equivalence of the economic rights (for the avoidance of doubt, not taking any tax consequences or tax characterization into account and not taking into account any guaranteed payments, reimbursements or other distributions to Holdings in respect of expenses and other costs incurred by Holdings pursuant to Section 5.4(f) of the form of Partnership Agreement attached hereto as Schedule I or otherwise) of an Exchangeable Unit, a Common Unit and a Holdings Common Share.

“ **Voting Company Debt** ” shall have the meaning ascribed to it in Section 3.3(c) .

“ **Voting Parent Debt** ” shall have the meaning ascribed to it in Section 4.3(c) .

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Section 1.2 Interpretation .

- (a) In this Agreement, except to the extent otherwise provided or that the context otherwise requires:
- (i) when a reference is made in this Agreement to an Article, Section, Exhibit or Schedule, such reference is to an Article or Section of, or a Schedule or Exhibit to, this Agreement unless otherwise indicated;
 - (ii) the table of contents and headings for this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement;
 - (iii) whenever the words “include,” “includes” or “including” are used in this Agreement, they are deemed to be followed by the words “without limitation”;
 - (iv) the words “hereof,” “herein” and “hereunder” and words of similar import, when used in this Agreement, refer to this Agreement as a whole (including the Exhibits and Schedules hereto and the Company Disclosure Letter and Parent Disclosure Letter executed concurrently herewith) and not to any particular provision of this Agreement;
 - (v) all terms defined in this Agreement have the defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein;
 - (vi) the definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and, except as otherwise expressly provided or unless the context otherwise requires, any noun or pronoun shall be deemed to cover all genders;
 - (vii) references to a Person are also to its successors and permitted assigns;
 - (viii) the use of “or” is not intended to be exclusive unless expressly indicated otherwise;
 - (ix) references to any Contract (including this Agreement) are to the Contract as amended, modified, supplemented, restated or replaced from time to time (to the extent permitted by the terms thereof); and
 - (x) references to any Law shall mean such Law as amended, updated, modified, supplemented and superseded from time to time, including by succession of comparable successor Law, instruments incorporated therein and the rules, regulations and published policies applicable thereto.
- (b) The Parties have participated jointly in the negotiation and drafting of this Agreement and, in the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as jointly drafted by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

Section 1.3 Disclosure . Except to the extent otherwise provided or that the context otherwise requires, all capitalized terms not defined in the Company Disclosure Letter or the Parent Disclosure Letter shall have the meanings ascribed to them in this Agreement. The representations and warranties of the Company in this Agreement are made and given, and the covenants are agreed to, subject to the disclosures and exceptions set forth in the Company Disclosure Letter. The representations and warranties of Parent in this Agreement are made and given, and the covenants are agreed to, subject to the disclosures and exceptions set forth in the Parent Disclosure Letter. Any information set forth in one section or subsection of the Company Disclosure Letter or the Parent Disclosure Letter, as applicable, shall be deemed to apply to and qualify the Section or subsection of this Agreement to which it corresponds in number and each other Section or subsection of this Agreement to the extent it is reasonably apparent on its face that such information is relevant to such other Section or subsection then only to the extent that the relevance of any disclosed event, item or occurrence in such Disclosure Letter to a matter covered by a representation or warranty set forth in this Agreement is reasonably apparent as to matters which are a subject of such representation or warranty, other than any matters required to be disclosed for

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purposes of Section 3.3 (Capital Structure of the Company), Section 3.24 (Voting Requirements of the Company), Section 3.25 (Takeover Statutes Applicable to the Company), Section 4.3 (Capital Structure of Parent), Section 4.24 (Voting Requirements of Parent) and Section 4.25 (Takeover Statutes Applicable to Parent), which matters shall only be disclosed by specific disclosure in the respective corresponding section of the applicable Disclosure Letter. The mere inclusion of any item in any section or subsection of any Party's Disclosure Letter as an exception to any representation or warranty or otherwise shall not be deemed to constitute an admission by the applicable Party, or to otherwise imply, that any such item has had or would reasonably be expected to have a Company Material Adverse Effect or a Parent Material Adverse Effect, as applicable, or otherwise represents an exception or material fact, circumstance, change, effect, event or occurrence for the purposes of this Agreement, or that such item meets or exceeds a monetary or other threshold specified for disclosure in this Agreement. Matters disclosed in any section or subsection of a Party's Disclosure Letter are not necessarily limited to matters that are required by this Agreement to be disclosed therein. Headings inserted in the sections or subsections of any Party's Disclosure Letter are for convenience of reference only and shall not have the effect of amending or changing the express terms of the sections or subsections as set forth in this Agreement.

Section 1.4 Survival of Representations and Warranties. Except for the disclaimers set forth in Section 3.28, Section 4.28 and Section 5.5, the representations and warranties of the Parties contained in this Agreement will not survive the completion of the Arrangement and will expire and be terminated on the earlier of the Effective Time and, subject to the obligation to make any payment hereunder pursuant to Section 9.2, the date on which this Agreement is terminated in accordance with its terms. This Section 1.4 will not limit any covenant or agreement of any of the Parties, which, by its terms, contemplates performance after the Closing or the date on which this Agreement is terminated, as the case may be.

Section 1.5 Date of Action. If the date on which any action is required to be taken hereunder by any of the Parties is not a Business Day, then such action will be required to be taken on the next succeeding day which is a Business Day.

ARTICLE 2 THE ARRANGEMENT AND THE MERGER

Section 2.1 Single Transaction. The Parent Parties and the Company acknowledge and agree that, in accordance with the terms and conditions of this Agreement, the following transaction steps shall occur in the following order, conditional on the immediately preceding step in the sequence:

(a) on the Closing Date, pursuant to Section 2.1(b) and the Plan of Arrangement and in accordance with the CBCA, commencing at the Effective Time, the Company shall effect steps (a) through (k) of Section 3.2 of the Plan of Arrangement pursuant to which, among other things, all of the outstanding Company Common Shares will be acquired in the manner set forth in the Plan of Arrangement;

(b) on the Closing Date, pursuant to Section 2.3(a) and in accordance with the DGCL, at the Merger Effective Time but after the Effective Time, Merger Sub and Parent shall consummate the Merger pursuant to which Merger Sub shall be merged with and into Parent, the separate corporate existence of Merger Sub shall cease and Parent shall continue as the surviving company in the Merger, and at such time steps (l) and (m) of Section 3.2 of the Plan of Arrangement shall occur contemporaneously; and

(c) pursuant to Section 2.2 and the Plan of Arrangement and in accordance with the CBCA, the Company shall effect steps (n) and (o) of Section 3.2 of the Plan of Arrangement, at the times indicated in the Plan of Arrangement.

Section 2.2 The Arrangement .

(a) The Arrangement . The Company, Parent, Holdings and Amalgamation Sub agree that the Arrangement will be implemented in accordance with and subject to the terms and conditions contained in this Agreement and the Plan of Arrangement.

(b) Implementation Steps by the Company . The Company covenants in favor of Parent, Holdings and Amalgamation Sub that upon the terms and subject to the conditions of this Agreement, the Company shall:

(i) as soon as reasonably practicable following the date on which the Form S-4 becomes effective, prepare, file, proceed with and diligently prosecute an application to the Court pursuant to Section 192(3) of the CBCA for the Interim Order in a manner and form reasonably acceptable to Parent;

(ii) as soon as reasonably practicable after obtaining the Interim Order, convene and hold the Company Meeting for the purpose of considering the Arrangement Resolution;

(iii) subject to obtaining such approvals as are required by the Interim Order (including the Company Shareholder Approval), as soon as reasonably practicable after the Company Meeting and, in any event, not later than five (5) Business Days thereafter, submit the Arrangement to the Court and apply pursuant to section 192(4) of the CBCA for the Final Order in a manner and form reasonably acceptable to Parent and thereafter proceed with such application and diligently pursue obtaining the Final Order; and

(iv) subject to obtaining the Final Order and to the satisfaction or waiver (subject to applicable Laws) of each of the conditions set forth in Section 8.1 and Section 8.2 (excluding conditions that by their terms cannot be satisfied until the Effective Date, but subject to the satisfaction or, when permitted, waiver of those conditions as of the Effective Date), as soon as reasonably practicable thereafter, take all steps and actions including, if applicable, making all filings with Governmental Authorities (including the TSX and NYSE) necessary to give effect to the Arrangement and the Merger and carry out the terms of the Plan of Arrangement applicable to it prior to the Outside Date; provided that , notwithstanding the satisfaction or waiver of the conditions set forth in Article 8 , if the Marketing Period has not ended at the time of the satisfaction or waiver of such conditions (other than those conditions that by their nature (including, for the avoidance of doubt, Section 8.3(e) and Section 8.3(f)) are to be satisfied or (to the extent permitted by Law) waived as of the Effective Date), the Company shall not be required to take the actions set forth in this Section 2.2(b)(iv) until the Closing Date as determined by Section 2.4).

(c) Implementation Steps by Parent and Holdings . Subject to the terms of this Agreement, Parent, Holdings and their respective Subsidiaries will cooperate with, assist and consent to the Company seeking the Interim Order and the Final Order and, subject to the Company obtaining the Final Order and to the satisfaction or waiver (subject to applicable Laws) of each of the conditions set forth in Section 8.1 and Section 8.3 (excluding conditions that by their terms cannot be satisfied until the Effective Date (including for the avoidance of doubt Section 8.3(e) and Section 8.3(f)), but subject to the satisfaction or, when permitted, waiver of those conditions as of the Effective Date), as soon as reasonably practicable thereafter, take all steps and actions including, if applicable, making all filings with Governmental Authorities (including the TSX and NYSE) necessary to give effect to the Arrangement and the Merger and carry out the terms of the Plan of Arrangement applicable to each of them prior to the Outside Date.

(d) Interim Order . The application referred to in Section 2.2(b)(i) shall, unless the Company and Parent otherwise agree, include a request that the Interim Order provide, among other things:

(i) for the class of Persons to whom notice is to be provided in respect of the Arrangement and the Company Meeting and for the manner in which such notice is to be provided;

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- (ii) for the record date for the purposes of determining the Company Shareholders entitled to receive notice of and to vote at the Company Meeting;
- (iii) for the calling and holding of the Company Meeting for the purpose of considering the Arrangement Resolution;
- (iv) that the Company Meeting may be adjourned or postponed from time to time by the Company in accordance with this Agreement (including Section 2.6(c)) without the need for any additional approval by the Court;
- (v) that the record date for the Company Shareholders entitled to receive notice of and to vote at the Company Meeting will not change in respect of or as a consequence of any adjournment or postponement of the Company Meeting;
- (vi) that the requisite and sole approval of the Arrangement Resolution will be the Company Shareholder Approval;
- (vii) for the grant of the Dissent Rights;
- (viii) for the notice requirements with respect to the presentation of the application to the Court for the Final Order;
- (ix) that, in all other respects, the terms, restrictions and conditions of the Company Bylaws, including quorum requirements and all other matters, shall apply in respect of the Company Meeting; and
- (x) subject to the consent of the Company (such consent not to be unreasonably withheld, delayed or conditioned), for such other matters as Parent may reasonably require.

(e) Court Proceedings. The Company will provide Parent and its legal counsel with a reasonable opportunity to review and comment upon drafts of all materials to be filed with the Court in connection with the Arrangement prior to the service and filing of such materials and shall give reasonable consideration to all such comments. The Company will ensure that all materials filed with the Court in connection with the Arrangement are consistent in all material respects with the terms of this Agreement and the Plan of Arrangement. Subject to applicable Laws, the Company will not file any material with the Court in connection with the Arrangement or serve any such material, and will not agree to modify or amend materials so filed or served, except as contemplated by this Section 2.2 or with Parent's prior written consent, such consent not to be unreasonably withheld, delayed or conditioned, provided, however, that nothing herein shall require Parent to agree or consent to any increase in the consideration offered or change to the form of the consideration offered to Company Shareholders under the terms of the Plan of Arrangement or any modification or amendment to such filed or served materials that expands or increases the obligations of Holdings, Parent and any of their respective Subsidiaries set forth in any such filed or served materials or under this Agreement, the Merger or the Arrangement. In addition, the Company will not object to Parent or its legal counsel making such submissions on the hearing of the application for the Interim Order and the application for the Final Order as Parent or its legal counsel considers reasonably appropriate. The Company will also provide Parent and its legal counsel, on a timely basis, with copies of any notice of appearance and evidence or other documents served on the Company or its legal counsel in respect of the application for the Interim Order or the Final Order or any appeal therefrom and of any notice, whether or not in writing, received by the Company or its legal counsel indicating any intention to oppose the granting of the Interim Order or the Final Order or to appeal the Interim Order or the Final Order. The Company will also oppose any proposal from any Person that the Final Order contain any provision inconsistent with this Agreement.

(f) Articles of Arrangement. The Articles of Arrangement shall, with such other matters as are necessary to effect the Arrangement and subject to the provisions of the Plan of Arrangement,

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consummate the Plan of Arrangement. On the Closing Date, the Articles of Arrangement shall be filed with the Director pursuant to Section 192(6) of the CBCA. The Articles of Arrangement shall be in form reasonably satisfactory to each of Parent and the Company.

(g) List of Securityholders. Upon the reasonable request from time to time of Parent, the Company will provide Holdings or Parent with lists (in both written and electronic form) of the registered Company Shareholders, together with their addresses and respective holdings of Company Common Shares, lists of the names and addresses and holdings of all Persons having rights issued or granted by the Company to acquire or otherwise related to Company Common Shares (including Company Optionholders) and lists of non-objecting beneficial owners of Company Common Shares and participants in book-based nominee registers (such as CDS & Co. and CEDE and Co.), together with their addresses and respective holdings of Company Common Shares. The Company will from time to time require that its registrar and transfer agent furnish Holdings or Parent with such additional information, including updated or additional lists of Company Shareholders, information regarding beneficial ownership of Company Common Shares and lists of holdings and other assistance as Holdings or Parent may reasonably request.

(h) Treatment of Company Equity Awards. The Company Equity Awards and the Company Stock Plans shall be treated as contemplated by, and in the manner set forth in, the Plan of Arrangement.

(i) Securityholder Communications. The Company and Parent agree to cooperate in the preparation of presentations, if any, to Company Shareholders or other securityholders regarding the transactions contemplated by this Agreement, including the Arrangement, and the Company agrees to consult with Parent in connection with any communication or meeting with Company Shareholders or other securityholders that it may have; provided, however, that the foregoing shall be subject to the Company's overriding obligations to make any disclosure or filing required by applicable Laws or stock exchange rules; and provided, further, that if the Company is required to make any such disclosure, it shall give Parent and its legal counsel a reasonable opportunity to review and comment thereon prior to the dissemination of any such disclosure and shall give reasonable consideration to all such comments; and provided, further, that restrictions set forth in this sentence shall not prevent the making of any filing or disclosure made or proposed to be made by the Company in connection with a Company Adverse Recommendation Change.

(j) Withholding Taxes. Each of the Company, Holdings, Amalgamation Sub and the Arrangement Exchange Agent and any other Person that has a withholding obligation pursuant to the Arrangement (without duplication) shall be entitled to deduct and withhold from the Arrangement Consideration or any amount otherwise payable to a holder of Company Common Shares, Company Equity Awards or other Equity Interests of the Company pursuant to this Agreement and the Plan of Arrangement such amounts as are required to be deducted and withheld with respect to the making of such payment under applicable Tax Law. Any amounts that are so withheld and paid over to the appropriate taxing authority shall be treated for all purposes of this Agreement and the Plan of Arrangement as having been paid to the Person in respect of which such deduction or withholding was made. To the extent that the amount so required under applicable Tax Law to be deducted or withheld from the payment of Arrangement Consideration to a holder of Company Common Shares, Company Equity Awards or other Equity Interests of the Company exceeds the Arrangement Cash Consideration otherwise payable to the holder of such Company Common Shares, Company Equity Awards or other Equity Interests of the Company, each of the Company, Holdings, Amalgamation Sub and the Arrangement Exchange Agent (and any such other Person that has a withholding obligation pursuant to this Agreement) is hereby authorized to sell such portion of the Arrangement Share Consideration otherwise payable to the holder of such Company Common Shares, Company Equity Awards or other Equity Interests of the Company as is necessary to provide sufficient funds to the Company, Holdings, Amalgamation Sub or the Arrangement Exchange Agent (or any such other Person that has a withholding obligation pursuant to this Agreement), as the case may be, to enable it to comply with such deduction or withholding requirement and the Company, Holdings, Amalgamation Sub or the Arrangement Exchange Agent (or

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any such other Person that has a withholding obligation pursuant to this Agreement) shall notify such holder of such sale and remit (x) the applicable portion of the net proceeds of such sale to the appropriate taxing authority and (y) the remaining net proceeds of such sale (after deduction for the amounts described in clause (x)) to such holder.

(k) Rights Agreement. The Company and the Company Board of Directors shall take all action necessary, immediately prior to the Effective Time, to waive or otherwise render inapplicable the application of the Rights Agreement to the Arrangement and to ensure that the Rights Agreement does not interfere with or impede the success of the Arrangement.

Section 2.3 The Merger.

(a) The Merger. Upon the terms and subject to the conditions set forth in this Agreement, and in accordance with the General Corporation Law of the State of Delaware (the “**DGCL**”), on the Closing Date, but after the Effective Time, Merger Sub shall be merged with and into Parent. At the Merger Effective Time, the separate corporate existence of Merger Sub shall cease and Parent shall continue as the surviving company in the Merger (the “**Surviving Company**”).

(b) Merger Effective Time.

(i) As soon as practicable on the Closing Date following the filing of the Articles of Arrangement with the Director and the Effective Time of the Arrangement, Parent and/or Merger Sub shall file with the Secretary of State of the State of Delaware a certificate of merger, in accordance with, and in such form as is required by, the relevant provisions of the DGCL, with respect to the Merger (the “**Certificate of Merger**”). The Merger shall become effective at the time that the Certificate of Merger has been duly filed with the Secretary of State of the State of Delaware, or at such later time as the Company and Parent shall agree, in writing and specify in the Certificate of Merger in accordance with the relevant provisions of the DGCL; provided that the Merger shall become effective at the time contemplated in the Arrangement to the fullest extent possible (the time the Merger becomes effective being the “**Merger Effective Time**”).

(ii) The Merger will have the effects set forth in this Agreement, the Certificate of Merger and the DGCL. Without limiting the generality of the foregoing, and subject thereto, at the Merger Effective Time, the separate existence of Merger Sub shall cease and all of the assets, property, rights, privileges, powers and franchises of Parent and Merger Sub shall vest in the Surviving Company, and all debts, liabilities and duties of Parent and Merger Sub shall become the debts, liabilities and duties of the Surviving Company, in each case as provided under the DGCL.

(c) Certificate of Incorporation and Bylaws. The certificate of incorporation of Merger Sub, as in effect immediately prior to the Merger Effective Time, shall be the certificate of incorporation of the Surviving Company until thereafter changed or amended as provided therein or by applicable Law. The bylaws of Merger Sub, as in effect immediately prior to the Merger Effective Time, shall be the bylaws of the Surviving Company until thereafter changed or amended as provided therein or by applicable Law, except that references to the name of Merger Sub shall be replaced by references to the name of the Surviving Company.

(d) Directors and Officers of Surviving Company. The directors of Merger Sub immediately prior to the Merger Effective Time shall be the directors of the Surviving Company until the earlier of their resignation or removal or until their respective successors are duly appointed, elected and qualified, as the case may be. The officers of Merger Sub immediately prior to the Merger Effective Time shall be the officers of the Surviving Company until the earlier of their resignation or removal or until their respective successors are duly elected or appointed and qualified, as the case may be.

(e) Effect on Capital Stock.

(i) Conversion of Merger Sub Common Stock. At the Merger Effective Time, by virtue of the Merger and without any action on the part of the Parties, each share of common stock of Merger

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Sub issued and outstanding immediately prior to the Merger Effective Time held by Holdings and the Partnership, respectively, and all rights in respect thereof, shall forthwith be cancelled and cease to exist and be converted into one fully paid and nonassessable share of common stock of the Surviving Company, which shall be held directly or indirectly by Holdings and the Surviving Company shall further issue its shares to Holdings and to the Partnership in consideration of Holdings' issuing the Holdings Consideration and the Partnership's issuing the Exchangeable Security Consideration in accordance with Section 2.3(e)(iii).

(ii) Cancellation of Parent-Owned Stock. At the Merger Effective Time, by virtue of the Merger and without any action on the part of the Parties or any of their respective shareholders, each Parent Common Share that is owned by Parent as treasury stock and each Parent Common Share that is owned directly by Holdings, Partnership or Merger Sub immediately prior to the Merger Effective Time shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and no consideration shall be delivered in exchange therefor.

(iii) Conversion of Parent Common Shares. At the Merger Effective Time, by virtue of the Merger and without any action on the part of the Parties, subject to the proration procedures set forth in Section 2.3(f)(iii):

(A) each Non-Election Share issued and outstanding immediately prior to the Merger Effective Time (other than shares to be cancelled in accordance with Section 2.3(e)(ii)) shall be converted into the right to receive (x) 0.99 Holdings Common Shares (together with any additional Holdings Common Shares issued pursuant to Section 2.3(f)(iii), the “**Holdings Consideration**”) and (y) 0.01 Exchangeable Units, in each case, without interest, and

(B) each Exchangeable Election Share shall be converted into the right to receive one (1) Exchangeable Unit (together with Exchangeable Units issued in respect of each Non-Election Share in accordance with Section 2.3(e)(iii)(A)(y)) the “**Exchangeable Security Consideration**” and together with the Holdings Consideration, the “**Merger Consideration**”).

All such Parent Common Shares, when so converted, shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and each holder of a certificate that immediately prior to the Merger Effective Time represented any such Parent Common Share (each, a “**Certificate**”) and each holder, as of immediately prior to the Merger Effective Time, of a non-certificated outstanding Parent Common Share represented by book entry (“**Parent Book Entry Shares**”) shall cease to have any rights with respect thereto, except the right to receive the applicable Merger Consideration payable in respect of the Parent Common Shares represented by such Certificate or Parent Book Entry Share (as applicable) immediately prior to the Merger Effective Time to be delivered in accordance with Section 2.3(e)(iv). Notwithstanding the foregoing, if between the date of this Agreement and the Merger Effective Time the outstanding Holdings Common Shares, Parent Common Shares or Exchangeable Units shall have been changed into a different number of shares or units or a different class, by reason of any dividend, subdivision, reclassification, recapitalization, split, combination or exchange of shares, or any similar event shall have occurred, then any number or amount contained herein which is based upon the number of Holdings Common Shares, Parent Common Shares or Exchangeable Units, as the case may be, will be equitably adjusted to provide to Parent and the holders of Parent Common Shares the same economic effect as contemplated by this Agreement prior to such event.

(iv) Fractional Shares. No certificates or scrip representing fractional shares of Holdings Common Shares or fractional Exchangeable Units shall be issued upon the conversion of Parent Common Shares pursuant to this Agreement. Notwithstanding any other provision of this Agreement, each holder of shares of Parent Common Shares converted pursuant to the Merger who would otherwise have been entitled to receive a fraction of a share of Holdings Common

Shares or a fraction of an Exchangeable Unit (after taking into account (x) all shares of Parent Common Shares exchanged by such holder and (y) and proration in accordance with Section 2.3(f)(iii) shall receive, in lieu thereof, cash (without interest) in an amount equal to (A) such fractional amount such holder would otherwise be entitled to receive multiplied by (B) an amount equal to the average of the closing sale prices of Parent Common Shares on the NYSE as reported in the Wall Street Journal for each of the ten (10) consecutive trading days ending with the second complete trading day prior to the Closing Date (not counting the Closing Date).

(f) Exchange of Certificates and Parent Book Entry Shares.

(i) Exchange Agent. Prior to the Merger Effective Time, Parent shall appoint a bank or trust company reasonably acceptable to the Company to act as exchange agent (the “**Exchange Agent**”) for the payment and delivery of the Merger Consideration. At or prior to the Merger Effective Time, Holdings or Partnership, as applicable, shall deposit (or cause to be deposited) with the Exchange Agent, for the benefit of the holders of Certificates and Parent Book Entry Shares, for exchange in accordance with this Article 2 through the Exchange Agent (all such Holdings Common Shares and Exchangeable Units deposited with the Exchange Agent are hereinafter referred to as the “Exchange Fund”):

(A) certificates representing the aggregate number of Holdings Common Shares to be issued as Holdings Consideration (or, if uncertificated Holdings Common Shares will be issued, Holdings shall make appropriate alternative arrangements); and

(B) certificates representing the aggregate number of Exchangeable Units to be issued as Exchangeable Security Consideration (or, if uncertificated Exchangeable Units, Partnership shall make appropriate alternative arrangements).

(ii) Election Procedures.

(A) Each Person (other than Parent, the Company, Holdings, Partnership, Merger Sub or Amalgamation Sub) who on or prior to the Election Deadline is a holder of record of Parent Common Shares shall be entitled, with respect to all or a portion of such Parent Common Shares, to make an Exchangeable Election on or prior to the Election Deadline to receive only the Exchangeable Security Consideration on the basis set forth in this Agreement. Each Person receiving Exchangeable Security Consideration (whether in consideration for a Non-Election Share or an Exchangeable Election Share) pursuant to the Merger shall be deemed, by virtue of such receipt of such Exchangeable Security Consideration and without any further action on any such Person’s part, to have (1) executed the Partnership Agreement as a holder of an Exchangeable Unit and (2) agreed to the rights, privileges, restrictions and conditions of the Exchangeable Units, including the terms and conditions set forth in the Voting Trust Agreement.

(B) Partnership shall prepare an election form, in form and substance reasonably acceptable to Parent with such provisions as Parent may specify (the “**Election Form**”) pursuant to which a holder of record of Parent Common Shares may make an Exchangeable Election with respect to all or a portion of the Parent Common Shares held by such holder. Parent or Holdings shall mail, or shall cause the Exchange Agent to mail, the Election Form, together with the Joint Information Statement/Circular to holders of Parent Common Shares. Each Election Form shall permit the holder (or the beneficial owner through appropriate and customary documentation and instructions) to specify the number of shares of such holder’s Parent Common Shares with respect to which such holder makes an Exchangeable Election (and, if relevant, the specific lot of Parent Common Shares to which such election relates) in connection with the Merger. Any Parent Common Share with respect to which the Exchange Agent has not received an effective, properly completed Election Form on or before

5:00 p.m., New York City time, on the Business Day that is three (3) Business Days prior to the Closing Date (which date shall be publicly announced by Parent as soon as reasonably practicable but in no event less than five (5) Business Days prior to the anticipated Closing Date) (or such other time and date as Parent may specify) (the “ **Election Deadline** ”) shall be deemed to be a Non-Election Share. If the Closing Date is delayed to a subsequent date, the Election Deadline shall be similarly delayed to a subsequent date, and Parent shall promptly announce any such delay and, when determined, the rescheduled Election Deadline, which rescheduled Election Deadline if necessary shall be at the discretion of Parent provided that at least one (1) Business Day of advance notice thereof shall have been provided.

(C) Parent shall make Election Forms available as may reasonably be requested from time to time by all Persons who become holders (or beneficial owners) of Parent Common Shares prior to the Election Deadline, and Parent shall provide to the Exchange Agent all information reasonably necessary for it to perform its obligations as specified herein and as specified in any agreement with the Exchange Agent.

(D) Any election made pursuant to this Section 2.3(f)(ii) shall have been properly made only if the Exchange Agent shall have actually received a properly completed Election Form prior to the Election Deadline. An Election Form with respect to Parent Common Shares shall be deemed properly completed only (i) with respect to Parent Common Shares represented by Certificates, if accompanied by one or more Certificates duly endorsed in blank or otherwise in form acceptable for transfer on the books of Parent or (ii) with respect to Parent Book Entry Shares, upon the Exchange Agent’s receipt of an “agent’s message” by the Exchange Agent or such other evidence of transfer of Parent Book Entry Shares as the Exchange Agent may reasonably request, collectively representing all Parent Common Shares covered by such Election Form, in each case together with duly executed transmittal materials included with the Election Form. Any Election Form may be revoked or changed by the Person submitting such Election Form by submitting written notice that is received by the Exchange Agent on or prior to the Election Deadline. In the event an Election Form is revoked on or prior to the Election Deadline, the Parent Common Shares represented by such Election Form shall become Non-Election Shares and Parent shall cause the Certificates representing such Parent Common Shares or Parent Book Entry Shares to be promptly returned without charge to the Person submitting the Election Form upon such revocation or written request to that effect from the holder who submitted the Election Form; provided, however, that a subsequent election may be made with respect to any or all of such Parent Common Shares if the holder thereof complies with the procedures, terms and conditions set forth in this Section 2.3(f)(ii). In addition, all Exchangeable Elections shall automatically be revoked and all Certificates representing Parent Common Shares and Parent Book Entry Shares shall be promptly returned without charge if this Agreement is terminated in accordance with Article 9.

(E) Subject to the terms of this Agreement and the Election Form, the Exchange Agent, in consultation with Parent, shall have reasonable discretion to determine whether any election, revocation or change has been properly or timely made and to disregard immaterial defects in the Election Forms, and any good faith decisions of the Exchange Agent regarding such matters shall be binding and conclusive. None of Parent, Holdings, Partnership, Merger Sub or the Exchange Agent shall be under any obligation to notify any Person of any defect in an Election Form.

(iii) Proration. If the aggregate number of Exchangeable Units that would otherwise be issued as Exchangeable Security Consideration to Parent Shareholders in the aggregate based on the operation of Section 2.3(e)(iii) and the aggregate number of Exchangeable Elections in the absence of this Section 2.3(f)(iii) (the “ **Non-Prorated Exchangeable Units** ”) exceeds the

Exchangeable Unit Election Number, then the Parent Common Shares shall be treated in the following manner:

(A) A unit proration factor (the “ **Exchangeable Unit Proration Factor** ”) shall be determined by dividing the Exchangeable Unit Election Number by the total number of Non-Prorated Exchangeable Units.

(B) Each holder of Parent Common Shares shall receive (i) a number of Exchangeable Units equal to the product of (x) the Exchangeable Unit Proration Factor multiplied (y) such Parent Shareholder’s number of Non-Prorated Exchangeable Units (the product of clauses (x) and (y), the “ **Prorated Exchangeable Units** ”) and (ii) a number of additional Holdings Common Shares equal to (x) such Parent Shareholder’s number of Non-Prorated Exchangeable Units minus (y) such Parent Shareholder’s number of Prorated Exchangeable Units.

(C) The number of Exchangeable Units that may be issued to holders of Parent Common Shares hereunder shall not exceed the number of such Exchangeable Units that would cause the fair market value of Holdings’ interest in the Partnership to be less than 50.1% of the fair market value of all equity interests in the Partnership (the “ **Exchangeable Unit Election Number** ”). The Exchangeable Unit Election Number shall be determined as of the Closing Date, taking into account the fair market value of all common units and preferred units in the Partnership to be held by Holdings as of immediately after the Merger Effective Time, but disregarding any contingent interests in the Partnership attributable to any options issued by Holdings, all as reasonably determined by Holdings.

(iv) Merger Consideration Received in Connection with Exchange.

(A) Promptly following the Merger Effective Time, Holdings shall send, or shall cause the Exchange Agent to send, to each record holder of Parent Common Shares at the Effective Time (other than any record holder of Parent Common Shares who has previously made (and not revoked) a valid Exchangeable Election with respect to all of such holder’s Parent Common Shares) a letter of transmittal together with instructions thereto (which shall specify that delivery shall be effected, and risk of loss and title to the Certificates shall pass, only upon delivery of the Certificates to the Exchange Agent or, in the case of Parent Book Entry Shares, upon adherence to the procedures set forth in the letter of transmittal).

(B) The holder of any Parent Common Shares shall be entitled to receive in exchange therefor the Merger Consideration into which such Parent Common Shares have been converted pursuant to Section 2.3(e) at the following time: (x) in the case of Exchangeable Election Shares, promptly following the Merger Effective Time and (y) in the case of Non-Election Shares; (i) with respect to Parent Common Shares represented by a Certificate, upon the surrender of such Certificate for cancellation to the Exchange Agent, or (ii) with respect to Parent Book Entry Shares, upon the Exchange Agent’s receipt of an “agent’s message”, in each case together with a letter of transmittal, duly, completely and validly executed in accordance with the instructions thereto, and such other documents as may reasonably be required by the Exchange Agent; provided that, in either case, any Exchangeable Security Consideration shall be delivered directly by the Partnership to the holder of Parent Common Shares. In the event of a transfer of ownership of Parent Common Shares that is not registered in the transfer records of Parent, the Merger Consideration may be issued to a transferee if the Certificate representing such Parent Common Share (or, with respect to Parent Book Entry Shares, proper evidence of such transfer) is presented to the Exchange Agent, accompanied by all documents required to evidence and effect such transfer and by evidence that any applicable stock transfer Taxes have been paid. Until surrendered as contemplated by this Section 2.3(e)(iv), each Certificate and Parent Book Entry Share shall be deemed at any time from and after the Merger Effective Time to represent only the right to

receive upon such surrender the Merger Consideration such holder of Parent Common Shares is entitled to receive in respect of such shares pursuant to Section 2.3(e)(iii).

(v) No Further Ownership Rights in Parent Common Shares. The Merger Consideration issued and credited as fully paid in accordance with the terms of this Article 2 upon conversion of any Parent Common Shares shall be deemed to have been issued and paid in full satisfaction of all rights pertaining to such Parent Common Shares. From and after the Merger Effective Time, there shall be no further registration of transfers on the stock transfer books of the Surviving Company of Parent Common Shares that were outstanding immediately prior to the Merger Effective Time. If, after the Merger Effective Time, any Certificates formerly representing Parent Common Shares or Parent Book Entry Shares are presented to Holdings or the Exchange Agent for any reason, they shall be cancelled and exchanged as provided in this Article 2.

(vi) Termination of Exchange Fund. Any portion of the Exchange Fund that remains undistributed to the holders of Parent Common Shares for six (6) months after the Merger Effective Time shall be delivered to Holdings or its designee, and any holder of Parent Common Shares who has not theretofore complied with this Article 2 shall thereafter look only to Holdings for payment of its claim for Merger Consideration as unsecured creditors, without any interest thereon.

(vii) No Liability. None of the Parent Parties, the Company, the Surviving Company or the Exchange Agent or any of their respective Affiliates shall be liable to any Person in respect of any portion of the Exchange Fund delivered to a public official pursuant to any applicable abandoned property, escheat or similar Law. Any portion of the Exchange Fund remaining unclaimed as of a date that is immediately prior to such time as such amounts would otherwise escheat to or become property of any Governmental Authority will, to the extent permissible under applicable Law, become the property of Holdings free and clear of any claims or interest of any Person previously entitled thereto.

(viii) Withholding Rights. Each of Parent, Holdings, Partnership, Merger Sub and the Exchange Agent and any other Person that has a withholding obligation pursuant to the Merger (without duplication) shall be entitled to deduct and withhold from the Merger Consideration otherwise payable to any holder of Parent Common Shares or Parent Equity Awards pursuant to this Agreement such amounts as are required to be deducted and withheld with respect to the making of such payment under applicable Tax Law. Any amounts that are so withheld and paid over to the appropriate taxing authority shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction or withholding was made. To the extent that amounts are so required under applicable Tax Law to be deducted or withheld from the payment of Merger Consideration to a holder of Parent Common Shares or Parent Equity Awards, each of the Parent, Holdings, Partnership, Merger Sub and the Exchange Agent (and any other Person that has a withholding obligation pursuant to this Agreement, without duplication) is hereby authorized to sell such portion of the Merger Consideration otherwise payable to the holder of such Parent Common Share or Parent Equity Awards as is necessary to provide sufficient funds to the Parent, Holdings, Partnership, Merger Sub or the Exchange Agent (or any such other Person that has a withholding obligation pursuant to this Agreement), as the case may be, to enable it to comply with such deduction or withholding requirement and the Parent, Holdings, Partnership, Merger Sub or the Exchange Agent (or any such other Person that has a withholding obligation pursuant to this Agreement) shall notify such holder of such sale and (x) remit the applicable portion of the net proceeds of such sale to the appropriate taxing authority and (y) the remaining net proceeds of such sale (after deduction for the amounts described in clause (x)) to such holder.

(ix) Lost Certificates. If any Certificate shall have been lost, stolen or destroyed, upon the making of an affidavit of that fact by the Person claiming such Certificate to be lost, stolen or destroyed and, if required by Holdings or the Exchange Agent, the posting by such Person of a

bond, in such reasonable and customary amount as Holdings or the Exchange Agent may direct, as indemnity against any claim that may be made against it with respect to such Certificate, the Exchange Agent shall, in exchange for such lost, stolen or destroyed Certificate, issue the Merger Consideration deliverable in respect thereof pursuant to this Agreement.

(x) **Distributions with Respect to Unexchanged Shares**. No dividends or other distributions with respect to Holdings Common Shares or units of Partnership with a record date after the Merger Effective Time shall be paid to the holder of any unsurrendered Certificate or Parent Book Entry Shares (as applicable) with respect to the Parent Common Shares represented thereby until such Certificate or Parent Book Entry Share (as applicable) has been surrendered in accordance with this **Article 2**. Subject to applicable Law and the provisions of this **Article 2**, following surrender of any such Certificate or Parent Book Entry Share (as applicable), there shall be paid to the record holder thereof by the Exchange Agent, without interest promptly after such surrender, in addition to the Merger Consideration, at the time of surrender, the amount of dividends or other distributions with a record date on or after the date of the Merger Effective Time and a payment date on or prior to the date of this surrender and not previously paid.

(g) **Parent Equity Awards**.

(i) No later than immediately before the Merger Effective Time, Parent and Holdings shall take such actions as may be required to provide that:

(A) each Parent Option that is outstanding immediately prior to the Merger Effective Time shall, at the Merger Effective Time, be exchanged for an option to acquire, on the same terms and conditions as were applicable under such Parent Option immediately before the Effective Time (including, for the avoidance of doubt, with respect to vesting), a number of Holdings Common Shares equal to the number of Parent Common Shares subject to such Parent Option immediately before the Merger Effective Time at a price per share (rounded up to the nearest whole cent) equal to the exercise price per Parent Common Share otherwise purchasable pursuant to such Parent Option (each Parent Option as so adjusted, an “**Exchanged Parent Option**”); provided, however, that such conversion shall be effected in accordance with Section 424(a) of the Code; and

(B) each Parent RSU that is outstanding immediately prior to the Merger Effective Time shall, at the Merger Effective Time, be exchanged for a restricted stock unit, subject to the same terms and conditions as were applicable under such Parent RSU immediately before the Merger Effective Time (including, for the avoidance of doubt, with respect to vesting), with respect to a number of Holdings Common Shares equal to the number of Parent Common Shares subject to such Parent RSU immediately before the Merger Effective Time (each Parent RSU as so adjusted, an “**Exchanged Parent RSU**”).

(ii) At the Merger Effective Time, Holdings shall assume all the obligations of Parent under the Parent Stock Plans, each Exchanged Parent Option and Exchanged Parent RSU and the agreements evidencing the grants thereof.

(h) **Bonus Swap Program**. No later than immediately before the Merger Effective Time, Parent and Holdings shall take such actions as may be required to provide that:

(i) any then-current investment period under a Parent Bonus Swap Program shall continue in effect in accordance with its terms following the Merger Effective Time; provided that at the end of each such investment period, with respect to an applicable participant, such participant’s elected non-equity incentive compensation amount shall be used to purchase Holdings Common Shares and such participant shall be granted options to purchase Holdings Common Shares, in each case, in accordance with the terms of the applicable Parent Bonus Swap Program; and

(ii) the conversion of Parent Common Shares purchased by participants pursuant to a Parent Bonus Swap Program into Merger Consideration shall in no event be deemed a “sale” of any such

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Parent Common Shares for purposes of such Parent Bonus Swap Program or any related Parent Option award agreement.

Section 2.4 The Closing. The closing (the “**Closing**”) of the Arrangement and the Merger shall take place at the offices of Davies Ward Phillips & Vineberg LLP, located at 155 Wellington Street West, Toronto, Ontario, at 10:00 a.m., Toronto time, on a date to be specified by the Company and Parent, which shall be no later than the fifth (5th) Business Day following the satisfaction or (to the extent permitted by Law) waiver by the Party or Parties entitled to the benefits thereof of the conditions set forth in Article 8 (other than those conditions that by their nature (including, for the avoidance of doubt, Section 8.3(e) and Section 8.3(f)) are to be satisfied at the Closing, but subject to the satisfaction or (to the extent permitted by Law) waiver of those conditions), or at such other place, time and date as shall be agreed in writing between the Company and Parent; provided that, notwithstanding the satisfaction or waiver of the conditions set forth in Article 8, if the Marketing Period has not ended at the time of the satisfaction or waiver of such conditions (other than those conditions that by their nature (including, for the avoidance of doubt, Section 8.3(e) and Section 8.3(f)) are to be satisfied or (to the extent permitted by Law) waived at the Closing), the Closing shall take place instead on the earlier to occur of (i) any Business Day during the Marketing Period to be specified by Parent to the Company on no less than three (3) Business Days’ written notice to the Company and (ii) the Business Day immediately following the last day of the Marketing Period, but in each case subject to the satisfaction or waiver of the conditions set forth in Article 8; provided further that, notwithstanding the satisfaction or waiver of the conditions set forth in Article 8, if, and only in the event that, Parent is unable close solely because of the failure and refusal of the sources of the Debt Financing to fund the Debt Financing when all conditions to the Debt Financing being funded had been satisfied (other than those conditions that by their nature (including, for the avoidance of doubt, Section 8.3(e) and Section 8.3(f)) are to be satisfied at the time of funding) (a “**Financing Failure**”), then Parent shall be entitled to delay the Closing until the expiration of the Alternative Financing Period, if it delivers to the Company written notice of such a Financing Failure at least one (1) Business Day prior to the date on which Parent would otherwise be obligated to consummate the Closing pursuant to this Section 2.4 (a “**Closing Failure Notice**”), which Closing Failure Notice includes a certification of a senior executive officer of Parent that confirms that, as of such date of the Closing Failure Notice the Parent Parties would have consummated the Closing but for a Financing Failure (for the avoidance of doubt, the Parent Parties shall not be obligated to waive any of the conditions for their benefit in Article 8); and provided, further, that notwithstanding anything to the contrary hereunder, the Parent Parties shall be entitled to no more than one (1) Alternative Financing Period. The date on which the Closing occurs is referred to in this Agreement as the “**Closing Date**. ”

Section 2.5 Parent Shareholder Actions; Preparation of Joint Information Statement/Circular and Form S-4.

(a) As soon as practicable upon receipt of the Parent Shareholder Voting Agreement and the Parent Shareholder Consent, Parent will provide the Company with a copy of such document. In connection with the Parent Shareholder Consent, Parent shall take all actions necessary to comply, and shall comply in all respects, with the DGCL, including Section 228, the Parent Certificate of Incorporation and the Parent Bylaws.

(b) As promptly as reasonably practicable following the date hereof, each of the Parties shall cooperate in preparing and shall cause to be filed with the Canadian securities administrators and the SEC (and, if applicable, any other Governmental Authority) (i) mutually acceptable materials which shall include (A) the Circular, which shall also constitute the proxy statement relating to the matters to be submitted to the Company Shareholders at the Company Meeting, which shall include (in form and substance acceptable to the Company) matters relating to the Equity Financing as Parent shall reasonably request, as and to the extent required under applicable Law or stock exchange listing requirements in order to consummate the Equity Financing in accordance with its terms (which for the avoidance of doubt shall not in any event increase conditionality to the Closing, it being understood that anything related to such matters, including whether or not approved at any shareholders meeting, shall not in any event be a condition to the consummation of the transactions contemplated hereby,

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including the Arrangement and the Merger), together with any other documents required by the CBCA or applicable Laws in connection with the Company Meeting and (B) the Information Statement as contemplated by Rule 14c-2 under the 1934 Exchange Act (clauses (A) and (B), collectively, together with any amendments or supplements thereto, the “ **Joint Information Statement/Circular** ”) and (ii) a registration statement on Form S-4 (of which the Joint Information Statement/Circular will form a part) with respect to the issuance of Holdings Common Shares in the Arrangement and the Merger and Exchangeable Units (in respect of the Merger) (the “ **Form S-4** ”).

(c) Each Party will provide legal counsel and other advisors to the other Party with a reasonable opportunity to review and comment on drafts of the Form S-4, including the Joint Information Statement/Circular and other documents related to the Company Meeting, the Parent Shareholder Voting Agreement or the Parent Shareholder Consent, as applicable, prior to filing such documents with the applicable Governmental Authorities or mailing such documents to the Company Shareholders or the Parent Shareholders, as applicable. No filing or mailing of, or amendment or supplement to, the Joint Information Statement/Circular or Form S-4, as applicable, will be made by any Party without the consent of the other Parties, which will not be unreasonably withheld, conditioned or delayed; provided, however, that the foregoing shall not apply to any filings with the SEC deemed to supplement the Joint Information Statement/Circular or the Form S-4 or any document which forms a part thereof through its incorporation by reference therein.

(d) Each of the Parties shall use reasonable best efforts to have the Joint Information Statement/Circular cleared by the SEC (and, if applicable, any other Governmental Authority) and the Form S-4 to be declared effective as promptly as practicable by the SEC (and, if applicable, any other Governmental Authority), and to keep the Form S-4 effective as long as is necessary to consummate the transactions contemplated by this Agreement, including the Arrangement and the Merger. As promptly as practicable after such clearance and declaration of effectiveness, the Company and Parent shall, unless otherwise agreed to by the Parties, cause the Joint Information Statement/Circular and other documentation required in connection with the Company Meeting and the Parent Shareholder Consent to be sent contemporaneously to (x) in the case of the Company, such Persons as required by the Interim Order and applicable Laws and (y) in the case of Parent, each holder of Parent Common Shares, as required by applicable Laws. Each of the Parties shall, as promptly as practicable after receipt thereof, provide the other with copies of any written comments and advise the other Party of any oral comments with respect to the Joint Information Statement/Circular or the Form S-4, as applicable, received from the SEC or any relevant Canadian securities administrators.

(e) Each Party shall use its reasonable best efforts to ensure that the Joint Information Statement/Circular and the Form S-4 comply in all material respects with applicable Laws and the rules and regulations of the SEC and Canadian securities administrators applicable thereto and make available to the other Party such information as is reasonably necessary to comply therewith, including with respect to the preparation and inclusion of any required pro forma or audited financial information. Each Party shall cooperate and provide the other Party with a reasonable opportunity to review and comment on any amendment or supplement to the Joint Information Statement/Circular or the Form S-4 prior to filing such amendment or supplement with the SEC or any relevant Canadian securities administrators, and each Party will provide the other Party with a copy of all such filings made with the SEC or any relevant Canadian securities administrators.

(f) Each Party shall furnish all information concerning it and the holders of its Equity Interests as may be reasonably requested in connection with the preparation and filing of the Joint Information Statement/Circular or the Form S-4. Each Party will advise the other Party, promptly after it receives notice thereof, of the time when the Form S-4 has become effective, the issuance of any stop order, the suspension of the qualification of the Holdings Common Shares and/or the Exchangeable Units issuable in connection with the Arrangement and the Merger, as applicable, for offering or sale in any jurisdiction, or any request by the SEC or any relevant Canadian securities administrators (or, if

applicable, any other Governmental Authority) for amendment of the Joint Information Statement/Circular or the Form S-4.

(g) If, at any time prior to the Closing, any information relating to any of the Parties or their respective Affiliates, officers or directors is discovered by any Party, and either Party could reasonably believe that such information is required to be or should be set forth in an amendment or supplement to the Joint Information Statement/Circular or the Form S-4 so that the Joint Information Statement/Circular or Form S-4, as applicable, would not include any misstatement of a material fact or omit to state any material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, the Party that discovers such information shall promptly notify the other Parties and, to the extent required by applicable Law or the rules and regulations of the SEC or any relevant Canadian securities administrators, an appropriate amendment or supplement describing such information, the Parties hereto shall cause to be promptly filed with the SEC and Canadian securities administrators (or, if applicable, any other Governmental Authority) and, to the extent required by Law, disseminated to the Company Shareholders and the Parent Shareholders.

(h) The Joint Information Statement/Circular shall include:

(i) subject to the terms and conditions set forth in Section 6.4, the Company Recommendation (unless the Company shall have effected a Company Adverse Recommendation Change in accordance with the terms of this Agreement), the Company Fairness Opinions, the rationale for the Company Recommendation (unless the Company shall have effected a Company Adverse Recommendation Change in accordance with the terms of this Agreement) and a statement that, to the Knowledge of the Company, each director of the Company intends to vote all Company Common Shares held by him or her in favor of the Arrangement Resolution at the Company Meeting; and

(ii) the Parent Fairness Opinion, the rationale for the Parent Recommendation, a copy of the Parent Shareholder Voting Agreement and the form of Parent Shareholder Consent.

Section 2.6 Company Meeting .

(a) The Company shall duly take all lawful action to call, give notice of, convene and hold the Company Meeting in accordance with the Company Articles of Incorporation, the Company Bylaws, the Interim Order and applicable Law, as promptly as practicable following the date upon which the Form S-4 becomes effective for the purpose of obtaining the Company Shareholder Approval.

(b) Subject to the terms of this Agreement (including Section 6.4), the Company shall (i) use its reasonable best efforts to solicit from the Company Shareholders proxies in favor of the approval of the Arrangement Resolution and take all other actions reasonably requested by Parent to obtain the approval of the Arrangement by the Company Shareholders, if so requested and at Parent's expense, including using the services of investment dealers and proxy solicitation agents, and cooperating with any Persons engaged by Parent, to solicit proxies in favor of the approval of the Arrangement Resolution and take all other actions reasonably requested by Parent to obtain the Company Shareholder Approval and such other matters as may be necessary to be approved in connection with the Merger and (ii) permit Parent to assist, and consult with Parent and keep Parent apprised, with respect to such solicitation and other related actions. The Company shall, prior to the Company Meeting, keep Parent reasonably informed of the number of proxy votes received in respect of matters to be acted upon at the Company Meeting, and in any event shall provide such number promptly upon the request of Parent or its Representatives.

(c) The Company shall not adjourn, postpone, delay or cancel (or propose for adjournment, postponement, delay or cancellation) the Company Meeting without Parent's prior written consent; provided that the Company shall be permitted to adjourn, delay or postpone convening the Company Meeting if (A) the failure to adjourn, delay or postpone the Company Meeting would not, based upon

the advice of outside legal counsel, allow sufficient time under applicable Law for the distribution of any required supplement or amendment to the Joint Information Statement/Circular or Form S-4 or (B) in accordance with Section 6.4(e), (C) in accordance with Section 8.5, or (D) as of the time the Company Meeting is scheduled to occur (as set forth in the Interim Order), there are insufficient Company Common Shares represented (either in person or by proxy) to constitute a quorum necessary to conduct the business of the Company Meeting, but only until the Company Meeting can be held at which there are a sufficient number of Company Common Shares represented to constitute a quorum; provided that the Company Meeting shall not be postponed or adjourned to a date that is more than fifteen (15) days after the date for which the Company Meeting was originally scheduled.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF THE COMPANY

Except (i) as disclosed in any Company Public Disclosure Record, other than any disclosures contained therein under the captions “Risk Factors” or “Forward Looking Statements” or disclosures contained in the Company Public Disclosure Record under any other captions to the extent the disclosures are predictive, cautionary or forward-looking in nature, but it being understood that this clause (i) shall not be applicable to Section 3.3 (Capital Structure), Section 3.4 (Authority; Recommendation), Section 3.23 (Information Supplied), Section 3.25 (Takeover Statutes), Section 3.26 (Brokers and Other Advisors) and Section 3.27 (Opinions of Financial Advisors), or (ii) as set forth in the Company Disclosure Letter, the Company represents and warrants to the Parent Parties as follows:

Section 3.1 Organization, Standing and Corporate Power. Each of the Company and its Subsidiaries is duly organized and validly existing under the Laws of its jurisdiction of organization and has all requisite corporate or other entity power and authority to carry on its business as presently conducted, except (other than with respect to the Company’s due organization and valid existence) as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. Each of the Company and its Subsidiaries is duly qualified or licensed to do business and is in good standing (where such concept is recognized under applicable Law) in each jurisdiction where the nature of its business or the ownership, leasing or operation of its properties makes such qualification or licensing necessary, other than where the failure to be so qualified, licensed or in good standing would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. True and complete copies of the Articles of Incorporation of the Company (the “**Company Articles of Incorporation**”) and the Amended and Restated By-law No. 1 of the Company (the “**Company Bylaws**”), in each case as in effect on the date of this Agreement, are included in the Company Public Disclosure Record or have otherwise been made available to Parent prior to the date hereof.

Section 3.2 Subsidiaries. The chart attached to Section 3.2 of the Company Disclosure Letter sets forth, as of the date set forth therein, each Subsidiary of the Company. All the outstanding shares of capital stock of, or other Equity Interests in, each Subsidiary of the Company have been validly issued and are fully paid and nonassessable and are owned, directly or indirectly, by the Company free and clear of all Liens, other than Permitted Liens. Except for its interests in its Subsidiaries, the Company does not own, directly or indirectly, any capital stock of, or other Equity Interests in, any corporation, partnership, joint venture, association or other entity. There are no options, warrants, rights, convertible or exchangeable securities, stock-based performance units, Contracts or undertakings of any kind to which any Subsidiary of the Company is a party or by which any of them is bound (a) obligating any such Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other voting securities of or Equity Interests in, or any security convertible or exchangeable for any shares of capital stock or other voting securities of or Equity Interest in, any Subsidiary of the Company, (b) obligating any such Subsidiary to issue, grant or enter into any such option, warrant, right, security, unit, Contract or undertaking, or (c) giving any Person the right to receive any economic interest of a nature accruing to the holders of capital stock of any of the Company’s Subsidiaries, except, in each case, options, warrants, rights, convertible or exchangeable securities and stock-based performance units issued to officers or employees of the Subsidiaries in the ordinary course.

Section 3.3 Capital Structure.

(a) The authorized capital of the Company consists of an unlimited number of Company Common Shares, one Class A preferred share (the “**Company Class A Preferred Share**”) and an unlimited number of preferred shares, issuable in series (the “**Company Preferred Shares**”). At the close of business on August 22, 2014 (the “**Capitalization Date**”), (i) 132,619,671 Company Common Shares were issued and outstanding, (ii) 2,900,000 Company Common Shares were reserved and available for issuance pursuant to the Company Stock Plans, and pursuant to such Company Stock Plans (A) 1,623,094 Company Common Shares were subject to outstanding Company Options with related Company SARs, (B) 316,429 Company Common Shares were subject to outstanding Company RSUs and (C) 125,814 Company Common Shares were subject to outstanding Company PSUs (assuming achievement of applicable performance goals at the maximum level of performance), (iii) 158,108 Company Common Shares were subject to outstanding Company DSUs (Company Options together with Company SARs, Company RSUs, Company PSUs and Company DSUs, the “**Company Equity Awards**”), (iv) the Company Class A Preferred Share was not outstanding, and (v) no Company Preferred Shares were outstanding. Except as set forth above, at the close of business on the Capitalization Date, no shares of capital stock or other voting securities of or Equity Interests in the Company were issued, reserved for issuance or outstanding. From the Capitalization Date, (x) there have been no issuances by the Company of shares of capital stock or other voting securities of or Equity Interests in the Company (including Company Equity Awards), other than issuances of Company Common Shares pursuant to Company Equity Awards outstanding on the Capitalization Date, and (y) there have been no issuances by the Company of options, warrants, rights, convertible or exchangeable securities, stock-based performance units or other rights to acquire shares of capital stock of the Company or other rights that give the holder thereof any economic interest of a nature accruing to the holders of Company Common Shares, other than issuances pursuant to Company Equity Awards outstanding on the Capitalization Date.

(b) Section 3.3 of the Company Disclosure Letter sets forth a true, correct and complete list as of the date of this Agreement of all Company Equity Awards outstanding under the Company Stock Plans (or otherwise), including the Company Stock Plan under which each such Company Equity Award was granted, employee number, grant price, number of Company Common Shares, and number of Company Equity Awards unvested, as applicable.

(c) All outstanding Company Common Shares are, and all such shares that may be issued prior to the Effective Time will be, when issued, duly authorized, validly issued, fully paid and nonassessable and not subject to preemptive rights. There are no bonds, debentures, notes or other indebtedness of the Company having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which holders of Company Common Shares may vote (“**Voting Company Debt**”). Except for any obligations pursuant to this Agreement or as otherwise set forth above, as of the Capitalization Date, there were no options, warrants, rights, convertible or exchangeable securities, stock-based performance units, Contracts or undertakings of any kind to which the Company is a party or by which the Company is bound (i) obligating the Company to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other voting securities of or Equity Interests in, or any security convertible or exchangeable for any shares of capital stock or other voting securities of or Equity Interest in, the Company or of any of its Subsidiaries or any Voting Company Debt, (ii) obligating the Company to issue, grant or enter into any such option, warrant, right, security, unit, Contract or undertaking, or (iii) giving any Person the right to receive any economic interest of a nature accruing to the holders of Company Common Shares, and since the Capitalization Date, none of the foregoing has been issued. There are no outstanding contractual obligations of the Company to repurchase, redeem or otherwise acquire any shares of capital stock or options, warrants, rights, convertible or exchangeable securities, stock-based performance units or other rights to acquire shares of capital stock of the Company, other than pursuant to the Company Stock Plans, the Company Equity Awards and the 2014 Share Repurchase Program and the Company’s Direct Share Purchase and Dividend Reinvestment Plan.

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(d) The “Separation Time”, a “Flip-in Event” or a “Stock Acquisition Date” (as such terms are defined in the Rights Agreement) and any event or occurrence described in Article 3 of the Rights Agreement does not occur or will be deemed to have occurred, in each case, as a result of the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby, including the Arrangement and the Merger.

Section 3.4 Authority; Recommendation.

(a) The Company has all requisite corporate power and authority to execute and deliver this Agreement and the other agreements contemplated hereby and to consummate the transactions contemplated by this Agreement and thereby, subject, in the case of the Arrangement, to receipt of the Interim Order (and approvals required thereunder), the Final Order (and approvals required thereunder) and the Company Shareholder Approval. The execution and delivery of this Agreement and the other agreements contemplated hereby by the Company and the consummation of the transactions contemplated by, and compliance with the provisions of, this Agreement by the Company have been duly authorized by all necessary corporate action on the part of the Company subject, in the case of the Arrangement, to receipt of the Interim Order (and approvals required thereunder), the Final Order (and approvals required thereunder) and the Company Shareholder Approval. This Agreement has been duly executed and delivered by the Company and, assuming the due authorization, execution and delivery by each of the Parent Parties, constitutes a legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms, subject, as to enforceability, to the Bankruptcy and Equity Exception.

(b) The Company Board of Directors, at a meeting duly called and held, has unanimously determined that the consideration to be provided to the Company Shareholders under the Arrangement is fair, from a financial point of view, to the Company Shareholders and is in the best interests of the Company, has unanimously approved the execution and delivery of this Agreement and the transactions contemplated by this Agreement and has unanimously resolved to recommend that the Company Shareholders vote in favor of the Arrangement Resolution.

Section 3.5 Non-Contravention. The execution and delivery by the Company of this Agreement and the other agreements contemplated hereby do not, and the consummation of the Arrangement, the Merger and the other transactions contemplated by this Agreement and thereby and compliance with the provisions of this Agreement and the other agreements contemplated hereby will not, conflict with, or result in any violation or breach of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit under, or result in the creation of any Lien upon any of the properties or assets of the Company or any of its Subsidiaries under (other than any such Lien created as a result of any action taken by a Parent Party), any provision of (a) the Company Articles of Incorporation, the Company Bylaws or the comparable organizational documents of any of its Subsidiaries, or (b) subject to the filings and other matters referred to in the immediately following sentence, and assuming the accuracy of the representations and warranties of Parent set forth in Article 4 and Article 5, (i) any Contract to which the Company or any of its Subsidiaries is a party or by which any of their respective properties or assets are bound, (ii) any Law or Order, in each case applicable to the Company or any of its Subsidiaries or any of their respective properties or assets, or (iii) any Authorizations of the Company or its Subsidiaries, other than, in the case of clause (b) above, any such conflicts, violations, defaults, rights, losses or Liens that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. No Authorization, Order or waiver of, action or nonaction by, or filing with, or notice to, any Governmental Authority is required to be obtained or made by or with respect to the Company or any of its Subsidiaries in connection with the execution and delivery of this Agreement and the other agreements contemplated hereby by the Company or the consummation by the Company of the Arrangement, the Merger or the other transactions contemplated by this Agreement, except for (A) the Interim Order and any filings required in order to obtain, and approvals required under, the Interim Order, (B) the Final Order, and any filings required in order to obtain the Final Order, (C) such filings and other actions required under applicable Canadian Securities Laws and U.S.

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Securities Laws (including any state or provincial securities Laws) and the rules and policies of the TSX and NYSE, in each case, as are contemplated by this Agreement, including the filing with the SEC and Canadian securities administrators (and, if applicable, any other Governmental Authority) of the Joint Information Statement/Circular and the Form S-4, (D) the Required Regulatory Approvals, or (E) any other Authorizations, Orders, Permits, filings and notifications with respect to which the failure to obtain or make the same would not reasonably be expected to be material to the Company and its Subsidiaries, taken as a whole, or could not reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement or the Merger.

Section 3.6 Securities Laws Matters; Financial Statements; Undisclosed Liabilities .

(a) The Company is (i) a “reporting issuer” within the meaning of applicable Canadian Securities Laws in all provinces and territories of Canada, (ii) a foreign private issuer within the meaning of the 1934 Exchange Act, and (iii) not on the list of reporting issuers in default under applicable Canadian Securities Laws, and neither the SEC nor any other securities commission or similar regulatory authority has issued any order preventing or suspending trading of any securities of the Company, and the Company is in compliance in all material respects with applicable Canadian Securities Laws and applicable U.S. Securities Laws. Trading in the Company Common Shares on the TSX and the NYSE is not currently halted or suspended. No delisting, suspension of trading or cease trading order with respect to any securities of the Company is pending or, to the Knowledge of the Company, threatened. Except as set forth in this Section 3.6 or on Section 3.6 of the Company Disclosure Letter, neither the Company nor any of its Subsidiaries is subject to continuous disclosure or other public reporting requirements under any securities Laws other than under Canadian Securities Laws and the Exchange Act.

(b) The Company has filed all material reports, schedules, forms, statements and other documents with Canadian securities administrators or the SEC required to be filed by the Company pursuant to Canadian Securities Laws or U.S. Securities Laws since August 1, 2012. As of their respective effective dates (in the case of Company Public Disclosure Records that are registration statements filed pursuant to the requirements of the 1933 Securities Act) and as of their respective dates of filing (in the case of all other Company Public Disclosure Records), the Company Public Disclosure Records complied as to form in all material respects with the requirements of Canadian Securities Laws and U.S. Securities Laws, as the case may be, and the rules and regulations of Canadian securities administrators and the SEC promulgated thereunder applicable thereto, and except to the extent amended or superseded by a subsequent filing with Canadian securities administrators or the SEC prior to the date of this Agreement, as of such respective dates, none of the Company Public Disclosure Records contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of the date hereof, there are no outstanding or unresolved comments in comment letters from the SEC staff or staff of any Canadian securities administrator with respect to any of the Company Public Disclosure Records. To the Knowledge of the Company, as of the date hereof, none of the Company Public Disclosure Records is the subject of any ongoing review or outstanding investigation by any Canadian securities administrator or the SEC.

(c) The Company Financial Statements complied when filed as to form in all material respects with Canadian Securities Laws, U.S. Securities Laws and the published rules and regulations of the Canadian securities administrators and the SEC with respect thereto, have been prepared in all material respects in accordance with GAAP applied on a consistent basis during the period involved except (i) as otherwise stated in the notes to such statements or, in the case of the Company Annual Financial Statements, in the auditor’s report thereon and (ii) that the Company Interim Financial Statements are subject to normal period-end adjustments and may omit certain financial statement footnote disclosures (none of which are material to the Company and its Subsidiaries taken as a whole). The Company Financial Statements fairly present in all material respects the consolidated financial position of the

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Company and its consolidated subsidiaries as at the respective dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of the Company Interim Financial Statements, to normal period-end adjustments and the absence of footnotes (none of which are material to the Company and its Subsidiaries taken as a whole)).

(d) Except for matters reflected or reserved against in the most recent audited consolidated balance sheet of the Company (or the notes thereto) included in the Company Public Disclosure Record, neither the Company nor any of its Subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise) of any nature that would be required under GAAP, as in effect on the date of this Agreement, to be reflected on a consolidated balance sheet of the Company (including the notes thereto), except liabilities and obligations that (i) were incurred since the date of such balance sheet in the ordinary course of business, (ii) are incurred in connection with the transactions contemplated by this Agreement, or (iii) would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

Section 3.7 Internal Controls.

(a) The Company and its Subsidiaries have established and maintained a system of internal control over financial reporting (as defined in Rule 13a-15 under the 1934 Exchange Act). Such internal controls provide reasonable assurance regarding the reliability of the Company's financial reporting and the preparation of Company financial statements for external purposes in accordance with GAAP. Since August 1, 2012, the Company's principal executive officer and its principal financial officer have disclosed to the Company's auditors and the audit committee of the Company Board of Directors (i) all known significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting that are reasonably likely to adversely affect in any material respects the Company's ability to record, process, summarize and report financial information, and (ii) any known fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls and the Company has provided to Parent copies of any material written materials relating to each of the foregoing. The Company has made available to Parent all such disclosures made by management to the Company's auditors and audit committee from August 1, 2012 to the date of this Agreement.

(b) The Company has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a-15 under the 1934 Exchange Act) and such disclosure controls and procedures are designed so that material information relating to the Company required to be included in reports filed under the 1934 Exchange Act, including its consolidated Subsidiaries, is made known to the Company's principal executive officer and its principal financial officer, and such disclosure controls and procedures are effective in timely alerting the Company's principal executive officer and its principal financial officer to material information required to be disclosed by the Company in the reports that it files or submits to the SEC under the 1934 Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC.

(c) Since August 1, 2012, neither the Company nor any of its Subsidiaries has made any prohibited loans to any executive officer of the Company (as defined in Rule 3b-7 under the 1934 Exchange Act) or director of the Company. There are no outstanding loans or other extensions of credit made by the Company or any of its Subsidiaries to any executive officer (as defined in Rule 3b-7 under the 1934 Exchange Act) or director of the Company.

(d) Neither the Company nor any of its Subsidiaries has or is subject to any "Off-Balance Sheet Arrangement" (as defined in Item 303(a)(4)(ii) of Regulation S-K promulgated under the 1933 Securities Act).

(e) There have not been during the preceding three (3) years any transactions, Contracts or understandings or series of related transactions, Contracts or understandings, nor are there any of the foregoing currently proposed, that (if proposed but not having been consummated or executed, or if consummated or executed) would be required to be disclosed under Item 404 of Regulation S-K

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promulgated under the 1933 Securities Act that have not been disclosed in the Company Public Disclosure Record filed prior to the date hereof.

(f) To the Knowledge of the Company, no related party of the Company is entitled to receive as a consequence of the Arrangement, the Merger or the other transactions contemplated by this Agreement any collateral benefit, other than a benefit described in paragraph (c) of the definition of collateral benefit where either (i) the related party, together with its associated entities beneficially owns or exercises control or direction over less than one percent of the outstanding Company Common Shares or (ii) the requirements of clause (c)(iv)(B)(I) and (II) of the definition of collateral benefit have been satisfied with respect to that benefit and the Company will provide the disclosure contemplated by clause (c)(iv)(B)(III) in the definition of collateral benefit in the Joint Information Statement/Circular. The terms “related party”, “associated entity” and “collateral benefit” are used in this paragraph as defined in Multilateral Instrument 61-101— *Protection of Minority Security Holders in Special Transactions* .

Section 3.8 Absence of Certain Changes or Events. Between December 29, 2013 and the date of this Agreement, (a) there has not been any fact, circumstance, change, effect, event or occurrence that has had or would reasonably be expected to have a Company Material Adverse Effect, and (b) the Company and its Subsidiaries have conducted their businesses only in the ordinary course of business, and, except as set forth in Section 3.8 of the Company Disclosure Letter, there has not been any circumstance, action or activity, which, if taken after the date hereof, would be a violation of Section 6.1(b)(ii), Section 6.1(b)(iii), Section 6.1(b)(iv), Section 6.1(b)(viii) or Section 6.1(b)(xxi) .

Section 3.9 Litigation. There is no suit, claim (or counterclaim), litigation, action, charge, complaint, arbitration, mediation, grievance or other proceeding brought, conducted or heard by or before any court or other Governmental Authority (each, a “ **Litigation** ”) pending or, to the Knowledge of the Company, threatened in writing against the Company or any of its Subsidiaries that, individually or in the aggregate, would reasonably be expected to have a Company Material Adverse Effect. There is no Order outstanding against the Company or any of its Subsidiaries that, individually or in the aggregate, would reasonably be expected to have a Company Material Adverse Effect. This Section 3.9 does not relate to tax matters, which are the subject of Section 3.14 or environmental matters, which are the subject of Section 3.17 (a).

Section 3.10 Contracts

(a) Except for this Agreement and for Contracts filed as an exhibit to the Company Public Disclosure Record, Section 3.10 of the Company Disclosure Letter sets forth a true and complete list of, as of the date of this Agreement, each Contract that would be required to be filed by the Company as a “material contract” pursuant to Item 601(b)(10) of Regulation S-K under the 1933 Securities Act (any such Contract, a “ **Company Material Contract** ”).

(b) As of the date of this Agreement, the Company has made available to Parent true and complete copies of each Company Material Contract. Each of the Company Material Contracts is valid and binding on the Company or the Subsidiary of the Company party thereto and, to the Knowledge of the Company, each other party thereto, and is in full force and effect, except for such failures to be valid and binding or to be in full force and effect that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. There is no default under any Company Material Contract by the Company or any of its Subsidiaries or, to the Knowledge of the Company, by any other party thereto, and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by the Company or any of its Subsidiaries or, to the Knowledge of the Company, by any other party thereto, in each case except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. This Section 3.10 does not relate to Company Benefit Agreements or Company Benefit Plans, which are the subject of Section 3.13, real property leases, which are the subject of Section 3.15, or agreements entered into with franchisees, which are the subject of Section 3.19 .

Section 3.11 Compliance with Laws.

(a) Each of the Company and its Subsidiaries is, and has been since August 1, 2012, in compliance with all Laws applicable to its business or operations (including Franchise Laws and Relationship Laws), in each case except for instances of noncompliance that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. This Section 3.11 does not relate to compliance with securities Laws or financial statements, which are the subject of Section 3.6, internal controls, which are the subject of Section 3.7, employee benefit matters which are the subject of Section 3.13, tax matters which are the subject of Section 3.14 or environmental matters which are the subject of Section 3.16(a).

(b) Each of the Company and its Subsidiaries has in effect all approvals, authorizations, registrations, licenses, certificates, exemptions, permits and consents of Governmental Authorities (collectively, “**Authorizations**”) necessary for it to conduct its business as presently conducted, except for such Authorizations the absence of which would not, individually or in the aggregate, have a Company Material Adverse Effect. To the Knowledge of the Company, neither the Company nor any of its Subsidiaries has received notice that any Authorizations will be terminated or modified or cannot be renewed in the ordinary course of business, and the Company has no Knowledge of any reasonable basis for any such termination, modification or nonrenewal, except as would not, individually or in the aggregate, have a Company Material Adverse Effect.

(c) The term “**Franchise Laws**” means the FTC Rule and any other Law regulating the offer or sale of franchises, including any pre-sale registration or disclosure Law. The term “**FTC Rule**” means the Federal Trade Commission trade regulation rule entitled “Disclosure Requirements and Prohibitions Concerning Franchising”, 16 CFR Part 436. The term “**Relationship Laws**” means any franchise termination, non-renewal, unfair practices or relationship Laws, including the requirements of such Laws with respect to the notice of default, time to cure and the actual termination of any franchisee or business opportunity operator.

Section 3.12 Employment Matters. Neither the Company nor any of its Subsidiaries is a party to any collective bargaining agreement or other Contract with any labor organization, union or association. There are not, to the Knowledge of the Company, any union organizing activities concerning any employees of the Company or any of its Subsidiaries pending or threatened and no such activities have occurred in the past five (5) years, that, individually or in the aggregate, would reasonably be expected to have a Company Material Adverse Effect. There are no strikes, slowdowns, work stoppages, lockouts, or other material labor disputes pending or, to the Knowledge of the Company, threatened, against the Company or any of its Subsidiaries and no such disputes have occurred within the past five (5) years. Except as contemplated by this Agreement, to the Knowledge of the Company, no director, executive, other key employee or group of employees has any present intention to terminate his, her, or their employment with the Company or any of its Subsidiaries (that, individually or in the aggregate, would reasonably be expected to have a Company Material Adverse Effect). Since August 1, 2012, neither the Company nor any of its Subsidiaries has implemented any employee layoffs not in compliance with the Worker Adjustment and Retraining Notification Act of 1988 or any similar Law.

Section 3.13 Employee Benefit Matters.

(a) Section 3.13(a) of the Company Disclosure Letter contains a true, complete and correct list, as of the date of this Agreement, of each material Company Benefit Plan and material Company Benefit Agreement. Each Company Benefit Plan and Company Benefit Agreement, in each case, that primarily covers workers located in the United States, has been administered and funded in compliance with its terms and with applicable Law (including the Employee Retirement Income Security Act of 1974, as amended (“**ERISA**”), and the Code), other than instances of noncompliance that, individually or in the aggregate, would not have a Company Material Adverse Effect.

(b) The Company has made available to Parent true and complete copies of (to the extent applicable): (i) the current plan document for each material Company Benefit Plan and each material

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Company Benefit Agreement, other than any Company Benefit Plan or Company Benefit Agreement that the Company or any of its Subsidiaries is prohibited from making available to Parent as the result of applicable Law relating to the safeguarding of data privacy, in which case a redacted copy or summary description of any such Company Benefit Plan or Company Benefit Agreement has been made available, (ii) the most recent annual report on Form 5500 as filed, in each case with respect to each material Company Benefit Plan (if any such report was required by applicable Law), (iii) each current material trust agreement relating to any material Company Benefit Plan, (iv) the most recent summary plan description, if any, required under ERISA with respect to each material Company Benefit Plan and material Company Benefit Agreement, and (v) the most recent actuarial reports and/or financial statements (as applicable) relating to each material Company Benefit Plan and material Company Benefit Agreement.

(c) Each Company Benefit Plan intended to be “qualified” within the meaning of Section 401(a) of the Code has received a favorable determination or opinion letter as to such qualification from the IRS, and, to the Knowledge of the Company, no event has occurred that could reasonably be expected to cause the loss of or adversely affect any such qualification, except as would not, individually or in the aggregate, have a Company Material Adverse Effect.

(d) Section 3.13(d) of the Company Disclosure Letter lists, as of the date of this Agreement, each material Company Benefit Plan and material Company Benefit Agreement that provides health or life insurance benefits to employees or former employees (or any of their beneficiaries) of the Company or any of its Subsidiaries or to any other Person after retirement or other termination of service (other than coverage or benefits required to be provided under Section 4980B of the Code or any similar Law for which the full premium cost of such coverage is paid by the covered participant or beneficiary).

(e) No Company Benefit Plan is subject to Title IV or Section 302 of ERISA or Section 412, 430 or 4971 of the Code. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, no Controlled Group Liability has been or is reasonably expected to be incurred by the Company or any of its Subsidiaries or ERISA Affiliates, other than liability for premiums due the Pension Benefit Guaranty Corporation (which premiums have been paid when due).

(f) Neither the Company nor any of its Subsidiaries or ERISA Affiliates contributes to or otherwise participates in or has any current or contingent liability or obligation with respect to (i) any “multiemployer plan” (within the meaning of Sections 3(37) or 4001(a)(3) of ERISA), (ii) any “multi-employer pension plan” (or term of similar import) as defined under the Pension Benefits Act (Ontario), as amended or other applicable Law in Canada, or (iii) a plan that has two or more contributing sponsors at least two of whom are not under common control (within the meaning of Section 4063 of ERISA).

(g) Except as would not reasonably be expected to have a Company Material Adverse Effect, (i) no proceeding, claim, action or lawsuit relating to any Company Benefit Plan or Company Benefit Agreement has been asserted, instituted or, to the Knowledge of the Company, threatened (other than routine claims for benefits and appeals of such claims), (ii) no non-exempt “prohibited transaction” (within the meaning of Section 4975 of the Code and Section 406 of ERISA) or breach of fiduciary duty (as determined under ERISA) has occurred or is reasonably expected to occur with respect to any of the Company Benefit Plans that primarily covers workers located in the United States, and (iii) no Company Benefit Plan or Company Benefit Agreement is under, and neither the Company nor any of its Subsidiaries has received any notice of, an audit or investigation by the IRS, Department of Labor or, to the Knowledge of the Company, any other Governmental Authority relating to any Company Benefit Plan or Company Benefit Agreement.

(h) The consummation of the Arrangement, the Merger and the other transactions contemplated by this Agreement, alone or in combination with any other event (where such other event would not alone

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have an effect described in this sentence), will not give rise to any material liability under any material Company Benefit Plan or material Company Benefit Agreement, including liability for severance pay, unemployment compensation, termination pay or withdrawal liability, or accelerate the time of payment, funding or vesting or increase the amount of compensation or benefits due to any employee, officer or director of the Company or any of its Subsidiaries (whether current, former or retired) or their beneficiaries. No amount that could be received (whether in cash or property or the vesting of property) as a result of the consummation of the Arrangement, the Merger and the other transactions contemplated by this Agreement by any employee, officer or director of the Company or any of its Subsidiaries under any Company Benefit Plan or Company Benefit Agreement, or otherwise, would not be deductible by reason of Section 280G of the Code or would be subject to an excise tax under Section 4999 of the Code. Neither the Company nor any of its Subsidiaries has any indemnity obligation on or after the Effective Time for any taxes imposed under Section 4999 or 409A of the Code.

(i) Except as would not have a Company Material Adverse Effect, each Company Benefit Plan or Company Benefit Agreement that primarily covers workers located outside of the United States (each, a “**Foreign Company Plan**”), has been established, registered, qualified, funded, invested, operated and administered in accordance with the applicable plan document and all applicable Laws and other requirements, and if intended to qualify for special tax treatment, satisfies all requirements for such treatment. To the Knowledge of the Company, no event has occurred with respect to any Foreign Company Plan that is intended to be registered that would result in the revocation of the registration of such Foreign Company Plan or entitle any Person (without the consent of the Company) to wind up or terminate any Foreign Company Plan, in whole or in part, or which could otherwise reasonably be expected to adversely affect the tax status of any such Foreign Company Plan except as would not, individually or in the aggregate, have a Company Material Adverse Effect.

(j) The term “**Company Benefit Agreement**” means each employment, individual consulting, indemnification, change in control, severance, termination or other compensation agreement or arrangement between the Company or any of its Subsidiaries, on the one hand, and any current or former employee, service provider, officer or director of the Company or any of its Subsidiaries, on the other hand (but excluding any Company Benefit Plans), pursuant to which the Company or any of its Subsidiaries has any continuing obligations, other than any agreement or arrangement mandated by applicable Law. The term “**Company Benefit Plan**” means each “employee benefit plan” (as defined in Section 3(3) of ERISA, whether or not subject to ERISA), and each other bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, phantom stock or other equity-based, retirement, vacation, severance, disability, death benefit, hospitalization, medical or other compensation or benefit plan, policy, program, arrangement or understanding (but excluding any Company Benefit Agreement), in each case sponsored, maintained or contributed to, or required to be sponsored, maintained or contributed to, by the Company or any of its Subsidiaries, or under or with respect to which the Company or any of its Subsidiaries has any current or contingent obligation or liability, other than (i) any “multiemployer plan” (within the meaning of Section 3(37) or 4001(a)(3) of ERISA), (ii) any “multi-employer pension plan” (or term of similar import) as defined under the Pension Benefits Act (Ontario), as amended or other applicable Law in Canada, or (iii) any plan, policy, program, arrangement or understanding mandated by applicable Law.

Section 3.14 Taxes. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect:

(a) The Company and each of its Subsidiaries has duly and timely filed all Returns required to be filed by it with the appropriate Governmental Authority and all such Returns are true, complete and correct.

(b) The Company and each of its Subsidiaries has: (i) duly and timely paid all Taxes due and payable by it other than such Taxes that are being contested in good faith and in respect of which

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adequate reserves have been established in accordance with GAAP in the Company Interim Financial Statements; (ii) duly and timely withheld all Taxes and other amounts required by applicable Tax Laws to be withheld by it and has duly and timely remitted to the appropriate Governmental Authority all such withheld Taxes and other amounts required by applicable Tax Laws to be remitted by it; and (iii) duly and timely collected all amounts on account of sales or transfer Taxes, including goods and services, harmonized sales, value added and federal, provincial, state or territorial sales Taxes, required by applicable Tax Laws to be collected by it and has duly and timely remitted to the appropriate Governmental Authority all such collected Taxes required by applicable Tax Laws to be remitted by it.

(c) No audit, action, investigation, refund litigation, matter in controversy, examination, deficiency, proposed adjustment or other Litigation (any “**Proceeding**”) is pending or is being threatened in writing with respect to Taxes or Returns of the Company or any of its Subsidiaries.

(d) The charges, accruals, and reserves for Taxes reflected on the Company Interim Financial Statements (whether or not due and whether or not shown on any Return but excluding any provision for deferred income Taxes) are adequate under GAAP to cover Taxes of the Company and each of its Subsidiaries accruing through the date of such Company Interim Financial Statements.

(e) There are no Liens for Taxes on the property or assets of the Company or any of its Subsidiaries, except for Permitted Liens.

(f) The Company is a taxable Canadian corporation as defined in the Tax Act. In the last three (3) years, no claim has been made in writing by a taxing authority in a jurisdiction where the Company or any of its Subsidiaries does not file Returns to the effect that such entity is or may be subject to taxation by such jurisdiction.

(g) Neither the Company nor any of its Subsidiaries has any liability for Taxes of any other Person (other than the Company or any of its Subsidiaries) pursuant to Treasury Regulations Section 1.1502-6 or sections 159 or 160 of the Tax Act (or any similar provision of state, local, or non-U.S. Law), as a transferee or successor or by contract.

(h) No private letter rulings, technical advice memoranda, closing agreement, or similar agreements or rulings have been entered into or issued by any Governmental Authority with respect to the Company or any of its Subsidiaries that are binding on such entity in respect of any taxable year for which the statute of limitations has not yet expired.

(i) Neither the Company nor any of its Subsidiaries has participated in any “listed transaction” within the meaning of Treasury Regulations Section 1.6011-4 or has been a “controlled corporation” or a “distributing corporation” in any distribution that was purported or intended to be governed by Section 355 of the Code (or any similar provision of state, local or foreign Law) occurring during the two-year period ending on the date hereof.

(j) Neither the Company nor any of its non-U.S. Subsidiaries is a “surrogate foreign corporation” within the meaning of Section 7874(a)(2)(B) of the Code or is treated as a U.S. corporation under Section 7874(b) of the Code.

Section 3.15 Real Property.

(a) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, the Company or a Subsidiary of the Company has good and valid fee title to such Company Owned Real Property, and all real property owned by the Company and its Subsidiaries relating to a restaurant, in each case free and clear of all Liens, except for Permitted Liens. “**Company Owned Real Property**” means all real property, other than real property relating to a restaurant, owned, as of the date of this Agreement, by the Company or any of its Subsidiaries.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) the Company or a Subsidiary of the Company has a good and

valid title to a leasehold or subleasehold estate in each Company Specified Leased Real Property and all leased real property relating to a restaurant, (ii) each Company Specified Real Property Lease and each lease of real property relating to a restaurant is valid, binding and in full force and effect; and (iii) neither the Company nor any of its Subsidiaries that is party to each Company Specified Real Property Lease, nor to the Knowledge of the Company, any other party to each Company Specified Real Property Lease, is in material breach or default thereunder which material breach or default continues on the date of this Agreement, and neither the Company nor any of its Subsidiaries has received or given any written notice of any material breach or default under each Company Specified Real Property Lease which default continues on the date of this Agreement. “ **Company Specified Real Property Leases** ” means all leases, subleases and licenses (including all material amendments, extensions, renewals, guaranties and other agreements with respect thereto) of real property under which, as of the date of this Agreement, the Company or any of its Subsidiaries is a tenant, licensee or a subtenant of any leasehold or subleasehold estate and other right to use or occupy any land, buildings, structures, improvements, fixtures or other interest in real property, other than (x) with respect to real property relating to a restaurant and (y) leases that do not provide for annual rent in excess of C\$300,000 (“ **Company Specified Leased Real Property** ”).

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect: (i) each Company Specified Real Property Landlord Lease is valid, binding and in full force and effect and (ii) neither the Company nor any of its Subsidiaries that is party to each Company Specified Real Property Landlord Lease, nor to the Knowledge of the Company, any other party to each Company Specified Real Property Landlord Lease, is in material breach or default thereunder which material breach or default continues on the date of this Agreement, and neither the Company nor any of its Subsidiaries has received or given any written notice of any material breach or default under such Company Specified Real Property Landlord Lease which default continues on the date of this Agreement. “ **Company Specified Real Property Landlord Leases** ” means all leases, licenses, subleases or similar agreements under which, as of the date of this Agreement, the Company or any of its Subsidiaries conveys or grants to any Person a leasehold estate in, or the right to use or occupy, any Company Owned Real Property or portion thereof, other than (x) leases, licenses, subleases and similar arrangements with respect to real property relating to a restaurant and (y) leases, licenses, subleases and similar arrangements that do not provide for annual rent in excess of C\$300,000.

Section 3.16 Intellectual Property.

(a) Section 3.16(a) of the Company Disclosure Letter sets forth a true and complete (in all material respects) list, as of the date of this Agreement, of all issued and registered Intellectual Property (including Internet domain names) or applications for issuance and registration of any Intellectual Property owned by the Company or any of its Subsidiaries (indicating for each, as applicable, the owner(s), jurisdiction and, as applicable, the application, patent or registration number and date). Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, the Company or one of its Subsidiaries is the sole and exclusive owner of all right, title and interest in and to, or has the valid and enforceable right to use all Intellectual Property used in, or that is necessary for, the conduct of the business of the Company or any of its Subsidiaries as currently conducted (collectively, the “ **Company Intellectual Property** ”) and free and clear of any Liens, except Permitted Liens. All material issued and registered Company Intellectual Property owned by the Company or any of its Subsidiaries and set forth in Section 3.16(a) of the Company Disclosure Letter, including all registrations for the trademarks and service marks TIMBITS and TIM HORTONS in the jurisdictions set forth on Section 3.16(a) of the Company Disclosure Letter for and to the extent such registrations cover any of the core products and or services of the Company and any of its Subsidiaries are valid, subsisting, and enforceable and in full force and effect. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, the transactions contemplated by this Agreement (including the Arrangement and the Merger) shall not impair the right, title, or interest of the Company or any its Subsidiaries in or to any Company Intellectual Property, and all of the Company

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Intellectual Property shall be owned or available for use by the Company and its Subsidiaries on terms and conditions identical to those under which the Company and its Subsidiaries owned or used the Company Intellectual Property immediately prior to the Closing.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, no claims or other suits, actions or proceedings are currently pending (or were previously pending at any time since August 1, 2012 and remain unresolved) or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries that the Company or any of its Subsidiaries or the operation of the Company's or any of its Subsidiaries' respective businesses (including through any Company Franchisee or other licensee) has infringed, misappropriated, diluted or otherwise violated any Intellectual Property of any other Person, or that contest the validity, use, registerability, ownership or enforceability of any of the Company Intellectual Property (including any cancellation, opposition or similar proceedings), and, to the Knowledge of the Company, there is no reasonable basis for any such claim. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, neither the Company nor any of its Subsidiaries nor the use of any Company Intellectual Property, nor the operation of the Company's or any of its Subsidiaries' respective businesses (including through any Company Franchisee or other licensee), infringes, misappropriates, dilutes or otherwise violates, or has at any time since August 1, 2012, infringed, misappropriated, diluted or otherwise violated, any Intellectual Property of any other Person. As of the date of this Agreement, no Person is infringing, misappropriating, diluting or otherwise violating the rights of the Company or any of its Subsidiaries with respect to any Company Intellectual Property, except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. The Company Intellectual Property owned by the Company or any of its Subsidiaries is not subject to any outstanding consent, settlement, lien, decree, order, injunction, judgment or ruling restricting the use thereof in a manner that would reasonably be expected to materially impair the continued operation of the Company and its Subsidiaries businesses in the ordinary course of business.

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, each of the Company and its Subsidiaries has taken commercially reasonable steps to maintain and protect the value, secrecy and confidentiality of its trade secrets and other material confidential information and to maintain, protect and enforce the other Company Intellectual Property.

(d) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) each of the Company and its Subsidiaries is, and has been to the extent required by Law, in compliance with its posted privacy policies and all other related notices, policies and programs and all applicable data protection, privacy and other applicable Laws regarding the collection, use, storage, distribution, transfer, import, export, disposal or disclosure (in any form or medium) of any personally identifiable information, (ii) each of the Company and its Subsidiaries is, and has been confirmed by an independent security assessor to be, in compliance with the Payment Card Industry Data Security Standard during its last auditing period for such compliance, and (iii) since January 1, 2014, to the Knowledge of the Company, there have not been any incidents of data security breaches.

(e) Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) the information technology systems, including the software, hardware, databases, networks, servers and related assets, owned, leased or licensed by the Company and its Subsidiaries, are sufficient for the operation of the business; and (ii) the Company and its Subsidiaries maintain commercially reasonable security, disaster recovery and business continuity plans, procedures and facilities.

(f) The term “ **Intellectual Property** ” means all intellectual property and other similar proprietary rights in any jurisdiction, including: (i) any patent or patent application (including all reissues,

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divisions, continuations, continuations-in-part and extensions thereof), patent disclosure or other patent right, (ii) any trademark, service mark, trade name, business name, brand name, Internet domain name, slogan, logo, trade dress and all other indicia of origin, together with all goodwill associated therewith, and all registrations, applications for registration, and renewals for any of the foregoing, (iii) any copyright, work of authorship (whether or not copyrightable), design, design registration, database rights, and all registrations, applications for registration, and renewals for any of the foregoing (and including in all website content and software), and (iv) any trade secrets and know-how.

Section 3.17 Environmental Matters.

(a) Except for those matters that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (i) each of the Company and its Subsidiaries is, and has for the past five (5) years been, in compliance with all applicable Environmental Laws, and neither the Company nor any of its Subsidiaries has received any written communication alleging that the Company or any of its Subsidiaries is in violation of, or has any liability under, any Environmental Law, (ii) each of the Company and its Subsidiaries possesses and is in compliance with all Authorizations required under applicable Environmental Laws to conduct its business as presently conducted, (iii) there are no Environmental Claims pending or, to the Knowledge of the Company, threatened against the Company or any of its Subsidiaries, and (iv) none of the Company or any of its Subsidiaries has Released or exposed any Person to, any Hazardous Materials, and no Hazardous Materials have been Released at, on, under or from any of the Company Owned Real Property, the Company Specified Leased Real Property, in a manner that would reasonably be expected to result in an Environmental Claim against the Company or any of its Subsidiaries.

(b) The term “**Environmental Claims**” means any Orders, Litigations or written notices of noncompliance by or from any Governmental Authority or any other Person alleging liability arising out of the Release of any Hazardous Material or the failure to comply with any Environmental Law or any Authorization issued thereunder. The term “**Environmental Law**” means any Law relating to pollution or protection of the environment or natural resources or human exposure to Hazardous Materials. The term “**Hazardous Materials**” means any materials or wastes that are listed or defined in relevant form, quantity, concentration or condition as hazardous substances, hazardous wastes, hazardous materials, extremely hazardous substances, toxic substances, pollutants, contaminants or terms of similar import under any applicable Environmental Law. The term “**Release**” means any release, spill, emission, leaking, pumping, emitting, discharging, injecting, escaping, leaching, dumping, disposing or migrating into or through the environment.

Section 3.18 Insurance. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, (a) the Company and its Subsidiaries maintain insurance in such amounts and against such risks as is sufficient to comply with applicable Law, (b) all insurance policies of the Company and its Subsidiaries are in full force and effect, except for any expiration thereof in accordance with the terms thereof, (c) neither the Company nor any of its Subsidiaries is in breach of, or default under, any such insurance policy, and (d) no written notice of cancellation or termination has been received with respect to any such insurance policy, other than in connection with ordinary renewals.

Section 3.19 Franchise Matters.

(a) **Section 3.19(a)** of the Company Disclosure Letter sets forth a true and complete list of all (i) development agreements in which the Company or any of its Subsidiaries has granted exclusive rights to develop or operate two or more “TIM HORTONS” Shops or license others to develop or operate within one or more countries, states, provinces or other significant geographic areas and (ii) master franchise agreements (collectively, the “**Company Specified Agreements**”), in each case to which the Company or any of its Subsidiaries is a party or by which the Company or any of its Subsidiaries or its or their properties is bound (other than any such agreements between a Person and

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its Subsidiaries or among its Subsidiaries) and that grant or purport to grant to any Person the right to develop or operate two or more “TIM HORTONS” Shops or license others to develop or operate within one or more countries, states, provinces or other significant geographic areas any of the following (each, a “ **Company Franchise** ”): “TIM HORTONS” Shops. For the avoidance of doubt, the terms Company Specified Agreements and Company Franchise expressly exclude any unit franchise agreement(s) granting a Person the right to develop or operate a single unit “TIM HORTONS” Shop within one or more countries, states, provinces or other significant geographic areas.

(b) Section 3.19(b) of the Company Disclosure Letter sets forth a true and complete list of the top twenty-five Company Franchisees based upon the total royalties paid by each such Company Franchisee to the Company or its Subsidiaries during the fiscal year 2013.

(c) Each of the Company Specified Agreements is valid and binding on the Company or the Subsidiary of the Company party thereto and, to the Knowledge of the Company, each other party thereto, is in full force and effect, except for such failures to be valid and binding or to be in full force and effect that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. There is no default under any Company Specified Agreement by the Company or any of its Subsidiaries or, to the Knowledge of the Company, by any other party thereto, and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by the Company or any of its Subsidiaries or, to the Knowledge of the Company, by any other party thereto, in each case except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect. Except as set forth in Section 3.19(c) of the Company Disclosure Letter, the execution and delivery by the Company of this Agreement do not, and the consummation of the Arrangement, the Merger and the other transactions contemplated by this Agreement and compliance with the provisions of this Agreement will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit under, or result in the creation of any Lien upon any of the properties or assets of the Company or any of its Subsidiaries under (other than any such Lien created from any action taken by a Parent Party) or any right of rescission or set-off under, any provision of any Company Specified Agreement other than any such conflicts, violations, defaults, rights, losses or Liens that would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect.

(d) Section 3.19(d) of the Company Disclosure Letter sets forth a true and complete list of all Company FDDs that the Company or any of its Subsidiaries have used to offer or sell Company Franchises within Canada or the United States at any time since January 1, 2014. The Company has made available to Parent true and complete copies of each such Company FDD. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, since August 1, 2013, the Company and its Subsidiaries have not, in any such Company FDD or in any registration, application or filing with any Governmental Authority under any Canadian or United States Franchise Law, made any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(e) Neither the Company nor any of its Subsidiaries is subject to any judgment that would prohibit or restrict the offer or sale of Company Franchises in any jurisdiction.

(f) To the Knowledge of the Company, all funds administered by or paid to the Company or any of its Subsidiaries by or on behalf of one or more Company Franchises at any time since August 1, 2013, including funds that Company Franchises contributed for advertising and promotion and rebates and other payments made by suppliers and other third parties on account of Company Franchises’ purchases from those suppliers and third parties, have been administered and spent in accordance in all material respects with the applicable franchise agreements, except where the failure to do so, either individually or in the aggregate, would not reasonably be expected to have a Company Material Adverse Effect.

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(g) Either the Company FDD or Section 3.19(g) of the Company Disclosure Letter contains a summary of all material franchise-related arbitrations, litigation, class proceedings, material complaints or disputes, or other Litigations which are pending or, to the Knowledge of the Company, threatened (i) from any Company Franchisee or association purporting to represent a group of Company Franchisees, or (ii) from any other Company Franchisee except where such Litigation, either individually or in the aggregate, would not reasonably be expected to have a Company Material Adverse Effect.

(h) The term “ **Company FDD** ” means any franchise disclosure document used by the Company or any of its Subsidiaries in connection with the offer or sale of Company Franchises in the United States or Canada. The term “ **Company Franchisee** ” means a Person other than the Company or any of its Subsidiaries that is granted a right (whether directly by the Company or any of its Subsidiaries or by another Company Franchisee) to develop or operate, or is granted a right to license others to develop or operate, a Company Franchise within a specific geographic area or at a specific location. For the avoidance of doubt, the term Company Franchisee expressly excludes any Person that is granted a right to develop or operate a single unit “TIM HORTONS” Shop, provided that if such Person is also granted a right to develop or operate, or is granted a right to license others to develop or operate, a Company Franchise then such Person shall be included in the term Company Franchisee but only in connection with such Company Franchise.

Section 3.20 Quality and Safety of Food & Beverage Products . Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, since August 1, 2012, (a) there have been no recalls of any food or beverage product of the Company or any Subsidiary, whether ordered by a Governmental Authority or undertaken voluntarily by the Company or a Subsidiary; and (b) to the Knowledge of the Company, none of the food or beverage products of the Company or any Subsidiary have been adulterated, misbranded, mispackaged, or mislabeled in violation of applicable Law, or pose an inappropriate threat to the health or safety of a consumer when consumed in the intended manner.

Section 3.21 Certain Business Practices . To the Knowledge of the Company, neither the Company nor any of its Subsidiaries (nor any of their respective officers, directors or employees), (a) has made or agreed to make any contribution, payment, gift or entertainment to, or accepted or received any contributions, payments, gifts or entertainment from, any government official, employee, political party or agent or any candidate for any federal, state, provincial, local or foreign public office, where either the contribution, payment or gift or the purpose thereof was illegal under the laws of any federal, state, provincial, local or foreign jurisdiction; or (b) has engaged in or otherwise participated in, assisted or facilitated any transaction that is prohibited by any applicable embargo or related trade restriction imposed by (i) the United States Office of Foreign Assets Control or any other agency of the United States government or (ii) the Corruption of Foreign Public Officials Act (Canada), or (iii) any other applicable Law of similar effect.

Section 3.22 Cultural Business . Neither the Company nor any of its Subsidiaries provides any of the services or engages in any of the activities of a “cultural business” as defined in the Investment Canada Act.

Section 3.23 Information Supplied . The information relating to the Company, the Subsidiaries of the Company and its or their respective officers and directors that is or will be provided by the Company or its Representatives for inclusion in the Joint Information Statement/Circular and the Form S-4 will not, at the date it is filed with the SEC or, in the case of the Joint Information Statement/Circular, first mailed to the Company’s stockholders or delivered to Parent’s stockholders, or at the time of any amendment thereof, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Section 3.24 Voting Requirements . Subject to the terms of the Interim Order, the Company Shareholder Approval is the only vote of the holders of any class or series of capital stock of the Company necessary for the Company to adopt this Agreement and approve the transactions contemplated hereby.

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Section 3.25 Takeover Statutes. Assuming the accuracy of the representations and warranties of the Company set forth in Section 4.25, to the Knowledge of the Company, no Takeover Law applies or purports to apply to the Company with respect to this Agreement, the Arrangement, the Merger, the Company Voting Agreements or any of the other transactions contemplated by this Agreement.

Section 3.26 Brokers and Other Advisors. No broker, investment banker, financial advisor or other Person, other than Citigroup Inc. and RBC Capital Markets (the “Company Financial Advisors”), the fees and expenses of which will be paid by the Company, is entitled to any broker’s, finder’s or financial advisor’s fee or commission in connection with the Arrangement, the Merger and the transactions contemplated by this Agreement based upon arrangements made by or on behalf of the Company. True and complete copies of the engagement letters with each of the Company Financial Advisors have been delivered to Parent.

Section 3.27 Opinions of Financial Advisors. The Company Board of Directors has received the Company Fairness Opinions from the Company Financial Advisors. True, correct and complete copies of the Company Fairness Opinions will be provided by the Company to Parent not later than two (2) Business Days after the date hereof (or, if later, within two Business Days following the Company’s receipt thereof in writing) for informational purposes only.

Section 3.28 No Other Representations and Warranties. Except for the representations and warranties made by the Company in this Article 3 together with the certificates and other documents delivered pursuant hereto, neither the Company nor any other Person makes any express or implied representation or warranty with respect to the Company or any of its Subsidiaries or their respective businesses, assets, operations, liabilities, condition (financial or otherwise) or prospects, and the Company hereby disclaims any such other representations or warranties. In particular, without limiting the foregoing disclaimer, except for the representations and warranties made by the Company in this Article 3 together with the certificates and other documents delivered pursuant hereto, neither the Company nor any other Person makes or has made any representation or warranty to Parent or any of its Representatives, with respect to (a) any financial projection, forecast, estimate, budget or prospective information relating to the Company, any of the Company’s Subsidiaries or their respective businesses or operations or (b) any oral or written information furnished or made available to Parent or any of its Representatives in the course of their due diligence investigation of Company, the negotiation of this Agreement or the consummation of this transaction and the other transactions contemplated by this Agreement, including the accuracy, completeness or currentness thereof, and neither the Company nor any other Person will have any liability to Parent or any other Person in respect of such information, including any subsequent use of such information, except in the case of fraud.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF PARENT.

Except (i) as disclosed in any Parent Public Disclosure Record, other than any disclosures contained therein under the captions “Risk Factors” or “Forward Looking Statements” or disclosures continued in the Parent Public Disclosure Record under any other captions to the extent the disclosures are predictive, cautionary or forward-looking in nature, but it being understood that this clause (i) shall not be applicable to Section 4.3 (Capital Structure), Section 4.4 (Authority; Recommendation), Section 4.25 (Takeover Statutes), Section 4.23 (Information Supplied) Section 4.26 (Brokers and Other Advisors) and Section 4.27 (Opinions of Financial Advisors), or (ii) as set forth in the Parent Disclosure Letter, Parent represents and warrants to the Company as follows:

Section 4.1 Organization, Standing and Corporate Power. Each of Parent and its Subsidiaries is duly organized and validly existing under the Laws of its jurisdiction of organization and has all requisite corporate or other entity power and authority to carry on its business as presently conducted, except (other than with respect to Parent’s due organization and valid existence) as would not, individually or in the aggregate,

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reasonably be expected to have a Parent Material Adverse Effect. Each of Parent and its Subsidiaries is duly qualified or licensed to do business and is in good standing (where such concept is recognized under applicable Law) in each jurisdiction where the nature of its business or the ownership, leasing or operation of its properties makes such qualification or licensing necessary, other than where the failure to be so qualified, licensed or in good standing would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. True and complete copies of the Certificate of Incorporation of Parent (the “Parent Certificate of Incorporation”) and the Amended and Restated Bylaws of Parent (the “Parent Bylaws”), in each case as in effect on the date of this Agreement, are included in the Parent Public Disclosure Record.

Section 4.2 Subsidiaries. The organization chart of Parent and its Subsidiaries attached to Section 4.2 of the Parent Disclosure Letter sets forth, as of the date of this Agreement, each Subsidiary of Parent. All the outstanding shares of capital stock of, or other Equity Interests in, each Subsidiary of Parent have been validly issued and are fully paid and nonassessable and are owned, directly or indirectly, by Parent free and clear of all Liens, other than Permitted Liens. Except for its interests in its Subsidiaries, Parent does not own, directly or indirectly, any capital stock of, or other Equity Interests in, any corporation, partnership, joint venture, association or other entity. There are no options, warrants, rights, convertible or exchangeable securities, stock-based performance units, Contracts or undertakings of any kind to which any Subsidiary of Parent is a party or by which any of them is bound (a) obligating any such Subsidiary to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other voting securities of or Equity Interests in, or any security convertible or exchangeable for any shares of capital stock or other voting securities of or Equity Interest in, any Subsidiary of Parent, (b) obligating any such Subsidiary to issue, grant or enter into any such option, warrant, right, security, unit, Contract or undertaking, or (c) giving any Person the right to receive any economic interest of a nature accruing to the holders of capital stock of any of Parent’s Subsidiaries.

Section 4.3 Capital Structure.

(a) The authorized capital stock of Parent consists of 2,000,000,000 Parent Common Shares and 2,000,000,000 shares of preferred stock, par value U.S.\$0.01 (the “**Parent Preferred Stock**”). At the close of business on the Capitalization Date, (i) 351,963,073 Parent Common Shares were issued and outstanding, (ii) 24,182,301 Parent Common Shares were reserved and available for issuance pursuant to the Parent Stock Plans and pursuant to such Parent Stock Plans (A) 19,101,343 Parent Common Shares were subject to outstanding Parent Options and (B) 166,100 Parent Common Shares were subject to outstanding Parent RSUs (together with the Parent Options, the “**Parent Equity Awards**”), (iii) 345,286 Parent Common Shares were owned by Parent as treasury stock, and (iv) no shares of Parent Preferred Stock were issued or outstanding. Except as set forth above, at the close of business on the Capitalization Date, no shares of capital stock or other voting securities of or Equity Interests in Parent were issued, reserved for issuance or outstanding. From the Capitalization Date, (x) there have been no issuances by Parent of shares of capital stock or other voting securities of or Equity Interests in Parent (including Parent Equity Awards), other than issuances of Parent Common Shares pursuant to Parent Equity Awards outstanding on the Capitalization Date, and (y) there have been no issuances by Parent of options, warrants, rights, convertible or exchangeable securities, stock-based performance units or other rights to acquire shares of capital stock of Parent or other rights that give the holder thereof any economic interest of a nature accruing to the holders of Parent Common Shares, other than issuances pursuant to Parent Equity Awards outstanding on the Capitalization Date.

(b) Section 4.3 of the Parent Disclosure Letter sets forth a true, correct and complete list as of the date of this Agreement of all Parent Equity Awards outstanding under the Parent Stock Plans (or otherwise), including the Parent Stock Plan under which each such Parent Equity Award was granted, identification number of holder, number of Parent Common Shares, exercise price (if any) and vesting schedule of such Parent Equity Awards, as applicable.

(c) All outstanding Company Common Shares are, and all such shares that may be issued prior to the Merger Effective Time will be, when issued, duly authorized, validly issued, fully paid and

nonassessable and not subject to preemptive rights. There are no bonds, debentures, notes or other indebtedness of Parent having the right to vote (or convertible into, or exchangeable for, securities having the right to vote) on any matters on which holders of Parent Common Shares may vote (“ **Voting Parent Debt** ”). Except for any obligations pursuant to this Agreement or as otherwise set forth above, as of the Capitalization Date, there were no options, warrants, rights, convertible or exchangeable securities, stock-based performance units, Contracts or undertakings of any kind to which Parent is a party or by which Parent is bound (i) obligating Parent to issue, deliver or sell, or cause to be issued, delivered or sold, additional shares of capital stock or other voting securities of or Equity Interests in, or any security convertible or exchangeable for any shares of capital stock or other voting securities of or Equity Interest in, Parent or of any of its Subsidiaries or any Voting Parent Debt, (ii) obligating Parent to issue, grant or enter into any such option, warrant, right, security, unit, Contract or undertaking, or (iii) giving any Person the right to receive any economic interest of a nature accruing to the holders of Parent Common Shares, and since the Capitalization Date, none of the foregoing has been issued. There are no outstanding contractual obligations of Parent to repurchase, redeem or otherwise acquire any shares of capital stock or options, warrants, rights, convertible or exchangeable securities, stock-based performance units or other rights to acquire shares of capital stock of Parent, other than pursuant to the Parent Stock Plans and the Parent Equity Awards.

(d) Parent does not have any stockholder rights plan in effect.

Section 4.4 Authority; Recommendation .

(a) Parent has all requisite corporate power and authority to execute and deliver this Agreement and the other agreements contemplated hereby and to consummate the transactions contemplated by this Agreement and thereby, subject, in the case of the Merger, to receipt of the approval and adoption of this Agreement, to be evidenced by the delivery of the Parent Shareholder Consent (the “ **Parent Shareholder Approval** ”). The execution and delivery of this Agreement and the other agreements contemplated hereby by Parent and the consummation of the transactions contemplated by, and compliance with the provisions of, this Agreement by Parent have been duly authorized by all necessary corporate action on the part of Parent, subject, in the case of the Merger, to receipt of the Parent Shareholder Approval. This Agreement has been duly executed and delivered by Parent and, assuming the due authorization, execution and delivery by the Company, constitutes a legal, valid and binding obligation of Parent, enforceable against Parent in accordance with its terms, subject, as to enforceability, to the Bankruptcy and Equity Exception.

(b) The Parent Board of Directors, at a meeting duly called and held at which all directors of Parent were present, duly and unanimously adopted resolutions (i) authorizing and approving the execution, delivery and performance of this Agreement and the transactions contemplated hereby, (ii) approving and declaring advisable this Agreement, the Merger, the Financing and the other transactions contemplated by this Agreement, (iii) declaring that the terms of this Agreement and the transactions contemplated hereby, including the Merger, the Financing and the other transactions contemplated by this Agreement, on the terms and subject to the conditions set forth herein, are fair to and in the best interests of the stockholders of Parent, (iv) directing that the adoption of this Agreement be submitted to the stockholders of Parent, and (v) recommending that the stockholders of Parent approve the adoption of this Agreement.

Section 4.5 Non-Contravention . The execution and delivery by Parent of this Agreement and the other agreements contemplated hereby do not, and the consummation of the Merger and the other transactions contemplated by this Agreement and thereby and compliance with the provisions of this Agreement and the other agreements contemplated hereby will not, conflict with, or result in any violation or breach of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit under, or result in the creation of any Lien upon any of the properties or assets of Parent or any of its Subsidiaries under (other than any such Lien created as a result of any action taken by

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the Company), any provision of (a) the Parent Certificate of Incorporation, the Parent Bylaws or the comparable organizational documents of any of its Subsidiaries, or (b) subject to the filings and other matters referred to in the immediately following sentence, and assuming the accuracy of the representations and warranties of the Company set forth in Article 3, (i) any Contract to which Parent or any of its Subsidiaries is a party or by which any of their respective properties or assets are bound, (ii) any Law or Order, in each case applicable to Parent or any of its Subsidiaries or any of their respective properties or assets, or (iii) any Authorizations of Parent or its Subsidiaries, other than, in the case of clause (b) above, any such conflicts, violations, defaults, rights, losses or Liens that would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. No Authorization, Order, waiver of, action or nonaction by, or filing with, or notice to, any Governmental Authority is required to be obtained or made by or with respect to Parent or any of its Subsidiaries in connection with the execution and delivery of this Agreement and the other agreements contemplated hereby by Parent or the consummation by Parent of the Merger or the other transactions contemplated by this Agreement, except for (A) such filings and other actions required under applicable Canadian Securities Laws and the U.S. Securities Laws (including any state or provincial securities Laws) and the rules and policies of the NYSE, in each case, as are contemplated by this Agreement, including the filing with the SEC of the Joint Information Statement/Circular and Form S-4, (B) the Required Regulatory Approvals, (C) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware, and (D) any Permits and filings and notifications with respect to which the failure to obtain or make the same would not reasonably be expected to be material to Parent and its Subsidiaries, taken as a whole, or could not reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement or the Merger.

Section 4.6 Securities Laws Matters; Financial Statements; Undisclosed Liabilities.

(a) Neither the SEC nor any other securities commission (or similar regulatory authority) has issued any Order preventing or suspending trading of any securities of Parent and Parent is in compliance in all material respects with applicable U.S. Securities Laws. Trading in Parent Common Shares on the NYSE is not currently halted or suspended. No delisting, suspension of trading or cease trading Order with respect to any securities of Parent is pending or, to the Knowledge of Parent, threatened. Except as set forth in this Section 4.6 or Section 4.6 of the Parent Disclosure Letter, neither Parent nor any of its Subsidiaries is subject to continuous disclosure or other public reporting requirements under any securities Laws.

(b) Parent has filed all material reports, schedules, forms, statements and other documents with the SEC required to be filed by Parent pursuant to the Securities Act or the Exchange Act since August 1, 2012. As of their respective effective dates (in the case of Parent Public Disclosure Records that are registration statements filed pursuant to the requirements of the 1933 Securities Act) and as of their respective dates of filing (in the case of all other Parent Public Disclosure Records), the Parent Public Disclosure Records complied as to form in all material respects with the requirements of the 1933 Securities Act or the 1934 Exchange Act, as the case may be, and the rules and regulations of the SEC promulgated thereunder applicable thereto, and except to the extent amended or superseded by a subsequent filing with the SEC prior to the date of this Agreement, as of such respective dates, none of the Parent Public Disclosure Records contained any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. As of the date hereof, there are no outstanding or unresolved comments in comment letters from the SEC staff with respect to any of the Parent Public Disclosure Records. To the Knowledge of Parent, as of the date hereof, none of the Parent Public Disclosure Records is the subject of ongoing SEC review or outstanding SEC investigation.

(c) Each of the audited consolidated financial statements and the unaudited quarterly financial statements (including, in each case, the notes thereto) of Parent included in the Parent Public Disclosure Records when filed complied as to form in all material respects with U.S. Securities Laws and the published rules and regulations of the SEC with respect thereto, have been prepared in all

material respects in accordance with GAAP (except, in the case of unaudited quarterly statements, to the extent permitted by Form 10-Q of the SEC or other rules and regulations of the SEC) applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and fairly present in all material respects the consolidated financial position of Parent and its consolidated Subsidiaries as of the dates thereof and the consolidated results of their operations and cash flows for the periods then ended (subject, in the case of unaudited quarterly statements, to normal year-end adjustments and the absence of footnotes (none of which are material to the Company and its Subsidiaries taken as a whole)).

(d) Except for matters reflected or reserved against in the most recent consolidated balance sheet of Parent (or the notes thereto) included in the Parent Public Disclosure Record, neither Parent nor any of its Subsidiaries has any liabilities or obligations (whether absolute, accrued, contingent, fixed or otherwise) of any nature that would be required under GAAP, as in effect on the date of this Agreement, to be reflected on a consolidated balance sheet of Parent (including the notes thereto), except liabilities and obligations that (i) were incurred since the date of such balance sheet in the ordinary course of business, (ii) are incurred in connection with the transactions contemplated by this Agreement, or (iii) would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect.

Section 4.7 Internal Controls.

(a) Parent and its Subsidiaries have established and maintained a system of internal control over financial reporting (as defined in Rule 13a-15 under the 1934 Exchange Act). Such internal controls provide reasonable assurance regarding the reliability of Parent's financial reporting and the preparation of Parent's financial statements for external purposes in accordance with GAAP. Since August 1, 2012, Parent's principal executive officer and its principal financial officer have disclosed to Parent's auditors and the audit committee of the Parent Board of Directors (i) all known significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting that are reasonably likely to adversely affect in any material respects Parent's ability to record, process, summarize and report financial information, and (ii) any known fraud, whether or not material, that involves management or other employees who have a significant role in Parent's internal controls and Parent has provided to the Company copies of any material written materials relating to each of the foregoing. Parent has made available to the Company all such disclosures made by management to Parent's auditors and audit committee from August 1, 2012 to the date of this Agreement.

(b) Parent has established and maintains disclosure controls and procedures (as such term is defined in Rule 13a-15 under the 1934 Exchange Act) and such disclosure controls and procedures are designed so that material information relating to Parent required to be included in reports filed under the 1934 Exchange Act, including its consolidated Subsidiaries, is made known to Parent's principal executive officer and its principal financial officer, and such disclosure controls and procedures are effective in timely alerting Parent's principal executive officer and its principal financial officer to material information required to be disclosed by Parent in the reports that it files or submits to the SEC under the 1934 Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC.

(c) Since August 1, 2012, neither Parent nor any of its Subsidiaries has made any prohibited loans to any executive officer of Parent (as defined in Rule 3b-7 under the 1934 Exchange Act) or director of Parent. There are no outstanding loans or other extensions of credit made by Parent or any of its Subsidiaries to any executive officer (as defined in Rule 3b-7 under the 1934 Exchange Act) or director of the Company.

(d) Neither Parent nor any of its Subsidiaries has or is subject to any "Off-Balance Sheet Arrangement" (as defined in Item 303 (a)(4)(ii) of Regulation S-K promulgated under the 1933 Securities Act).

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(e) There have not been during the preceding three (3) years any transactions, Contracts or understandings or series of related transactions, Contracts or understandings, nor are there any of the foregoing currently proposed, that (if proposed but not having been consummated or executed, or if consummated or executed) would be required to be disclosed under Item 404 of Regulation S-K promulgated under the 1933 Securities Act that have not been disclosed in the Parent Public Disclosure Record filed prior to the date hereof.

Section 4.8 Absence of Certain Changes or Events. Between December 31, 2013 and the date of this Agreement, (a) there has not been any fact, circumstance, change, effect, event or occurrence that has had or would reasonably be expected to have a Parent Material Adverse Effect, (b) Parent and its Subsidiaries have conducted their businesses only in the ordinary course of business, and (c) except as set forth in Section 4.8 of the Parent Disclosure Letter, there has not been any circumstance, action or activity which, if taken after the date hereof, would be a violation of, Section 6.2(b)(ii), Section 6.2(b)(iii), Section 6.2(b)(iv), Section 6.2(b)(v) or Section 6.2(b)(x) hereof.

Section 4.9 Litigation. There is no Litigation pending or, to the Knowledge of Parent, threatened in writing against Parent or any of its Subsidiaries that, individually or in the aggregate, would reasonably be expected to have a Parent Material Adverse Effect. There is no Order outstanding against Parent or any of its Subsidiaries that, individually or in the aggregate, would reasonably be expected to have a Parent Material Adverse Effect. This Section 4.9 does not relate to tax matters which are the subject of Section 4.14, or environmental matters, which are the subject of Section 4.17.

Section 4.10 Contracts

(a) Except for this Agreement and for Contracts filed as an exhibit to the Parent Public Disclosure Record, Section 4.22 of the Parent Disclosure Letter sets forth a true and complete list of, as of the date of this Agreement, each Contract that would be required to be filed by Parent as a “material contract” pursuant to Item 601(b)(10) of Regulation S-K under the 1933 Securities Act (any such Contract, a “**Parent Material Contract**”).

(b) As of the date of this Agreement, Parent has made available to the Company true and complete copies of each Parent Material Contract. Each of the Parent Material Contracts is valid and binding on Parent or the Subsidiary of Parent party thereto and, to the Knowledge of Parent, each other party thereto, and is in full force and effect, except for such failures to be valid and binding or to be in full force and effect that would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. There is no default under any Parent Material Contract by Parent or any of its Subsidiaries or, to the Knowledge of Parent, by any other party thereto, and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by Parent or any of its Subsidiaries or, to the Knowledge of Parent, by any other party thereto, in each case except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. This Section 4.10 does not relate to Company Benefit Agreements or Company Benefit Plans, which are the subject of Section 4.13, real property leases, which are the subject of Section 4.15, or agreements entered into with franchisees, which are the subject of Section 4.19.

Section 4.11 Compliance with Laws

(a) Each of Parent and its Subsidiaries is, and has been since August 1, 2012, in compliance with all Laws applicable to its business or operations (including Franchise Laws and Relationship Laws), in each case except for instances of noncompliance that would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. This Section 4.11 does not relate to compliance with securities Laws or financial statements, which are the subject of Section 4.6, internal controls, which are the subject of Section 4.7, employee benefit matters, which are the subject of Section 4.13, tax matters which are the subject of Section 4.14 or environmental matters which are the subject of Section 4.17.

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(b) Each of Parent and its Subsidiaries has in effect all Authorizations necessary for it to conduct its business as presently conducted, except for such Authorizations the absence of which would not, individually or in the aggregate, have a Parent Material Adverse Effect. To the Knowledge of Parent, neither Parent nor any of its Subsidiaries has received notice that any Authorizations will be terminated or modified or cannot be renewed in the ordinary course of business, and Parent has no Knowledge of any reasonable basis for any such termination, modification or nonrenewal, except as would not, individually or in the aggregate, have a Parent Material Adverse Effect.

Section 4.12 Employment Matters. Neither Parent nor any of its Subsidiaries is a party to any collective bargaining agreement or other Contract with any labor organization, union or association. There are not, to the Knowledge of Parent, any union organizing activities concerning any employees of Parent or any of its Subsidiaries pending or threatened and no such activities have occurred in the past five (5) years, that, individually or in the aggregate, would reasonably be expected to have a Parent Material Adverse Effect. There are no strikes, slowdowns, work stoppages, lockouts, or other material labor disputes pending or, to the Knowledge of Parent, threatened, against Parent or any of its Subsidiaries and no such disputes have occurred in the past five (5) years. Except as contemplated by this Agreement, to the Knowledge of Parent, no director, executive, other key employee or group of employees has any present intention to terminate his, her, or their employment with Parent or any of its Subsidiaries (that, individually or in the aggregate, would reasonably be expected to have a Parent Material Adverse Effect). Since August 1, 2012, neither Parent nor any of its Subsidiaries has implemented any employee layoffs not in compliance with the Worker Adjustment and Retraining Notification Act of 1988 or any similar Law.

Section 4.13 Employee Benefit Matters.

(a) Section 4.13(a) of the Parent Disclosure Letter contains a true, complete and correct list, as of the date of this Agreement, of each material Parent Benefit Plan and material Parent Benefit Agreement. Each Parent Benefit Plan and Parent Benefit Agreement, in each case, that primarily covers workers located in the United States has been administered and funded in compliance with its terms and with applicable Law (including ERISA and the Code), other than instances of noncompliance that, individually or in the aggregate, would not have a Parent Material Adverse Effect.

(b) Parent has made available to the Company true and complete copies of (to the extent applicable): (i) the current plan document for each material Parent Benefit Plan and each material Parent Benefit Agreement, other than any Parent Benefit Plan or Parent Benefit Agreement that Parent or any of its Subsidiaries is prohibited from making available to the Company as the result of applicable Law relating to the safeguarding of data privacy, in which case a redacted copy or summary description of any such Parent Benefit Plan or Parent Benefit Agreement has been made available, (ii) the most recent annual report on Form 5500 as filed, in each case with respect to each material Parent Benefit Plan (if any such report was required by applicable Law), (iii) each current material trust agreement relating to any material Parent Benefit Plan, (iv) the most recent summary plan description, if any, required under ERISA with respect to each material Parent Benefit Plan and material Parent Benefit Agreement, and (v) the most recent actuarial reports and/or financial statements (as applicable) relating to each material Parent Benefit Plan and material Parent Benefit Agreement.

(c) Each Parent Benefit Plan intended to be “qualified” within the meaning of Section 401(a) of the Code has received a favorable determination or opinion letter as to such qualification from the IRS, and, to the Knowledge of Parent, no event has occurred that could reasonably be expected to cause the loss of or adversely affect any such qualification except as would not, individually or in the aggregate, have a Parent Material Adverse Effect.

(d) Section 4.13(d) of the Parent Disclosure Letter lists, as of the date of this Agreement, each material Parent Benefit Plan and material Parent Benefit Agreement that provides health or life insurance benefits to employees or former employees (or any of their beneficiaries) of Parent or any of its Subsidiaries or to any other Person after retirement or other termination of service (other than

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coverage or benefits required to be provided under Section 4980B of the Code or any similar Law for which the full premium cost of such coverage is paid by the covered participant or beneficiary).

(e) Section 4.13(e) of the Parent Disclosure Letter lists each Parent Benefit Plan that is subject to Title IV or Section 302 of ERISA or Section 412, 430 or 4971 of the Code (each, a “**Title IV Plan**”). Except as would not reasonably be expected to have, either individually or in the aggregate, a Parent Material Adverse Effect, with respect to each Title IV Plan: (i) there does not exist any failure to meet the “minimum funding standard” of Section 412 of the Code or 302 of ERISA (whether or not waived), (ii) no such plan is in “at-risk” status for purposes of Section 430 of the Code, (iii) no reportable event within the meaning of Section 4043 (c) of ERISA for which the thirty (30)-day notice requirement has not been waived has occurred, (iv) all premiums due to the Pension Benefit Guaranty Corporation have been timely paid in full, and (v) as of the date of this Agreement, the Pension Benefit Guaranty Corporation has not instituted proceedings to terminate any such Title IV Plan and, to the Knowledge of Parent, no circumstances exist which could reasonably be expected to serve as a basis for the institution of such proceedings. As of the date of this Agreement, (x) the information contained in the actuarial reports referenced in Section 4.13(b) is complete and accurate in all material respects, and (y) to the Knowledge of Parent, no material changes have occurred with respect to the financial condition of any Title IV Plan since the date of the most recent actuarial valuation report of such Title IV Plan. Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, no Controlled Group Liability has been or is reasonably expected to be incurred by Parent or any of its Subsidiaries or ERISA Affiliates, other than liability for premiums due the Pension Benefit Guaranty Corporation (which premiums have been paid when due).

(f) Neither Parent nor any of its Subsidiaries or any of its ERISA Affiliates contributes to or otherwise participates in or has any current or contingent liability or obligation with respect to (i) any “multiemployer plan” (within the meaning of Sections 3(37) or 4001(a)(3) of ERISA), (ii) any “multi-employer pension plan” (or term of similar import) as defined under the Pension Benefits Act (Ontario), as amended or other applicable Law in Canada, or (iii) a plan that has two or more contributing sponsors at least two of whom are not under common control (within the meaning of Section 4063 of ERISA).

(g) Except as would not reasonably be expected to have a Parent Material Adverse Effect, (i) no proceeding, claim, action, or lawsuit relating to any Parent Benefit Plan or Parent Benefit Agreement has been asserted, instituted or, to the Knowledge of Parent, threatened (other than routine claims for benefits and appeals of such claims), (ii) no non-exempt “prohibited transaction” (within the meaning of Section 4975 of the Code and Section 406 of ERISA) or breach of fiduciary duty (as determined under ERISA) has occurred or is reasonably expected to occur with respect to any of the Parent Benefit Plans that primarily covers workers located in the United States, and (iii) no Parent Benefit Plan or Parent Benefit Agreement is under, and neither Parent nor any of its Subsidiaries has received any notice of, an audit or investigation by the IRS, Department of Labor or, to the Knowledge of Parent, any other Governmental Authority relating to any Parent Benefit Plan or Parent Benefit Agreement.

(h) The consummation of the Arrangement, the Merger and the other transactions contemplated by this Agreement, alone or in combination with any other event (where such other event would not alone have an effect described in this sentence), will not give rise to any material liability under any material Parent Benefit Plan or material Parent Benefit Agreement, including liability for severance pay, unemployment compensation, termination pay or withdrawal liability, or accelerate the time of payment, funding or vesting or increase the amount of compensation or benefits due to any employee, officer or director of Parent or any of its Subsidiaries (whether current, former or retired) or their beneficiaries. Neither Parent nor any of its Subsidiaries has any indemnity obligation on or after the Effective Time for any taxes imposed under Section 4999 or 409A of the Code.

(i) Except as would not have a Parent Material Adverse Effect, each Parent Benefit Plan or Parent Benefit Agreement that primarily covers workers located outside of the United States (each, a “**Foreign**

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Parent Plan”), has been established, registered, qualified, funded, invested, operated and administered in accordance with the applicable plan document and all applicable Laws and other requirements, and if intended to qualify for special tax treatment, satisfies all requirements for such treatment. To the Knowledge of Parent, no event has occurred respecting any Foreign Parent Plan that is intended to be registered which would result in the revocation of the registration of such Foreign Parent Plan or entitle any Person (without the consent of Parent) to wind up or terminate any Foreign Parent Plan, in whole or in part, or which could otherwise reasonably be expected to adversely affect the tax status of any such Foreign Parent Plan except as would not, individually or in the aggregate, have a Parent Material Adverse Effect.

(j) The term “**Parent Benefit Agreement**” means each employment, individual consulting, indemnification, change in control, severance, termination or other compensation agreement or arrangement between Parent or any of its Subsidiaries, on the one hand, and any current or former employee, service provider, officer or director of Parent or any of its Subsidiaries, on the other hand (but excluding any Parent Benefit Plans) pursuant to which Parent or any of its Subsidiaries has any continuing obligations, other than any agreement or arrangement mandated by applicable Law. The term “**Parent Benefit Plan**” means each “employee benefit plan” (as defined in Section 3(3) of ERISA, whether or not subject to ERISA), and each other bonus, pension, profit sharing, deferred compensation, incentive compensation, stock ownership, stock purchase, stock option, phantom stock or other equity-based, retirement, vacation, severance, disability, death benefit, hospitalization, medical or other compensation or benefit plan, policy, program, arrangement or understanding (but excluding any Parent Benefit Agreement), in each case sponsored, maintained or contributed to, or required to be sponsored, maintained or contributed to, by Parent or any of its Subsidiaries, or under or with respect to which Parent or any of its Subsidiaries has any current or contingent obligation or liability, other than (i) any “multiemployer plan” (within the meaning of Section 3(37) or 4001(a)(3) of ERISA), (ii) any “multi-employer pension plan” (or term of similar import) as defined under the Pension Benefits Act (Ontario), as amended or other applicable Law in Canada, or (iii) any plan, policy, program, arrangement or understanding mandated by applicable Law.

Section 4.14 Taxes. Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect:

(a) Parent and each of its Subsidiaries has duly and timely filed all Returns required to be filed by it with the appropriate Governmental Authority and all such Returns are true, complete and correct.

(b) Parent and each of its Subsidiaries has (i) duly and timely paid all Taxes due and payable by it other than such Taxes that are being contested in good faith and in respect of which adequate reserves have been established in accordance with GAAP in the most recent financial statements of Parent included in the Parent Public Disclosure Records; (ii) duly and timely withheld all Taxes and other amounts required by applicable Tax Laws to be withheld by it and has duly and timely remitted to the appropriate Governmental Authority all such withheld Taxes and other amounts required by applicable Tax Laws to be remitted by it; and (iii) duly and timely collected all amounts on account of sales or transfer Taxes, including goods and services, harmonized sales, value added and federal, provincial, state or territorial sales Taxes, required by applicable Tax Laws to be collected by it and has duly and timely remitted to the appropriate Governmental Authority all such collected Taxes required by applicable Tax Laws to be remitted by it.

(c) No Proceeding is pending or is being threatened in writing with respect to Taxes or Returns of Parent or any of its Subsidiaries.

(d) The charges, accruals, and reserves for Taxes reflected on the most recent financial statements of Parent included in the Parent Public Disclosure Records (whether or not due and whether or not shown on any Return but excluding any provision for deferred income Taxes) are adequate under GAAP to cover Taxes of Parent and each of its Subsidiaries accruing through the date of such financial statements.

- (e) There are no Liens for Taxes on the property or assets of Parent or any of its Subsidiaries, except for Permitted Liens.
- (f) In the last three (3) years, no claim has been made in writing by a taxing authority in a jurisdiction where Parent or any of its Subsidiaries does not file Returns to the effect that such entity is or may be subject to taxation by such jurisdiction.
- (g) None of Parent or any of its Subsidiaries has any liability for Taxes of any Person (other than Parent or any of its Subsidiaries) under Treasury Regulations Section 1.1502-6 or under sections 159 and 160 of the Tax Act (or any similar provision of state, local, or non-U.S. Law), as transferee or successor or by contract.
- (h) No private letter rulings, technical advice memorandum, closing agreement, or similar agreements or rulings have been entered into or issued by any Governmental Authority with respect to Parent or any of its Subsidiaries that are binding on such entity in respect of any taxable year for which the statute of limitations has not yet expired.
- (i) Neither the Parent nor any of its Subsidiaries has participated in any “listed transaction” within the meaning of Treasury Regulations Section 1.6011-4 or has been a “controlled corporation” or a “distributing corporation” in any distribution that was purported or intended to be governed by Section 355 of the Code (or any similar provision of state, local or foreign Law) occurring during the two-year period ending on the date hereof.

Section 4.15 Real Property .

- (a) Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, Parent or a Subsidiary of Parent has good and valid fee title to such Parent Owned Real Property, and all real property owned by the Parent and its Subsidiaries relating to a restaurant, in each case free and clear of all Liens, except for Permitted Liens. “ **Parent Owned Real Property** ” means all real property, other than real property relating to a restaurant, owned as of the date of this Agreement by the Parent or any of its Subsidiaries.
- (b) Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect,
 - (i) Parent or a Subsidiary of Parent has a good and valid title to a leasehold or subleasehold estate in each Parent Specified Leased Real Property and all leased real property relating to a restaurant, (ii) each Parent Specified Real Property Lease and each lease of real property relating to a restaurant is in full force and effect; and (iii) neither Parent, any of its Subsidiaries that is party to each Parent Specified Real Property Lease, nor to the Knowledge of Parent, any other party to each Parent Specified Real Property Lease, is in material breach or default thereunder which material breach or default continues on the date of this Agreement, and neither Parent nor any of its Subsidiaries has received or given any written notice of any material breach or default under each Parent Specified Real Property Lease which default continues on the date of this Agreement. “ **Parent Specified Real Property Leases** ” means all leases, subleases and licenses (including all material amendments, extensions, renewals, guaranties and other agreements with respect thereto) of real property under which, as of the date of this Agreement, the Parent or any of its Subsidiaries is a tenant, licensee or a subtenant of any leasehold or subleasehold estate and other right to use or occupy any land, buildings, structures, improvements, fixtures or other interest in real property, other than (x) with respect to real property relating to a restaurant and (y) leases that do not provide for annual rent in excess of \$300,000 (“ **Parent Specified Leased Real Property** ”).
 - (c) Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect
 - (i) each Company Specified Real Property Landlord Lease is valid, binding and in full force and effect and (ii) neither Parent nor any of its Subsidiaries that is party to each Parent Specified Real Property Landlord Lease, nor to the Knowledge of Parent, any other party to each Parent Specified Real Property Landlord Lease, is in material breach or default thereunder which

material breach or default continues on the date of this Agreement, and neither Parent nor any of its Subsidiaries has received or given any written notice of any material breach or default under such Parent Specified Real Property Landlord Lease which default continues on the date of this Agreement. “ **Parent Specified Real Property Landlord Leases** ” means all leases, licenses, subleases or similar agreements under which Parent or any of its Subsidiaries conveys or grants to any Person a leasehold estate in, or the right to use or occupy, any Parent Owned Real Property or portion thereof, other (x) leases, licenses, subleases and similar arrangements with respect to real property relating to a restaurant and (y) leases, licenses, subleases and similar arrangements that do not provide for annual rent in excess of US\$300,000.

Section 4.16 Intellectual Property .

(a) Section 4.15(a) of the Parent Disclosure Letter sets forth a true and complete (in all material respects) list, as of the date of this Agreement, of all issued and registered Intellectual Property (including Internet domain names) or applications for issuance or registration of any Intellectual Property owned by Parent or any of its Subsidiaries (indicating for each, as applicable, the owner(s), jurisdiction and, as applicable, the application, patent or registration number and date). Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, Parent or one of its Subsidiaries is the sole and exclusive owner of all right, title and interest in and to, or has the valid and enforceable right to use all Intellectual Property used in, or that is necessary for, the conduct of the business of Parent or any of its Subsidiaries as currently conducted (collectively, the “ **Parent Intellectual Property** ”) and free and clear of any Liens, except Permitted Liens. All material issued and registered Parent Intellectual Property owned by Parent or any of its Subsidiaries and set forth in Section 4.15(a) of the Parent Disclosure Letter, including all registrations for the trademarks and service marks BURGER KING and BK in the jurisdictions set forth on Section 4.15(a) of the Parent Disclosure Letter for and to the extent such registrations cover any of the core products or services of Parent and any of its Subsidiaries, are valid, subsisting, and enforceable and in full force and effect. Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, the transactions contemplated by this Agreement (including the Arrangement and the Merger) shall not impair the right, title, or interest of Parent or any its Subsidiaries in or to any Parent Intellectual Property, and all of the Parent Intellectual Property shall be owned or available for use by Parent and its Subsidiaries on terms and conditions identical to those under which Parent and its Subsidiaries owned or used the Parent Intellectual Property immediately prior to the Closing.

(b) Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, no claims or other suits, actions or proceedings are currently pending (or were previously pending at any time since August 1, 2012 and remain unresolved) or, to the Knowledge of Parent, threatened against Parent or any of its Subsidiaries or the operation of Parent’s or any of its Subsidiaries’ respective businesses (including through any Company Franchisee or other licensee) that Parent or any of its Subsidiaries has infringed, misappropriated, diluted or otherwise violated any Intellectual Property of any other Person, or that contest the validity, use, registerability, ownership or enforceability of any of the Parent Intellectual Property (including any cancellation, opposition or similar proceedings), and, to the Knowledge of Parent, there is no reasonable basis for any such claim. Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, neither Parent nor any of its Subsidiaries nor the use of any Parent Intellectual Property, nor the operation of Parent’s or any of its Subsidiaries’ respective businesses (including through any Parent Franchisee or other licensee), infringes, misappropriates, dilutes or otherwise violates, or has at any time since August 1, 2012, infringed, misappropriated, diluted or otherwise violated, any Intellectual Property of any other Person. As of the date of this Agreement, no Person is infringing, misappropriating, diluting or otherwise violating the rights of Parent or any of its Subsidiaries with respect to any Parent Intellectual Property, except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. The Parent Intellectual

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Property owned by Parent or any of its Subsidiaries is not subject to any outstanding consent, settlement, lien, decree, order, injunction, judgment or ruling restricting use thereof in a manner that would reasonably be expected to materially impair the continued operation of Parent and its Subsidiaries' businesses in the ordinary course of business.

(c) Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, each of Parent and its Subsidiaries has taken commercially reasonable steps to maintain and protect the value, secrecy and confidentiality of its trade secrets and other material confidential information and to maintain, protect and enforce the other Parent Intellectual Property.

(d) Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, (i) each of Parent and its Subsidiaries is, and has been to the extent required by Law, in compliance with its posted privacy policies and all other related notices, policies and programs and all applicable data protection, privacy and other applicable Laws regarding the collection, use, storage, distribution, transfer, import, export, disposal or disclosure (in any form or medium) of any personally identifiable information, (ii) each of Parent and its Subsidiaries is, and has been confirmed by an independent security assessor to be, in compliance with the Payment Card Industry Data Security Standard during its last auditing period for such compliance, and (iii) since August 1, 2012, to the Knowledge of Parent, there have not been any incidents of data security breaches.

(e) Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, (i) the information technology systems, including the software, hardware, databases, networks, servers and related assets, owned, leased or licensed by Parent and its Subsidiaries are sufficient for the operation of the business; and (ii) Parent and its Subsidiaries maintain commercially reasonable security, disaster recovery and business continuity plans, procedures and facilities.

Section 4.17 Environmental Matters. Except for those matters that would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, (a) each of Parent and its Subsidiaries is, and has for the past five (5) years been, in compliance with all applicable Environmental Laws, and neither Parent nor any of its Subsidiaries has received any written communication alleging that Parent or any of its Subsidiaries is in violation of, or has any liability under, any Environmental Law, (b) each of Parent and its Subsidiaries possesses and is in compliance with all Authorizations required under applicable Environmental Laws to conduct its business as presently conducted, (c) there are no Environmental Claims pending or, to the Knowledge of Parent, threatened against Parent or any of its Subsidiaries, and (d) none of Parent or any of its Subsidiaries has Released or exposed any Person to, any Hazardous Materials, and no Hazardous Materials have been Released at, on, under or from any of the Parent Owned Real Property or the Parent Specified Leased Real Property, in a manner that would reasonably be expected to result in an Environmental Claim against Parent or any of its Subsidiaries.

Section 4.18 Insurance. Except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect, (a) Parent and its Subsidiaries maintain insurance in such amounts and against such risks as is sufficient to comply with applicable Law, (b) all insurance policies of Parent and its Subsidiaries are in full force and effect, except for any expiration thereof in accordance with the terms thereof, (c) neither Parent nor any of its Subsidiaries is in breach of, or default under, any such insurance policy, and (d) no written notice of cancellation or termination has been received with respect to any such insurance policy, other than in connection with ordinary renewals.

Section 4.19 Franchise Matters.

(a) Section 4.19(a) of the Parent Disclosure Letter sets forth a true and complete list of all (i) development agreements in which Parent or any of its Subsidiaries has granted exclusive rights to develop or operate or license others to develop or operate within one or more countries, states, provinces or other significant geographic areas and (ii) master franchise agreements (collectively, and for the avoidance of doubt excluding any single unit franchise agreements, the “**Parent Specified**

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Agreements”), in each case to which Parent or any of its Subsidiaries is a party or by which Parent or any of its Subsidiaries or its or their properties is bound (other than any such agreements between a Person and its Subsidiaries or among its Subsidiaries) and that grant or purport to grant to any Person the right to develop or operate or license others to develop or operate within one or more countries, states, provinces or other significant geographic areas any of the following (each, a “**Parent Franchise**”): “BURGER KING”.

(b) Section 4.19(b) of the Parent Disclosure Letter sets forth a true and complete list of the top twenty-five Parent Franchisees based upon the total royalties paid by each such Parent Franchisee to Parent or its Subsidiaries during the fiscal year 2013.

(c) Each of the Parent Specified Agreements is valid and binding on Parent or the Subsidiary of Parent party thereto and, to the Knowledge of Parent, each other party thereto, is in full force and effect, except for such failures to be valid and binding or to be in full force and effect that would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. There is no default under any Parent Specified Agreement by Parent or any of its Subsidiaries or, to the Knowledge of Parent, by any other party thereto, and no event has occurred that with the lapse of time or the giving of notice or both would constitute a default thereunder by Parent or any of its Subsidiaries or, to the Knowledge of Parent, by any other party thereto, in each case except as would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect. Except as set forth in Section 4.19(c) of the Parent Disclosure Letter, the execution and delivery by Parent of this Agreement do not, and the consummation of the Arrangement, the Merger and the other transactions contemplated by this Agreement and compliance with the provisions of this Agreement will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit under, or result in the creation of any Lien upon any of the properties or assets of Parent or any of its Subsidiaries under (other than any such Lien created from any action taken by a Company Party) or any right of rescission or set-off under, any provision of any Parent Specified Agreement other than any such conflicts, violations, defaults, rights, losses or Liens that would not, individually or in the aggregate, reasonably be expected to have a Parent Material Adverse Effect.

(d) Section 4.19(d) of the Parent Disclosure Letter sets forth a true and complete list of all Parent FDDs that Parent or any of its Subsidiaries have used to offer or sell Parent Franchises within Canada or the United States at any time since January 1, 2014. Parent has made available to the Company true and complete copies of each such Parent FDD. Except as would not, individually or in the aggregate, reasonably be expected to have a Company Material Adverse Effect, since August 1, 2013, Parent and its Subsidiaries have not, in any such Parent FDD or in any registration, application or filing with any Governmental Authority under any Canadian or United States Franchise Law, made any untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(e) Neither Parent nor any of its Subsidiaries is subject to any judgment that would prohibit or restrict the offer or sale of Parent Franchises in any jurisdiction.

(f) To the Knowledge of Parent, all funds administered by or paid to Parent or any of its Subsidiaries by or on behalf of one or more Parent Franchises at any time since August 1, 2013, including funds that Parent Franchises contributed for advertising and promotion and rebates and other payments made by suppliers and other third parties on account of Parent Franchises’ purchases from those suppliers and third parties, have been administered and spent in accordance in all material respects with the applicable franchise agreements, except where the failure to do so, either individually or in the aggregate, would not reasonably be expected to have a Parent Material Adverse Effect.

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(g) Either the Parent FDD or Section 4.19(g) of the Parent Disclosure Letter contains a summary of all material franchise-related arbitrations, litigation, class proceedings, material complaints or disputes, or other Litigations which are pending or, to the Knowledge of Parent, threatened (i) from any Parent Franchisee or association purporting to represent a group of Parent Franchisees or (ii) from any other Parent Franchisee except where such Litigation, either individually or in the aggregate, would not reasonably be expected to have a Parent Material Adverse Effect.

(h) The term “ **Parent FDD** ” means any franchise disclosure document used by Parent or any of its Subsidiaries in connection with the offer or sale of franchises in the United States or Canada. The term “ **Parent Franchisee** ” means a Person other than Parent or any of its Subsidiaries that is granted a right (whether directly by Parent or any of its Subsidiaries or by another Parent Franchisee) to develop or operate, or is granted a right to license others to develop or operate, a Parent Franchise within a specific geographic area or at a specific location.

Section 4.20 Quality and Safety of Food & Beverage Products. Since August 1, 2012, (a) there have been no recalls of any food or beverage product of Parent or any Subsidiary, whether ordered by a Governmental Authority or undertaken voluntarily by Parent or a Subsidiary; and (b) to the Knowledge of Parent, none of the food or beverage products of Parent or any Subsidiary have been adulterated, misbranded, mispackaged, or mislabeled in violation of applicable Law, or pose an inappropriate threat to the health or safety of a consumer when consumed in the intended manner, except as set forth in (a) and (b), either individually or in the aggregate, would not reasonably be expected to have a Parent Material Adverse Effect.

Section 4.21 Certain Business Practices. To the Knowledge of Parent, neither Parent nor any of its Subsidiaries (nor any of their respective officers, directors or employees), (a) has made or agreed to make any contribution, payment, gift or entertainment to, or accepted or received any contributions, payments, gifts or entertainment from, any government official, employee, political party or agent or any candidate for any federal, state, local or foreign public office, where either the contribution, payment or gift or the purpose thereof was illegal under the laws of any federal, state, local or foreign jurisdiction; or (b) has engaged in or otherwise participated in, assisted or facilitated any transaction that is prohibited by any applicable embargo or related trade restriction imposed by (i) the United States Office of Foreign Assets Control or any other agency of the United States government, (ii) the Corruption of Foreign Public Officials Act (Canada), or (iii) any other applicable Law of similar effect.

Section 4.22 Investment Canada. Parent is not a Canadian within the meaning of the Investment Canada Act.

Section 4.23 Information Supplied. The information relating to the Parent Parties, the Subsidiaries of Parent and their respective officers and directors that is or will be provided by Parent or its Representatives for inclusion in the Joint Information Statement/Circular and the Form S-4 will not, at the date it is filed with the SEC or, in the case of the Joint Information Statement/Circular, first mailed to the Company’s stockholders or delivered to Parent’s stockholders, or at the time of any amendment thereof, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Section 4.24 Voting Requirements. The Parent Shareholder Approval is the only vote of the holders of any class or series of capital stock of Parent necessary for the Parent to adopt this Agreement and approve the transactions contemplated hereby. The delivery of the Parent Shareholder Consent will constitute the Parent Shareholder Approval.

Section 4.25 Takeover Statutes. Assuming the accuracy of the representations and warranties of the Company set forth in Section 3.25, to the Knowledge of Parent, no Takeover Law applies or purports to apply to Parent with respect to this Agreement, the Arrangement, the Merger or any of the other transactions contemplated by this Agreement.

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Section 4.26 Brokers and Other Advisors . No broker, investment banker, financial advisor or other Person, other than Lazard Frères & Co. LLC (the “**Parent Financial Advisor**”), the fees and expenses of which will be paid by Parent, is entitled to any broker’s, finder’s or financial advisor’s fee or commission in connection with the Arrangement, the Merger and the transactions contemplated by this Agreement or the Plan of Arrangement based upon arrangements made by or on behalf of Parent. True and complete copies of the engagement letters with the Parent Financial Advisor have been delivered to the Company.

Section 4.27 Opinion of Financial Advisor . The Parent Board of Directors has received the Parent Fairness Opinion from the Parent Financial Advisor. A true, correct and complete copy of the Parent Fairness Opinion will be provided by Parent to the Company not later than two (2) Business Days after the date hereof for informational purposes only.

Section 4.28 No Other Representations and Warranties . Except for the representations and warranties made by Parent in this Article 4 together with the certificates and other documents delivered by Parent pursuant hereto, neither Parent nor any other Person makes any express or implied representation or warranty with respect to Parent or any of its Subsidiaries or their respective businesses, assets, operations, liabilities, condition (financial or otherwise) or prospects, and Parent hereby disclaims any such other representations or warranties. In particular, without limiting the foregoing disclaimer, except for the representations and warranties made by Parent in this Article 4 together with the certificates and other documents delivered by Parent pursuant hereto, neither Parent nor any other Person makes or has made any representation or warranty to the Company or any of its Representatives, with respect to (a) any financial projection, forecast, estimate, budget or prospective information relating to Parent, any Subsidiary of Parent or their respective businesses or operations or (b) any oral or written information furnished or made available to the Company or any of its Representatives in the course of its due diligence investigation of Parent and its Subsidiaries, the negotiation of this Agreement or the consummation of the transactions contemplated by this Agreement, including the accuracy, completeness or currentness thereof, and neither Parent nor any other Person will have any liability to the Company or any other Person in respect of such information, including any subsequent use of such information, except in the case of fraud.

ARTICLE 5 **REPRESENTATIONS AND WARRANTIES OF HOLDINGS.**

Parent and Holdings represent and warrant to the Company as follows:

Section 5.1 Organization, Standing and Power .

(a) Each of Holdings, Partnership, Merger Sub and Amalgamation Sub is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization and has all requisite power and authority to carry on its business as presently conducted.

(b) Each of Holdings and Partnership has all requisite power and authority to execute and deliver this Agreement and the other agreements contemplated hereby and to consummate the transactions contemplated hereby and thereby, including the Arrangement, the Merger and the Financing. The execution and delivery of this Agreement and the other agreements contemplated hereby by each of Holdings and Partnership and the consummation of the transactions contemplated by, and compliance with the provisions of, this Agreement and the other agreements contemplated hereby, including the Arrangement, the Merger and the Financing, by Holdings and Partnership have been duly authorized by all necessary action on the part of Holdings and Partnership, respectively, and no other proceedings (including any stockholder action) on the part of Holdings or Partnership is necessary to authorize this Agreement and the other agreements contemplated hereby or to consummate the transactions contemplated hereby and thereby, including the Arrangement, the Merger and the Financing. This Agreement has been duly executed and delivered by each of Holdings and Partnership and, assuming the due authorization, execution and delivery by the other Parties hereto, constitutes a legal, valid and

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binding obligation of each of Holdings and Partnership, enforceable against each of Holdings and Partnership in accordance with its terms, subject, as to enforceability, to the Bankruptcy and Equity Exception.

(c) Each of Merger Sub and Amalgamation Sub has all requisite corporate power and authority to execute and deliver this Agreement and the other agreements contemplated hereby and to consummate the transactions contemplated by this Agreement and thereby, including the Arrangement, the Merger and the Financing. The execution and delivery of this Agreement and the other agreements contemplated hereby by each of Merger Sub and Amalgamation Sub and the consummation of the transactions contemplated by, and compliance with the provisions of, this Agreement and the other agreements contemplated hereby, including the Arrangement, the Merger and the Financing, by each of Merger Sub and Amalgamation Sub have been duly authorized by all necessary corporate action on the part of each of Merger Sub and Amalgamation Sub, and no other corporate proceedings (including any stockholder action) on the part of Merger Sub or Amalgamation Sub are necessary to authorize this Agreement and the other agreements contemplated hereby or to consummate the transactions contemplated by this Agreement and thereby, including the Arrangement, the Merger and the Financing. This Agreement has been duly executed and delivered by each of Merger Sub and Amalgamation Sub and, assuming the due authorization, execution and delivery by the other Parties hereto, constitutes a legal, valid and binding obligation of each of Merger Sub and Amalgamation Sub, enforceable against each of Merger Sub and Amalgamation Sub in accordance with its terms, subject, as to enforceability, to the Bankruptcy and Equity Exception.

(d) The execution and delivery of this Agreement and the other agreements contemplated hereby by each of Holdings, Partnership, Merger Sub and Amalgamation Sub does not, and the consummation of the Merger, the Arrangement and the other transactions contemplated by this Agreement and the other agreements contemplated hereby, as applicable, and compliance with the provisions of this Agreement and the other agreements contemplated hereby will not, conflict with, or result in any violation or breach of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to the loss of a benefit under, or result in the creation of any Lien upon any of the properties or assets of such Parent Party or any of its Subsidiaries under (other than any such Lien created as a result of any action taken by the Company), any provision of (a) the organizational documents of such Parent Party or any of its Subsidiaries, or (b) subject to the filings and other matters referred to in the immediately following sentence, and assuming the accuracy of the representations and warranties of the Company set forth in Article 3, (i) any Contract to which such Parent Party or any of its Subsidiaries is a party or by which any of their respective properties or assets are bound, (ii) any Law or Order, in each case applicable to such Parent Party or any of its Subsidiaries or any of their respective properties or assets, or (iii) any Authorizations of such Parent Party or its Subsidiaries, other than, in the case of clause (b) above, any such conflicts, violations, defaults, rights, losses or Liens that would not, individually or in the aggregate, reasonably be expected to have a material adverse effect on the ability of such Parent Party to consummate the transactions contemplated by this Agreement and the other agreements contemplated hereby. No Authorization, Order, waiver of, action or nonaction by, or filing with, or notice to, any Governmental Authority is required to be obtained or made by or with respect to any of Holdings, Partnership, Merger Sub, Amalgamation Sub or any of their respective Subsidiaries in connection with the execution and delivery of this Agreement and the other agreements contemplated hereby by such Parent Party or the consummation by such Parent Party of the transactions contemplated by this Agreement and the other agreements contemplated hereby, except for (A) such filings and other actions required under applicable Canadian Securities Laws and the U.S. Securities Laws (including any state or provincial securities Laws) and the rules and policies of the NYSE, in each case, as are contemplated by this Agreement, including the filing with the SEC of the Joint Information Statement/Circular and Form S-4, (B) the Required Regulatory Approvals, (C) the filing of the Certificate of Merger with the Secretary of State of the State of Delaware, and (D) any Permits and filings and notifications with respect to which the failure to obtain or make the same would not reasonably be expected to be material to such Parent Party and its Subsidiaries, taken as a whole, or to have a material adverse effect on

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the ability of such Parent Party to consummate the transactions contemplated by this Agreement and the other agreements contemplated hereby.

Section 5.2 Prior Operations. Since their respective dates of formation, none of Holdings, Partnership, Merger Sub or Amalgamation Sub have carried on any business or conducted any operations other than the execution of this Agreement, the performance of their respective obligations hereunder and matters ancillary hereto.

Section 5.3 Capital Structure.

(a) As of the date hereof, the authorized share capital of Holdings consists of an unlimited number of Holdings Common Shares, of which one (1) Holdings Common Share is issued and outstanding. As of the Closing Date (assuming the prior completion of the conversion and continuance of Holdings as a corporation under the federal laws of Canada in accordance with Section 7.13(c) and upon the amendment and restatement of the Certificate of Incorporation of Holdings in accordance with Section 7.13(c)), the authorized share capital of Holdings will consist of an unlimited number of Holdings Common Shares, 30,000 Holdings Preferred Shares and one Special Voting Share. The entire number of Holdings Common Shares (other than the one (1) Holdings Common Share outstanding as of the date hereof) and Holdings Preferred Shares that will be issued and outstanding immediately following the Closing will be determined solely pursuant to and in accordance with the Plan of Arrangement and this Agreement, the Equity Financing and, solely if the Alternative Financing Period occurs, the Alternative Financing and the Special Voting Share will be held by the Trustee. The Holdings Common Shares to be issued as Arrangement Consideration and Merger Consideration pursuant to the Plan of Arrangement and this Agreement and the Special Voting Share (a) will be duly authorized, and, upon issuance, will be validly issued, fully paid and not subject to calls for any additional payments (non-assessable) and not subject to preemptive rights, (b) will not be issued in violation of the New Holdings Articles of Amendment or New Holdings Bylaws or other organizational documents of Holdings, as the case may be, or any agreement, contract, covenant, undertaking, or commitment to which Holdings is a party or bound, and (c) other than solely pursuant to and in accordance with the Plan of Arrangement and this Agreement and the Equity Financing, as of immediately following the Closing, there will be no other issued or outstanding Equity Interests in Holdings or any other issued or outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase rights, agreements, arrangements, calls, commitments or other rights of any kind that obligate Holdings to issue or sell any Equity Interest in Holdings to any Person.

(b) As of the Closing Date, Partnership is, and during the entire period prior to the Closing will be a wholly-owned Subsidiary of Holdings. As of the Closing Date (assuming the prior effectiveness of the conversion and registration of Partnership as a limited partnership under the laws of Ontario in accordance with Section 7.13(e) and upon the amendment and restatement of the Partnership Agreement in accordance with Section 7.13(e)), the Exchangeable Units to be issued as Merger Consideration pursuant to this Agreement, the general partnership interest held by Holdings, the limited partnership interest held by 8997896 Canada Inc. and the limited partnership units to be issued to Holdings pursuant to Section 7.15 (a) will be duly authorized and, upon issuance, will be validly issued in accordance with the Partnership Agreement, fully paid (to the extent required under the Partnership Agreement), not subject to calls for any additional payments (non-assessable) and not subject to preemptive rights, (b) will not be issued in violation of the Partnership Agreement or any agreement, contract, covenant, undertaking, or commitment to which Partnership is a party or bound, and (c) will represent all of the issued and outstanding units or other interests in Partnership and, other than solely pursuant to and in accordance with the Plan of Arrangement and this Agreement, the Equity Financing and, solely if the Alternative Financing Period occurs, the Alternative Financing, there will be no other issued or outstanding Equity Interests in the Partnership or any other issued or outstanding rights, options, warrants, conversion rights, stock appreciation rights, redemption rights, repurchase

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rights, agreements, arrangements, calls, commitments or other rights of any kind that obligate Partnership to issue or sell any units or other interest in Partnership to any Person.

(c) All of the authorized share capital of Merger Sub and Amalgamation Sub is held directly or indirectly by Holdings and has been validly issued, free and clear of any Lien.

Section 5.4 Financing. Parent has delivered to the Company true, correct and complete copies of (a) an executed securities purchase agreement dated on or about the date hereof (the “**Equity Purchase Agreement**”) pursuant to which Berkshire Hathaway Inc. (the “**Equity Financing Source**”) will purchase certain equity securities of Holdings, subject to the terms and conditions therein, for cash consideration in the aggregate amount set forth therein (being collectively referred to as the “**Equity Financing**”), and (b) an executed commitment letter and corresponding fee letter from the Debt Financing Sources related to such Debt Commitment Letter (with only the fee amounts, pricing flex, interest rates (and pricing caps), securities demand and other economic terms of the market flex (none of which would reasonably be expected to adversely affect the amount or availability of the Debt Financing) redacted) dated on or about the date hereof (such letters collectively, the “**Debt Commitment Letter**” and, together with the Equity Purchase Agreement, the “**Financing Letters**”) from the financial institutions identified therein (and together with their permitted assignees, the “**Debt Financing Sources**”) to provide, subject to the terms and conditions therein, debt financing to Holdings or its Affiliate in the amounts set forth therein for the purpose of funding the transactions contemplated by this Agreement (being collectively referred to as the “**Debt Financing**” and together with the Equity Financing collectively referred to as the “**Financing**”). As of the date hereof, none of the Equity Purchase Agreement or Debt Commitment Letter has been amended or modified, no such amendment or modification is contemplated, and none of the respective obligations and commitments contained in such letters have been withdrawn, terminated, rescinded, amended or modified in any respect. Holdings or its Affiliate has fully paid any and all commitment fees or other fees in connection with the Equity Purchase Agreement and the Debt Commitment Letter that are payable on or prior to the date hereof. Assuming the Financing is funded in accordance with the Equity Purchase Agreement and the Debt Commitment Letter, as applicable, the net proceeds contemplated by the Equity Purchase Agreement and Debt Commitment Letter, together with Parent cash, will in the aggregate be sufficient for the Parent Parties and the Surviving Company to, on and after the Closing Date, (i) pay the aggregate Arrangement Cash Consideration, (ii) pay for any refinancing of any outstanding indebtedness of the Company and Parent contemplated by this Agreement or the Financing Letters and (iii) pay any and all other amounts required for the consummation of the transactions contemplated by this Agreement, including fees and expenses required to be paid by the Parent Parties to the Surviving Company in connection with the Merger, the Arrangement, the other transactions contemplated hereby, the Financing, and the refinancing referred to in (ii) above (such payments, the “**Required Payments**”). The Financing Letters are in full force and effect as of the date hereof, the Debt Commitment Letter constitutes a valid and binding obligation of Holdings and Parent and, to the knowledge of Holdings and Parent, each other party thereto, enforceable against such party in accordance with its terms, subject to the Bankruptcy and Equity Exception, and the Equity Purchase Agreement constitutes a valid and binding obligation of each party thereto, enforceable against such party in accordance with its terms, subject to the Bankruptcy and Equity Exception. No event has occurred which, with or without notice, lapse of time or both, would or would reasonably be expected to (A) constitute a default or breach on the part of Holdings or Parent or their respective Affiliates or, to the knowledge of Holdings and Parent, any other party thereto, under any term of the Financing, (B) to the Knowledge of Parent, constitute a failure of any condition to the Financing or (C) to the knowledge of Holdings and Parent otherwise result in any portion of the Financing being unavailable on the Closing Date. Neither Holdings nor Parent has any reason to believe that any of the conditions to the Financing will not be satisfied or that the Financing will not be available to Holdings or its Affiliates in the full contemplated amount at the time required to consummate the Closing. There are no conditions precedent or contingencies to the obligations of the parties under the Financing Letters (including pursuant to any “flex” provisions in the related fee letter or otherwise) to make the full amount of the Financing available to Holdings or its Affiliate on the terms therein except as expressly set forth in the Financing Letters. As of the date hereof, there are no side letters or other Contracts to which Holdings, Parent or any of their respective Affiliates is a party related to the funding or investing, as applicable, of the full amount of the Financing, which expand the conditions precedent to the Financing.

Section 5.5 No Other Representations and Warranties. Except for the representations and warranties made by Holdings and Parent in this Article 5 together with the certificates and other documents delivered pursuant hereto, none of Holdings, Partnership, Merger Sub or Amalgamation Sub or any other Person makes any express or implied representation or warranty with respect to Holdings, Partnership, Merger Sub or Amalgamation Sub or any Subsidiary of Holdings, Partnership, Merger Sub or Amalgamation Sub or their respective businesses, assets, operations, liabilities, condition (financial or otherwise) or prospects, and Holdings, Partnership, Merger Sub and Amalgamation Sub, respectively, hereby disclaim any such other representations or warranties. In particular, without limiting the foregoing disclaimer, except for the representations and warranties made by Parent and Holdings in this Article 5, none of Holdings, Partnership, Merger Sub or Amalgamation Sub or any other Person makes or has made any representation or warranty to the Company or any of its Representatives, with respect to (a) any financial projection, forecast, estimate, budget or prospective information relating to Holdings, Partnership, Merger Sub or Amalgamation Sub, any Subsidiary of Holdings, Partnership, Merger Sub or Amalgamation Sub or their respective businesses or operations or (b) any oral or written information furnished or made available to the Company or any of its Representatives in the course of its due diligence investigation of Holdings, Partnership, Merger Sub and Amalgamation Sub, the negotiation of this Agreement or the consummation of this transaction and the other transactions contemplated by this Agreement, including the accuracy, completeness or currentness thereof, and none of Holdings, Partnership, Merger Sub or Amalgamation Sub or any other Person will have any liability to the Company or any other Person in respect of such information, including any subsequent use of such information, except in the case of fraud.

ARTICLE 6

COVENANTS REGARDING THE CONDUCT OF BUSINESS

Section 6.1 Operations of the Company. The Company covenants and agrees that, until the earlier of the Closing and the time that this Agreement is terminated in accordance with its terms, unless Parent consents in writing (which consent shall not be unreasonably withheld, conditioned or delayed) or as is otherwise disclosed in Section 6.1 of the Company Disclosure Letter or expressly permitted or specifically contemplated by this Agreement or the Plan of Arrangement or as is required by applicable Law or Order:

(a) the Company and each of its Subsidiaries will (i) conduct business only in the ordinary course of business and (ii) use all commercially reasonable efforts to (A) preserve intact its current business organization, (B) keep available the services of its current officers and employees, and (C) preserve its relationships with significant Company Franchisees, customers, suppliers, licensors, licensees, distributors, wholesalers, lessors and other Persons having material business dealings with the Company and its Subsidiaries, as applicable;

(b) the Company will not, and will not permit any of its Subsidiaries to, directly or indirectly:

(i) alter or amend its articles, charter, bylaws or other organizational documents;

(ii) other than dividends in respect of the Company Common Shares, which shall be subject to Section 7.14, and the settlement of any Company Equity Awards outstanding as of the date of this Agreement in accordance with their terms and conditions as in effect as of the date of this Agreement, make any distribution or payment or return of capital, or set any record date therefore, in each case (x) in respect of the Company Common Shares or (y) in respect of the Equity Interests of any Subsidiary of the Company that is not directly or indirectly wholly owned by the Company;

(iii) (A) split, divide, subdivide, consolidate, combine or reclassify the Company Common Shares or authorize the issuance of any other securities in lieu of, or in substitution for, shares of its capital stock or (B) amend the material terms of any securities of the Company or any of its Subsidiaries;

(iv) issue, deliver, grant, sell or pledge or authorize, or agree to issue, deliver, grant, sell or pledge, any Company Common Shares or other voting securities or Equity Interests of the

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Company or its Subsidiaries (including Company Options or any equity-based or equity-linked awards such as restricted or deferred share units or phantom share plans), or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, Company Common Shares or other voting securities or Equity Interests of the Company or its Subsidiaries, other than (A) the issuance of Company Common Shares issuable pursuant to the exercise or settlement of Company Equity Awards outstanding on the date hereof in accordance with their terms as in effect on the date hereof or (B) as required to comply with any Company Benefit Plan or Company Benefit Agreement as in effect as of the date of this Agreement;

(v) redeem, purchase or otherwise acquire any outstanding Company Common Shares or other securities or securities convertible into or exchangeable or exercisable for Company Common Shares or any such other securities, other than (A) in transactions between two or more Company wholly-owned Subsidiaries or between the Company and a Company wholly-owned Subsidiary, (B) the acquisition by the Company of Company Common Shares in connection with the surrender of Company Common Shares by holders of Company Options in order to pay the exercise price of the Company Options, (C) the withholding of Company Common Shares to satisfy tax obligations with respect to Company Equity Awards, and (D) the acquisition by the Company of Company Equity Awards in connection with the forfeiture of such awards;

(vi) except as required by applicable Law, any Company Benefit Plan or Company Benefit Agreement or this Agreement (including, for avoidance of doubt, Section 7.4), (A) grant any increases in the compensation of any of its directors, executive officers or employees, except for increases in the ordinary course of business consistent with past practice (including with respect to amount) (1) in connection with promotions made in the ordinary course of business consistent with past practice or (2) in the compensation of employees at the level below vice president; (B) (1) grant or increase any severance, change in control, termination or similar compensation or benefits payable to any director, officer or employee, (2) accelerate the time of payment or vesting of, or the lapsing of restrictions with respect to, or fund or otherwise secure the payment of, any compensation or benefits under any Company Benefit Plan or Company Benefit Agreement, or (3) enter into, or terminate or amend any Company Benefit Plan or Company Benefit Agreement (or any plan, program, agreement, or arrangement that would constitute a Company Benefit Plan or Company Benefit Agreement if in effect on the date hereof), other than entry into, termination or amendment of any Company Benefit Plan in a manner that would not increase costs to the Company, Parent, Holdings or any of their respective Affiliates by more than a de minimis amount; (C) hire any Person to be employed by the Company or any of its Subsidiaries or terminate without cause the employment of any employee of the Company or any of its Subsidiaries, other than the hiring or firing of employees at the level of vice president or below in the ordinary course of business consistent with past practice or to fill vacancies at the level of vice president or below; (D) grant any equity or equity-based awards; or (E) amend any performance targets with respect to any outstanding bonus or equity awards, provided that the satisfaction of performance targets may be calculated and adjusted in the ordinary course of business consistent with past practice (including, to the extent applicable, the exclusion of costs related to the transactions contemplated by the Agreement);

(vii) (A) adopt a plan of liquidation or resolution providing for the liquidation or dissolution of the Company or any of its Subsidiaries or (B) reorganize, amalgamate or merge the Company or any of its Subsidiaries with any other Person (including the Company or any of its Subsidiaries);

(viii) make any material changes to any of its financial accounting policies, principles, methods, practices or procedures (including by adopting any material new financial accounting policies, principles, methods, practices or procedures), except as required by (A) applicable Laws, including Canadian Securities Laws and U.S. Securities Laws, or (B) GAAP (or any interpretation

thereof), including pursuant to standards, guidelines and interpretations of the Financial Accounting Standards Board of the SEC or any similar organization or Governmental Authorities;

(ix) sell, pledge, lease, license, transfer dispose of, abandon or encumber any assets or properties of the Company (including the Equity Interests of any Subsidiary of the Company) or of any of its Subsidiaries other than (A) (x) inventory in the ordinary course of business or equipment that is no longer used or useful in the operations of the Company or any of its Subsidiaries or (y) real property in the ordinary course of business that was used by a restaurant that was closed in accordance with the terms of this Agreement, (B) the non-exclusive licensing or sublicensing (or abandonment) of Intellectual Property in the ordinary course of business, or (C) other sales, pledges, leases, licenses, dispositions, abandonments or encumbrances for aggregate consideration of C\$25,000,000 or less in the aggregate;

(x) (A) acquire (by merger, amalgamation, consolidation, arrangement or acquisition of shares or other Equity Interests or interests or assets or otherwise) any corporation, partnership, association or other business organization or division thereof or (other than in the ordinary course of business, such as the purchase of supplies, equipment and inventory) any property or asset or (B) make any investment by the purchase of securities, contribution of capital, property transfer, or (other than in the ordinary course of business, such as the purchase of supplies, equipment and inventory) purchase of any property or assets of any other Person in either case, that, together with all other such acquisitions, investments, contributions, transfers or purchases, has a value greater than C\$40,000,000 in the aggregate;

(xi) incur or assume any long-term indebtedness or incur or assume any short-term indebtedness, enter into any capital leases or similar purchase money indebtedness, issue or sell any debt securities, or assume, guarantee, endorse or otherwise as an accommodation become responsible for any such indebtedness or debt securities of any other Person, in each case other than (1) indebtedness incurred, assumed, or otherwise entered into in the ordinary course of business, (2) indebtedness incurred in connection with the refinancing of any indebtedness existing on the date of this Agreement or permitted to be incurred, assumed or otherwise entered into hereunder on the same terms and conditions of such indebtedness, and (3) indebtedness incurred, assumed or otherwise entered into pursuant to the Company's existing credit facilities (including in respect of letters of credit) in an amount not to exceed C\$40,000,000 in the aggregate, unless, in the case of clause (1), (2) or (3), such indebtedness would not permit compliance with or would constitute a breach of Section 7.9;

(xii) make any loans or capital contributions to, or investments in, any other Person in excess of C\$50,000,000 in the aggregate, other than (A) to any Subsidiary of the Company or (B) pursuant to clause (xi) above

(xiii) enter into any material currency, commodity, interest rate or equity related hedge, derivative, swap or other financial risk management Contract, other than in the ordinary course of business;

(xiv) pay, discharge or satisfy any claim or voluntarily waive, release, assign, settle or compromise any Litigation, other than the such payment, discharge, satisfaction, waiver, release, assignment, settlement or compromise (A) that requires payments by the Company or any of its Subsidiaries (net of insurance proceeds) in an amount not to exceed C\$5,000,000 individually or C\$20,000,000 in the aggregate (B) with respect to claims or Litigation disclosed, reflected or reserved against in the Company Financial Statements for an amount not materially in excess of the amount so disclosed, reflected or reserved; provided, however, that the foregoing clauses (A) and (B) shall not permit the Company or any of its Subsidiaries to pay, discharge, satisfy, waive, release, assign, settle or compromise any Litigation that would impose any material restrictions or changes on the business or operations of the Company or any of its Subsidiaries or their respective businesses and operations;

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(xv) (A) enter into any new line of business or enterprise or (B) enter into a new joint venture investment agreement or any material development agreement for multiple locations, both of the foregoing in any geographic market in which the Company or any of its Subsidiaries does not currently conduct its operations as of the date hereof;

(xvi) expend or commit to expend any amounts with respect to capital expenses, where any such expenditures or commitments exceed, in the aggregate, the amount set forth in Section 6.1(b)(xvi) on the Company Disclosure Letter by more than five percent;

(xvii) other than in the ordinary course of business or with respect to restaurant (A) enter into any lease or sublease of real property (whether as a lessor, sublessor, lessee or sublessee), with individual annual rents in excess of C\$200,000 or aggregate annual rents in excess of C\$500,000, or (B) terminate, modify, amend or exercise any right to renew any Company Specified Real Property Lease or Specified Real Property Landlord Lease, with individual annual rents in excess of C\$200,000 or aggregate annual rents in excess of C\$500,000, or (C) acquire any interest in real property with a purchase price in excess of C\$1,000,000;

(xviii) other than in the ordinary course of business (A) enter into any Contract that would, if entered into prior to the date hereof, be a Company Material Contract, or (B) materially modify, materially amend or terminate any Company Material Contract or waive, release or assign any material rights or claims thereunder;

(xix) other than as permitted by clauses (iv) or (vi) above, enter into any Contract, transaction or arrangement between the Company and any Affiliate, shareholder, director, officer, partner, managing member of the Company, other than a Contract, transaction or arrangement solely between two or more wholly-owned Subsidiaries of the Company or solely between the Company and a wholly-owned Subsidiary of the Company; or

(xx) other than in the ordinary course of business, fail to use commercially reasonable efforts to maintain in full force and effect the existing material insurance policies covering the Company or its Subsidiaries;

(xxi) make, change, revoke or rescind any material election relating to Taxes (including any “check-the-box” election pursuant to Treasury Regulations Section 301.7701-3), make any material amendment with respect to any material Return, settle or compromise any material Tax liability for an amount that exceeds the amount disclosed, reflected or reserved against in the Company Interim Financial Statements, request any rulings from or enter into any closing agreement with any tax authority (except in connection with a settlement of a tax liability for an amount that does not exceed the amount disclosed, reflected or reserved against in the Company Interim Financial Statements), surrender any right to claim a material Tax refund, change an annual accounting period for Tax purposes, or change any material accounting method for Tax purposes, except, in each case, for actions taken in the ordinary course of business;

(xxii) take any action (including any merger, reorganization, restructuring or similar transaction involving the Company or any of its Subsidiaries) that would reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement or the Merger;

(xxiii) make any material change to the terms of the Company’s or any of its Subsidiaries’ policies or procedures with respect to its relationships with any of its franchisees, including (A) any material change to the terms of policies relating to franchisee rent, royalty or advertising funds, (B) any new material program or plan, or any material modification to any existing program or plan providing any franchisee incentives or franchisee economic assistance, or (C) any commitment to provide assistance with any single restaurant remodel to be completed later than one (1) year following the date of the applicable commitment letter or in the aggregate for such single restaurant resulting in expenditures by the Company and its Subsidiaries in excess of fifty

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percent (50%) of the “total expenditure” for any such single remodel (and for this purpose “total expenditure” shall mean the average total expenditure for a remodel of the type of restaurant subject to the commitment for the 12 months prior to the date, increased by 10%);

(xxiv) implement any employee layoffs not in compliance with the Worker Adjustment and Retraining Notification Act of 1988 or any similar Law;

(xxv) take any action set forth in Section 6.1(b)(xxv) of the Company Disclosure Letter; or

(xxvi) from and after the Closing Date enter into a Contract or other commitment to do any of the foregoing, or to authorize, recommend, propose or announce an intention to do any of the foregoing.

Nothing in this Section 6.1 shall give Parent or any Parent Party the right to control, directly or indirectly, the operations or the business of the Company or any of its Subsidiaries at any time prior to the Closing.

Section 6.2 Operations of Parent.

(a) Each Parent Party covenants and agrees that, until the earlier of the Closing and the time that this Agreement is terminated in accordance with its terms, unless the Company consents in writing (which consent shall not be unreasonably withheld, conditioned or delayed) or as is otherwise disclosed in Section 6.2 of the Parent Disclosure Letter or expressly permitted or specifically contemplated by this Agreement or as is otherwise required by applicable Law or Order; provided that, notwithstanding the obligations set forth in this Section 6.2, during the Alternative Financing Period, if any, Parent and its Subsidiaries shall be permitted to, directly or indirectly, take any action otherwise prohibited by Section 6.2(b)(v), (b)(viii), (b)(ix) and (only with respect to (b)(viii) or (b)(ix)) (b)(xiv) if it determines in good faith that it is reasonably necessary in connection with obtaining, solely if the Alternative Financing Period occurs, during the Alternative Financing Period, some or all of the Alternative Financing:

(i) Each Parent Party and each of their respective Subsidiaries will (i) conduct business only in the ordinary course of business and (ii) use all commercially reasonable efforts to (A) preserve intact its current business organization, (B) keep available the services of its current officers and employees, and (C) preserve its relationships with significant Parent Franchisees, customers, suppliers, licensors, licensees, distributors, wholesalers, lessors and other Persons having material business dealings with the Parent Parties and their Subsidiaries, as applicable;

(b) No Parent Party will, nor will any Parent Party permit any of its Subsidiaries to, directly or indirectly:

(i) alter or amend its articles, charter, bylaws or other organizational documents;

(ii) declare, set aside or pay any dividend on or make any distribution (whether in cash, stock or property) or payment or return of capital, or set any record date therefore, in each case (x) in respect of the Equity Interests of such Parent Party or (y) in respect of the Equity Interests of any Subsidiary of such Parent Party that is not directly or indirectly wholly owned by such Parent Party, in each case other than (A) quarterly cash dividends with record dates and payment dates within the ranges of dates identified in Section 6.2(b)(ii) of the Parent Disclosure Letter with respect to Parent Common Shares in an amount not to exceed the amount set forth on Section 6.2(b)(ii) of the Parent Disclosure Letter or (B) dividends or distributions by a direct or indirect wholly-owned Subsidiary of Parent to its parent in the ordinary course of business;

(iii) (A) split, divide, subdivide, consolidate, combine or reclassify the Equity Interests of such Parent Party or authorize the issuance of any other securities in lieu of, or in substitution for, shares of capital stock or (B) amend the material terms of any securities of such Parent Party or its Subsidiaries;

(iv) (A) adopt a plan of liquidation or resolution providing for the liquidation or dissolution of Parent or any of its Subsidiaries or (B) reorganize, amalgamate or merge with any other Person;

(v) issue, deliver, grant, sell or pledge or authorize, or agree to issue, deliver, grant, sell or pledge, any Equity Interests of such Parent Party or other voting securities of such Parent Party or its Subsidiaries (including Parent Options or any equity-based or equity-linked awards such as restricted or deferred share units or phantom share plans), or securities convertible into or exchangeable or exercisable for, or otherwise evidencing a right to acquire, Parent Common Shares or other voting securities or Equity Interests of any Parent Party or its Subsidiaries, other than (A) the issuance of Parent Common Shares issuable pursuant to the exercise or settlement of Parent Equity Awards outstanding on the date hereof in accordance with their terms as in effect on the date hereof or (B) as required to comply with any Parent Benefit Plan or Parent Benefit Agreement as in effect as of the date of this Agreement;

(vi) redeem, purchase or otherwise acquire any outstanding Equity Interests of any such Parent Party or other securities or securities convertible into or exchangeable or exercisable for Equity Interests of such Parent Party or any such other securities, other than (A) in transactions between two or more wholly-owned Subsidiaries of such Parent Party or between such Parent Party and a wholly-owned Subsidiary of such Parent Party, (B) the acquisition by Parent of Parent Common Shares in connection with the surrender of Parent Common Shares by holders of Parent Options in order to pay the exercise price of the Parent Options, (C) the withholding of Parent Common Shares to satisfy tax obligations with respect to Parent Equity Awards, and (D) the acquisition by Parent of Parent Equity Awards in connection with the forfeiture of such awards;

(vii) (A) acquire (by merger, amalgamation, consolidation, arrangement or acquisition of shares or other Equity Interests or interests or assets or otherwise) any corporation, partnership, association or other business organization or division thereof or (other than in the ordinary course of business, such as the purchase of supplies, equipment and inventory) any property or asset, (B) make any investment by the purchase of securities, contribution of capital, property transfer or (other than in the ordinary course of business, such as the purchase of supplies, equipment and inventory) purchase of any property or assets of any other Person, or (C) make any loans or capital contributions to, or investments in, any other Person, in each case, that, together with all other such acquisitions, investments, contributions, transfers or purchases, has a value greater than U.S.\$40,000,000 in the aggregate;

(viii) Except as set forth on Section 6.2(b)(viii) of the Parent Disclosure Letter, sell, pledge, lease, license, transfer, dispose of, abandon or encumber any assets or properties of any such Parent Party (including the Equity Interests of any Subsidiary of such Parent Party) or of any of its Subsidiaries other than (A) (x) inventory in the ordinary course of business or equipment that is no longer used or useful in the operations of Parent or any of its Subsidiaries or (y) real property in the ordinary course of business that was used by a restaurant that was closed in accordance with the terms of this Agreement, (B) the non-exclusive licensing or sublicensing (or abandonment) of Intellectual Property in the ordinary course of business, or (C) other sales, pledges, leases, licenses, dispositions, abandonments or encumbrances (other than in any case any Equity Interests in a Parent Party) for aggregate consideration of U.S.\$25,000,000 or less in the aggregate;

(ix) incur or assume any long-term indebtedness or incur or assume any short-term indebtedness, enter into any capital leases or similar purchase money indebtedness, issue or sell any debt securities, or assume, guarantee, endorse or otherwise as an accommodation become responsible for any such indebtedness or debt securities of any other Person in each case other than (1) indebtedness incurred, assumed, or otherwise entered into in the ordinary course of business, (2) indebtedness incurred in connection with the refinancing of any indebtedness existing on the date of this Agreement or permitted to be incurred, assumed or otherwise entered into hereunder on the same terms and conditions of such indebtedness, or (3) indebtedness

incurred, assumed or otherwise entered into pursuant to Parent's existing credit facilities in an amount not to exceed U.S.\$30,000,000 in the aggregate unless, in either case, such indebtedness would not permit compliance with or would constitute a breach of Section 7.9;

(x) make any material changes to any of its financial accounting policies, principles, methods, practices or procedures (including by adopting any material new financial accounting policies, principles, methods, practices or procedures), except as required by (A) applicable Laws, including U.S. Securities Laws, or (B) GAAP (or any interpretation thereof), including pursuant to standards, guidelines and interpretations of the Financial Accounting Standards Board of the SEC or any similar organization or Governmental Authorities;

(xi) (A) enter into any material new line of business or enterprise or (B) enter into a new joint venture investment agreement, exclusive development agreement or other similar Contract;

(xii) take any action (including any merger, reorganization, restructuring or similar transaction involving the Company or any of its Subsidiaries) that would reasonably be expected to prevent or significantly impede or materially delay the completion of the Arrangement or the Merger;

(xiii) enter into any Contract, transaction or arrangement between any such Parent Party and any Affiliate, shareholder, director, officer, partner, managing member of such Parent Party, other than a Contract, transaction or arrangement solely between two or more wholly-owned Subsidiaries of such Parent Party or solely between such Parent Party and a wholly-owned Subsidiary of such Parent Party; or

(xiv) enter into any Contract or commitment to do any of the foregoing.

Nothing in this Section 6.2 shall give the Company the right to control, directly or indirectly, the operations or the business of Parent or any of its Subsidiaries at any time prior to the Closing.

Section 6.3 Notification of Changes .

(a) The Company will promptly notify Parent in writing of any fact, circumstance, change, effect, event or occurrence that, to the Knowledge of the Company, has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect or that would reasonably be expected to give rise to a failure of any condition precedent set forth in Section 8.1 or Section 8.3.

(b) Parent will promptly notify the Company in writing of any fact, circumstance, change, effect, event or occurrence that, to the Knowledge of Parent, has had or would reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect or that would reasonably be expected to give rise to a failure of any condition precedent set forth in Section 8.1 or Section 8.2.

Section 6.4 Company Acquisition Proposals .

(a) No Solicitation. Except as expressly permitted by this Section 6.4, the Company shall not, and shall cause each of its Subsidiaries not to, and shall not permit its and their respective officers, directors, employees, consultants, agents, financial advisors, attorneys, accountants, other advisors and other representatives (collectively, "**Representatives**") to (and shall not authorize or give permission to its or their respective Representatives to), directly or indirectly:

(i) solicit, assist, seek, initiate or knowingly facilitate or encourage or promote (including by way of discussion, negotiation, furnishing information or entering into any agreement, arrangement or understanding) any inquiries regarding, or the making of, any submission or announcement of a proposal or offer that constitutes, or would reasonably be expected to lead to, any Company Acquisition Proposal;

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(ii) engage in, continue or otherwise participate in any discussions or negotiations regarding, or furnish to any other Person any non-public information in connection with or for the purpose of encouraging, facilitating or responding to, any Company Acquisition Proposal;

(iii) approve, endorse or recommend, or agree to or propose publicly to agree to approve, endorse or recommend, any Company Acquisition Proposal;

(iv) accept or enter into, or publicly propose to accept or enter into, any letter of intent, memorandum of understanding, agreement in principle, undertaking, acquisition agreement, merger agreement or other similar agreement (other than an Acceptable Confidentiality Agreement) (an “ **Alternative Acquisition Agreement** ”) relating to any Company Acquisition Proposal; or

(v) waive or release any other Person from, forebear in the enforcement of, or amend (i) any standstill agreement (or any standstill provisions of any other contract or agreement with respect to Company Common Shares or other Equity Interests of the Company) or (ii) the Rights Agreement (unless, in each case of (i) or (ii) the Company Board of Directors or any committee thereof, after consultation with its financial advisor(s) and outside legal counsel, determines that failure to take such actions would reasonably be expected to be inconsistent with the directors’ fiduciary duties under applicable Law).

The Company shall, and shall cause its Subsidiaries and their respective Representatives to, (i) immediately cease and cause to be terminated all solicitations, discussions, negotiations or activities with any Person that may be ongoing with respect to any Company Acquisition Proposal or any potential Company Acquisition Proposal and (ii) immediately cease to provide any other Person with access to information concerning the Company or any of its Subsidiaries in respect of any Company Acquisition Proposal or any potential Company Acquisition Proposal. The Company shall promptly deliver a written notice to each such Person to the effect that the Company is ending all discussions and negotiations with such Person with respect to any Company Acquisition Proposal, effective as of the date hereof, which notice shall also request such Person to promptly return or destroy all confidential information concerning the Company and its Subsidiaries (and the Company shall use all commercially reasonable efforts to ensure that such request is honored).

(b) Discussions. Notwithstanding any other provision of this Agreement, if (i) at any time prior to obtaining the Company Shareholder Approval, the Company or any of its Representatives receives a bona fide written Company Acquisition Proposal from any Person or group of Persons, which Company Acquisition Proposal did not arise or result from any breach of this Section 6.4, and (ii) the Company Board of Directors (or any committee thereof) determines in good faith, after consultation with its financial advisor(s) and outside legal counsel, that such Company Acquisition Proposal constitutes or would reasonably be expected to lead to a Company Superior Proposal and that failure to take such action would reasonably be expected to be inconsistent with its fiduciary duties under applicable Law, then the Company, its Subsidiaries and its and their respective Representatives may (A) furnish, pursuant to an Acceptable Confidentiality Agreement, information (including non-public information) with respect to the Company and its Subsidiaries, and afford access to the business, properties, assets, books, records and personnel of the Company and its Subsidiaries to the Person or group of Persons who has made such Company Acquisition Proposal; provided that the Company shall promptly (and in any event within 24 hours) provide or make available to Parent any information concerning the Company or its Subsidiaries that is provided or made available to any Person given such access which was not previously provided to Parent or its Representatives and (B) engage in, continue or otherwise participate in discussions or negotiations with and otherwise cooperate with or assist the Person or group of Persons making such Company Acquisition Proposal. If the Company receives a Company Acquisition Proposal from any Person, it and its Representatives may contact such Person solely to clarify the terms and conditions thereof. The Company agrees that it and its Subsidiaries will not enter into any Contract with any Person subsequent to the date hereof which prohibits the Company from complying with the terms and

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conditions of, or providing any information to Parent in accordance with, this Section 6.4(b). The Company represents and warrants to Parent that neither it nor any of its Subsidiaries are party to any agreement with any Person that prohibits the Company from complying with the terms and conditions of, or providing any information to Parent in accordance with, this Section 6.4(b).

(c) Notice of Acquisition Proposals and Inquiries. The Company shall promptly (and in any event within 24 hours) provide to Parent, at first orally and then as soon as practicable thereafter in writing, (i) notice of the Company or any of its Subsidiaries or any of their respective Representatives having received any request for (A) discussions or negotiations with, or access to any list of Company Common Shareholders or other securityholders or non-public information of, the Company or any of its Subsidiaries in connection with a Company Acquisition Proposal or proposal that would reasonably be expected to lead to a Company Acquisition Proposal, (B) representation on to the Company Board of Directors in connection with a Company Acquisition Proposal or proposal that would reasonably be expected to lead to a Company Acquisition Proposal, or (C) information relating to the Company or any of its Subsidiaries in connection with a Company Acquisition Proposal or proposal that would reasonably be expected to lead to a Company Acquisition Proposal, (ii) an unredacted copy of any Company Acquisition Proposal made in writing (including any material updates, revisions or supplements thereto) provided to the Company or any of its Subsidiaries or Representatives (including any financing commitments or other documents containing material terms and conditions of such Company Acquisition Proposal), and (iii) a summary of the material terms and conditions of any Company Acquisition Proposal not made in writing (including any material updates, revisions or supplements thereto) provided to the Company or any of its Subsidiaries or Representatives (including any financing commitments or other documents containing material terms and conditions of such Company Acquisition Proposal) and, in each case, the identity of the Person(s) making such Company Acquisition Proposal. The Company shall keep Parent reasonably informed of any significant developments, discussions or negotiations regarding any Company Acquisition Proposal on a reasonably prompt basis (and in any event within 24 hours of the occurrence of any change in any price term or any other material term thereof), and shall respond as promptly as practicable to all reasonable inquiries by Parent with respect thereto.

(d) Company Adverse Recommendation Change. Except as expressly permitted by Section 6.4(e), Section 6.4(f) and Section 6.4(g), the Company Board of Directors (or any committee thereof) shall not (i) (A) fail to include the Company Recommendation in the Joint Information Statement/Circular, (B) change, qualify, withhold, withdraw or modify, or publicly propose to change, qualify, withhold, withdraw or modify, in each case in a manner adverse to Parent, the Company Recommendation, (C) within the earlier of (x) ten (10) Business Days of a tender or exchange offer or take-over bid relating to securities of the Company having been commenced and (y) two (2) Business Days prior to the Company Meeting, fail to (1) publicly recommend against such tender or exchange offer or take-over bid or fail to send to the Company's securityholders a statement disclosing that the Company recommends rejection of such tender or exchange offer or take-over bid, or (2) publicly reaffirm the Company Recommendation (if previously made at such time), (D) adopt, approve or recommend, or publicly propose to approve or recommend to the Company Shareholders a Company Acquisition Proposal or resolve or agree to take any such action, or (E) following the disclosure or announcement of a Company Acquisition Proposal or at any other time following the reasonable request in writing by Parent (provided that Parent shall be entitled to make such a written request for reaffirmation only once for each Company Acquisition Proposal and once for each increase of price of such Company Acquisition Proposal), fail to reaffirm publicly the Company Recommendation within the earlier of (x) ten (10) Business Days after Parent requests in writing that the Company Recommendation be reaffirmed publicly and (y) two (2) Business Days prior to the Company Meeting (the actions described in this clause (i) being referred to as a "**Company Adverse Recommendation Change**") or (ii) authorize, cause or permit the Company or any of its Subsidiaries to enter into any Alternative Acquisition Agreement.

(e) Superior Proposal. Notwithstanding anything to the contrary in this Agreement, prior to the time the Company Shareholder Approval is obtained, but not after, the Company Board of Directors (or any committee thereof) may terminate this Agreement pursuant to Section 9.1(d)(i) to enter into an Alternative Acquisition Agreement relating to any Company Acquisition Proposal or recommend a Company Acquisition Proposal which Company Acquisition Proposal did not arise or result from any breach of this Section 6.4; provided, in each case, that the Company Board of Directors (or any committee thereof) has determined in good faith, after consultation with its financial advisors and outside legal counsel, (x) that failure to take such action would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable Law and (y) that such Company Acquisition Proposal constitutes a Company Superior Proposal; provided, however, that (i) the Company Board of Directors (or any committee thereof) has given Parent at least three (3) Business Days' prior written notice of its intention to take such action (which notice shall include an unredacted copy of any Company Superior Proposal, an unredacted copy of the relevant proposed transaction agreements and a copy of any financing commitments relating thereto, a written summary of the material terms of any Company Superior Proposal not made in writing, including any financing commitments relating thereto (such notice a " **Company Superior Proposal Notice** "), (ii) following the end of such notice period, during which time the Company Board of Directors (or any committee thereof) shall have negotiated in good faith with Parent with respect to such proposed revisions or other proposal to the extent Parent wishes to do so, the Company Board of Directors (or any committee thereof) shall have considered in good faith any proposed revisions to this Agreement proposed in writing by Parent and shall have determined that the Company Superior Proposal continues to constitute a Company Superior Proposal (taking such proposed revisions into account) and that failure to take such action would be reasonably expected to be inconsistent with the directors' fiduciary duties under applicable Law. In the event that the Company provides a Company Superior Proposal Notice on a date which is fewer than five (5) Business Days prior to the Company Meeting, the Company shall be entitled to adjourn or postpone the Company Meeting to a date that is not more than fifteen (15) days after the date of such Company Superior Proposal Notice and in the event of any subsequent material change to the material terms of such Company Superior Proposal prior to the termination of the Agreement pursuant to Section 9.1(d)(i), the Company shall, in each case, have delivered to Parent an additional notice consistent with that described in clause (i) above and the notice period in clause (i) shall have recommenced and the condition in clause (ii) shall have been satisfied again, except that the notice period shall be at least one (1) Business Day (rather than the three (3) Business Days otherwise contemplated by clause (i) above).

(f) Disclosure Obligations. Nothing contained in this Agreement shall prohibit the Company or the Company Board of Directors (or any committee thereof) from (i) complying with its disclosure obligations under U.S. or Canadian federal, provincial or state Law, including taking and disclosing to its shareholders a position contemplated by Rule 14d-9 and Rule 14e-2(a) promulgated under the 1934 Exchange Act or issuing a directors' circular in accordance with Canadian Securities Laws (or any similar communication to shareholders), or (ii) making any "stop-look-and-listen" communication to the shareholders of the Company pursuant to Rule 14d-9(f) promulgated under the 1934 Exchange Act (or any similar communications to the shareholders of the Company); provided that complying with such obligations or making such disclosure shall not in any way limit or modify the effect, if any, that any such action has under this Agreement.

(g) Intervening Event. Notwithstanding anything to the contrary herein, prior to the time the Company Shareholder Approval is obtained, but not after, the Company Board of Directors (or any committee thereof) may effect a Company Adverse Recommendation Change involving the actions contemplated by clauses (i)(A) and (i)(B) of Section 6.4(d) in response to any development, fact, change, event, effect, occurrence or circumstance that (A) does not relate to a Company Superior Proposal (which is addressed under Section 6.4(e)) and (B) is not known (or the material consequences of which are not known) to the Company Board of Directors as of the date hereof if (1) the Company Board of Directors (or any committee thereof) has determined in good faith, after consultation with its

financial advisor and outside legal counsel, that failure to take such action would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable Law and (2) prior to taking such action, the Company Board of Directors (or any committee thereof) has given Parent at least three Business Days' prior written notice of its intention to take such action which notice will identify the reasons for the proposed Company Adverse Recommendation Change, and (3) following the end of such notice period, the Company Board of Directors (or any committee thereof) shall have considered in good faith any revisions to this Agreement proposed in writing by Parent and shall have determined in good faith, after consultation with its financial advisor and outside legal counsel, that failure to effect such Company Adverse Recommendation Change would reasonably be expected to be inconsistent with the directors' fiduciary duties under applicable Law. For the avoidance of doubt, a Company Adverse Recommendation Change pursuant to this Section 6.4(g) shall not give rise to any termination right for the Company.

(h) Actions of Representatives. Any breach of this Section 6.4 by a Representative of the Company or any of its Subsidiaries shall constitute a breach of this Section 6.4 by the Company.

ARTICLE 7

ADDITIONAL COVENANTS

Section 7.1 Access to Information

(a) Subject to applicable Law, upon reasonable notice, each Party shall (and shall cause its respective Subsidiaries to) afford the other Parties' officers and other Representatives reasonable access during normal business hours, throughout the period prior to the Closing Date, to its employees, properties, books, Contracts and records (including Returns and Tax work papers), and, during such period, such disclosing Party shall (and shall cause its Subsidiaries to) furnish as promptly as practicable to the other Parties all information concerning its business, properties and personnel as may be reasonably requested, and shall provide such on-site access for a reasonable number of Representatives of the other Parties at such disclosing Party's headquarters and other key facilities during normal business hours for Representatives of such other Party who will be designated by such Party to assist in transitional matters. All requests for information made pursuant to this Section 7.1(a) shall be directed to the executive officer or other Persons designated by the disclosing Party. No information received pursuant to this Section 7.1(a) or at any time prior to or following the date of this Agreement shall affect or be deemed to modify any representation or warranty made by such disclosing Party herein.

(b) This Section 7.1 shall not require a Party or its Subsidiaries to permit any access, or to disclose any information that, in the reasonable, good faith judgment, after consultation with counsel, of such disclosing Party, is likely to result in the breach of any Contract, any violation of any Law or cause any privilege (including attorney-client privilege) that such disclosing Party or its Subsidiaries would be entitled to assert to be undermined with respect to such information; provided that, the Parties hereto shall cooperate in seeking to find a way to allow disclosure of such information to the extent doing so (i) would not (in the good faith belief of such disclosing Party, after consultation with counsel) be reasonably likely to result in the breach of any Contract, any violation of any such Law or be likely to cause such privilege to be undermined with respect to such information or (ii) could reasonably (in the good faith belief of such disclosing Party, after consultation with counsel) be managed through the use of customary "clean-room" arrangements.

(c) The information provided pursuant to this Section 7.1 shall be governed by the terms and conditions of the Non-Disclosure Agreement.

Section 7.2 Consents and Approvals.

(a) Each Party shall, or shall cause its relevant Subsidiaries to, (i) file (A) within 15 Business Days after the date of this Agreement, notifications under the HSR Act, (B) as promptly as practicable, but no later than 20 Business Days after the date of this Agreement, an application for review under the Investment Canada Act, which shall include the minimum commitments set out in Section 7.2 of the Company Disclosure Letter which will be reflected in Parent's written undertakings to Her Majesty the Queen in right of Canada in respect of the transactions contemplated by this Agreement, (C) as promptly as practicable, but no later than 20 Business Days after the date of this Agreement, any and all notifications and an application, to be prepared by Parent for an Advance Ruling Certificate or No-Action Letter under the Competition Act, and (D) as promptly as practicable, any necessary filings or submissions to obtain Canada Transportation Act Approval, if applicable, as may be appropriate and advisable, and (ii) file, as promptly as practicable after the date of this Agreement any other filings or notifications under any other applicable federal, provincial, state or foreign Law required to complete the transactions contemplated by this Agreement (collectively, "**Relevant Laws**").

(b) All filing fees and applicable Taxes in respect of any filing made to any Governmental Authority in respect of any Required Regulatory Approval shall be the sole responsibility of the Parent.

(c) With respect to obtaining the Required Regulatory Approvals, each Party shall:

(i) not extend or consent to any extension of any applicable waiting or review period or enter into any agreement with a Governmental Authority to not consummate the transactions contemplated by this Agreement, except upon the prior consent of the other Parties;

(ii) promptly notify the other Parties of written or oral communications of any nature from a Governmental Authority relating to any Required Regulatory Approval and provide the other Parties with copies thereof, except to the extent of competitively or commercially sensitive information in respect of any Required Regulatory Approval, which competitively sensitive and/or commercially sensitive information will be provided only to the external legal counsel or external expert of the other and shall not be shared by such counsel or expert with any other Person;

(iii) subject to Sections 7.2(c)(ii), 7.2(c)(iv) and 7.2(c)(v), respond as promptly as reasonably possible to any inquiries or requests received from a Governmental Authority in respect of any Required Regulatory Approval;

(iv) permit the other Parties to review in advance any proposed written communications of any nature with a Governmental Authority in respect of any Required Regulatory Approval, and provide the other Parties with final copies thereof unless the timing of the response requested by the Governmental Authority does not reasonably permit such review or except in respect of competitively or commercially sensitive information, which competitively and/or commercially sensitive information will be redacted from the draft written communications to be shared with the other Parties pursuant to this Section 7.2(c)(iv) and will be provided (on an unredacted basis) only to the external legal counsel or external expert of the other and shall not be shared by such counsel or expert with any other Person; and

(v) not participate in any meeting or discussion (whether in person, by phone or otherwise) with a Governmental Authority in respect of any Required Regulatory Approval unless it consults with the other Parties in advance and gives the other Parties the opportunity to attend and participate thereat (except (A) where the timing of the response requested by the Governmental Authority does not reasonably permit such review, (B) the Governmental Authority expressly requests that the other should not be present at the meeting or discussion or part or parts of the meeting or discussion, or (C) where competitively or commercially sensitive information may be discussed, in which case, with respect to meetings and discussions with the Governmental Authority, every effort will be made to allow external legal counsel to participate); and

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(vi) cooperate in good faith to obtain the Required Regulatory Approvals but, in the case of a disagreement over the strategy, tactics or decisions relating to obtaining the Required Regulatory Approvals, the Parent Parties shall have the final and ultimate authority over the appropriate strategy, tactics and decisions.

(d) Each Party shall, and shall cause its respective Subsidiaries to, not take or agree to take any action, or assist, counsel or encourage any third party not to take or agree to take any action, whether directly or indirectly, after the date of this Agreement until the earlier of the termination of this Agreement or the Closing, that would be reasonably likely to (i) materially delay the obtaining of, or result in not obtaining, any permission, approval or consent from any Governmental Authority necessary to be obtained prior to Closing, (ii) materially increase the risk of any Governmental Authority entering an Order prohibiting the consummation of the transactions contemplated by this Agreement, including the Arrangement and the Merger, (iii) materially increase the risk of not being able to have vacated, lifted, reversed or overturned any such Order on appeal or otherwise or (iv) otherwise prevent or materially delay the consummation of the transactions contemplated by this Agreement, including the Arrangement and the Merger; provided that the foregoing shall not require any Party to waive any of the conditions set forth in Article 8.

(e) Notwithstanding any other provision of this Agreement to the contrary (but other than with respect to the Investment Canada Act Approval, which approval shall be governed by the provisions of Section 7.2(f)), in order to permit and cause the Closing to occur as soon as possible and prior to the Outside Date, the Parent Parties and their respective Subsidiaries shall take, or cause to be taken, all actions and do, or cause to be done, all other things necessary, proper or advisable to obtain the Required Regulatory Approvals (other than the Investment Canada Act Approval, which approval shall be governed by the provisions of Section 7.2(f)) prior to the Outside Date, including proposing, negotiating, agreeing to and effecting, by undertaking, consent agreement, hold separate agreement or otherwise: (i) the sale, divestiture, licensing, or disposition of any part of the businesses or assets of any Party or its respective Subsidiaries; (ii) the termination of any existing contractual rights, relationships and obligations, or entry into or amendment of any such contractual arrangements; (iii) the taking of any action that, after consummation of the transactions contemplated by this Agreement, including the Arrangement and the Merger, would limit the freedom of action of, or impose any other requirement on, any Party or its respective Subsidiaries with respect to the operation of one or more of the businesses, or the assets, of the Party or its respective Subsidiaries or Affiliates; and (iv) any other remedial action whatsoever that may be necessary in order to obtain the Required Regulatory Approvals prior to the Outside Date, provided that any such action is conditioned upon the completion of the transactions contemplated by this Agreement, including the Arrangement and the Merger. The Parent Parties and their respective Subsidiaries shall further take, or cause to be taken, all other action and do, or cause to be done, all other things necessary, proper or advisable to avoid (including by way of entering into an agreement with a Governmental Authority regarding the consummation of the transactions contemplated by this Agreement, including the Arrangement and the Merger), oppose, or seek to have lifted or rescinded, any application for, or any resulting injunction or restraining or other order seeking to stop, or that otherwise adversely affects the ability to consummate the transactions contemplated by this Agreement, including the Arrangement and the Merger. Notwithstanding anything to the contrary contained in this Agreement, the Parent Parties and their respective Subsidiaries and Affiliates shall not be required to take any action, or do or cause to be done anything, pursuant to this Article 7 that would, individually or in the aggregate, reasonably be expected to cause a Burdensome Impact.

(f) Notwithstanding any other provision of this Agreement to the contrary, the Parent will submit to the Director of Investments under the Investment Canada Act and enter into written undertakings with Her Majesty the Queen in right of Canada which, at a minimum, will reflect all of the commitments set out in Section 7.2 of the Company Disclosure Letter. The Parent will further agree to include enhanced and/or additional commitments if and as required to secure Investment Canada Act

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Approval, provided that such enhanced and/or additional commitments would not reasonably be expected to, individually or in the aggregate, cause a Burdensome Impact. For the avoidance of doubt, any enhanced or additional commitments beyond all of the commitments set out in Section 7.2 of the Company Disclosure Letter and beyond the expenditures and costs of any matters and related amounts included in the Company's current strategic plans shall be aggregated with any actions or other agreements or obligations required pursuant to this Article 7 for determining whether there has been a Burdensome Impact.

(g) No Party shall, and no Party shall permit its directors or officers to, make any false or disparaging public statement that is reasonably likely to materially impair the reputation, goodwill or commercial interest of the other Party or reduce the likelihood of the Closing to occur.

Section 7.3 Transaction Litigation. Subject to the other provisions of this Section 7.3, the Parties shall use their respective reasonable best efforts to prevent the entry of (and, if entered, to have vacated, lifted, reversed or overturned) any Order that results from any shareholder litigation against the Parties or any of their respective directors or officers relating to this Agreement and the transactions contemplated hereby including the Arrangement and the Merger. The Company and Parent shall each give the other the opportunity to participate in, but not control, the defense or settlement of any shareholder litigation against such Party or any of its directors or officers relating to this Agreement or any of the transactions contemplated by this Agreement (including the Arrangement and the Merger), and no such settlement of any shareholder litigation shall be agreed to without Parent's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed. Each of Parent and the Company shall keep the other reasonably informed of any shareholder litigation (including providing the other Party notice within forty-eight (48) hours of the commencement of any such shareholder litigation of which such Party has received notice), unless doing so would, in the reasonable judgment of such Party, jeopardize any privilege of such Party or any of its Subsidiaries with respect such shareholder litigation.

Section 7.4 Employee Matters.

(a) From and after the Effective Time, Holdings shall, and shall cause its Subsidiaries (including the Surviving Company) to, honor all Company Benefit Plans and Company Benefit Agreements in accordance with their terms as in effect immediately before the Effective Time, except as otherwise specifically provided herein on in the Plan of Arrangement. During the period of twelve (12) months beginning on the Effective Time (or, if shorter, during the period of continued employment of the relevant employee), Holdings shall provide or cause to be provided to each employee of the Company and its Subsidiaries as of the Effective Time who continues employment with Holdings or any of its Subsidiaries immediately following the Effective Time (an "**Affected Employee**") (i) base compensation and cash incentive opportunities that, in each case, are no less favorable than was provided to the Affected Employee as of immediately prior to the Effective Time and (ii) all other compensation and employee benefits (excluding equity-based compensation), in the aggregate, that are no less favorable than the value of such compensation and employee benefits (excluding any value attributable to equity-based compensation) provided to the Affected Employee as of immediately prior to the Effective Time. Without limiting the generality of the foregoing, for the twelve (12)-month period following the Effective Time, Holdings shall, and shall cause the Surviving Company to, provide any Affected Employee who experiences a termination of employment under circumstances that would have entitled such Affected Employee to severance benefits under either a severance plan or policy of the Company or its Affiliates applicable to such Affected Employee immediately prior to the Effective Time or a severance plan or policy of Holdings or its Affiliates applicable to similarly situated employees of Holdings and its Affiliates at the time of such termination, with severance benefits at a level at least equal to the greater of those that would have been provided under the either such severance plan or policy.

(b) Without limiting the generality of Section 7.4(a), following the Effective Time, Holdings shall, or shall cause its Subsidiaries (including the Surviving Company) to, provide the Affected Employees

with the opportunity (subject to the terms of the applicable bonus plan (which shall be no less favorable than the terms applicable to similarly situated employees of Holdings and its Affiliates), including with respect to any requirements to remain employed through the date of payment of bonuses) to earn a full (non-prorated) annual incentive bonus in respect of calendar year 2015, regardless of when the Effective Time occurs.

(c) From and after the Effective Time, Holdings shall, or shall cause its Subsidiaries (including the Surviving Company) to, elect pursuant to subsection 110(1.1) of the Tax Act and any similar provisions of any applicable provincial or territorial tax statute in Canada to forgo that portion of the income tax deduction that Holdings, Parent, the Company, or any Person not dealing at arm's length with Holdings, Parent or the Company for purposes of the Tax Act, could benefit from in respect of the settlement of (i) Company Options referred to in this Agreement or (ii) Holdings Arrangement Options, that is, in each case, attributable to payments to Company Optionholders that give rise to taxation under the Tax Act. To effect the foregoing, the parties shall (i) cause Holdings, Parent and/or the Company, as the case may be, to timely comply with the requirements described in subsection 110(1.1) of the Tax Act, including the filing of any elections and the delivery of written notice of such election to each such holder in accordance with the requirements set out in the Tax Act, (ii) not amend or revoke any such elections; and (iii) comply in all respects to the extent reasonably possible to allow the relevant Company Optionholders to benefit from the deduction provided under paragraph 110(1)(d) of the Tax Act and of any similar provisions of any applicable provincial or territorial Tax statute in Canada.

(d) Parent and Holdings shall cause any employee benefit plans which the Affected Employees are entitled to participate in after the Closing Date to take into account for all purposes (including eligibility, vesting, and level of benefits), but not for benefit accrual purposes under any defined benefit pension plan, service for the Company and its Subsidiaries as if such service were with Holdings, to the same extent such service was credited for the same purpose under a comparable Company Benefit Plan or Company Benefit Agreement prior to the Closing Date (except to the extent it would result in a duplication of benefits or compensation with respect to the same period of service). To the extent any health benefit plan replaces a Company Benefit Plan that is a health benefit plan in the plan year in which the Effective Time occurs, Holdings shall, and shall cause its Subsidiaries (including the Surviving Company) to use reasonable efforts to (i) waive all limitations as to preexisting conditions exclusions and all waiting periods with respect to participation and coverage requirements applicable to each Affected Employee to the extent waived or satisfied under the replaced Company Benefit Plan prior to the Closing Date and (ii) credit each Affected Employee for any co-payments, deductibles and other out-of-pocket expenses paid prior to the Closing Date under the terms of the replaced Company Benefit Plan in satisfying any applicable deductible, co-payment or out-of-pocket requirements for the plan year in which the Effective Time occurs.

(e) Parent and Holdings hereby acknowledges that (i) the Merger shall constitute a "change in control" (or term or concept of similar import) under the terms of the Company Benefit Plans and Company Benefit Agreements and (ii) the individuals set forth on Section 7.4(e) of the Company Disclosure Letter shall have the right to terminate their employment for "good reason" (or term or concept of similar import) under the terms of the Company Benefit Plans and Company Benefit Agreements as a result of the occurrence of the Merger, notwithstanding anything contained therein to the contrary.

(f) The Company may adopt a retention program in accordance with the terms of Section 7.4(f) of the Company Disclosure Letter.

(g) Nothing contained in this Section 7.4 shall (i) be construed to establish, amend, or modify any benefit or compensation plan, program, agreement, Contract, policy or arrangement, (ii) limit the ability of Holdings or any of its Subsidiaries or Affiliates to amend, modify or terminate any benefit or compensation plan, program, agreement, Contract, policy or arrangement at any time assumed, established, sponsored or maintained by any of them, (iii) create any third-party beneficiary rights or obligations in any Person (including any Affected Employee) other than the Parties to this Agreement

or any right to employment or continued employment or to a particular term or condition of employment with Holdings or any of its Subsidiaries, or any of their respective Affiliates, or (iv) limit the right of Parent (or any of its Subsidiaries) to terminate the employment or service of any employee or other service-provider following the Closing Date at any time and for any or no reason.

Section 7.5 Indemnification and Insurance.

(a) Each of Holdings, the Company, Parent and their respective Subsidiaries agree that all rights to indemnification or exculpation now existing in favor of the present and former directors and officers of the Company, Parent or any of their respective Subsidiaries (each such present or former director or officer (i) of Parent or any of its Subsidiaries being herein referred to as a “**Parent Indemnified Party**” and (ii) of the Company or any of its Subsidiaries being herein referred to as a “**Company Indemnified Party**” and each Parent Indemnified Party and Company Indemnified Party being an “**Indemnified Party**” and such Persons collectively being referred to as the “**Indemnified Parties**”) as provided in the applicable governing documents of the Company, Parent or any of their respective Subsidiaries or any Contract by which the Company, Parent or any of their respective Subsidiaries is bound and which is in effect as of the date hereof, will survive the completion of the Plan of Arrangement and the Merger and continue in full force and effect and shall not be amended, repealed or otherwise modified (except as required by applicable Law) in any manner that would adversely affect any right thereunder of any such Indemnified Party, with respect to actions or omissions of the Indemnified Parties occurring at or prior to the Closing.

(b) Holdings will, or will cause the Company, Parent and their respective Subsidiaries to, maintain in effect without any reduction in scope or coverage for six (6) years from the Closing Date customary policies of directors’ and officers’ liability insurance providing protection no less favorable to the protection provided by the policies maintained by the Company, Parent or their respective Subsidiaries, as applicable, which are in effect immediately prior to the Closing Date and providing protection in respect of claims arising from facts or events which occurred on or prior to the Closing Date; provided that in no event shall Holdings be required to expend for such policies pursuant to this sentence an annual premium amount in excess of 300% of the sum of, as applicable, (x) the annual premiums currently paid by the Company or its Subsidiaries for such insurance and (y) the annual premiums currently paid by Parent for such insurance; and provided, further, that if the annual premiums of such insurance coverage exceed such amount, Holdings shall obtain a policy with the greatest coverage available for a cost not exceeding such amount. Notwithstanding the foregoing sentence, each of the Company and Parent shall, prior to the Closing Date, and if the Company or Parent is unable to do so, the Surviving Company as of the Closing Date shall, purchase prepaid non-cancellable run-off or “tail” directors’ and officers’ liability insurance on terms, including with respect to coverage and amounts, no less favorable to those covered thereby than the directors’ and officers’ liability policies currently maintained by the Company or Parent, as applicable, but providing coverage for a period of six (6) years from the Closing Date with respect to claims arising from or related to facts or events which occurred on or prior to the Closing Date; provided that the premiums for such insurance do not exceed 600% of the Company’s or Parent’s current annual premium for directors’ and officers’ liability insurance, as applicable; provided, further, that Holdings may substitute therefor policies of a reputable and financially sound insurance company containing terms, including with respect to coverage and amounts, no less favorable to any Indemnified Party.

(c) The covenants contained in this Section 7.5 (i) are intended to be for the irrevocable benefit of, and shall be enforceable by, the Indemnified Parties and their respective heirs, executors, administrators and other legal representatives and (ii) shall not be deemed exclusive of any other rights to which an Indemnified Party has under Law, Contract or otherwise, and shall be binding on Holdings and any of its successors.

(d) If the Company, Parent, Holdings or any of their respective successors or assigns (i) consolidates with or merges into any other Person and is not the continuing or surviving corporation

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or entity of such consolidation or merger or (ii) transfers all or substantially all of its properties and assets to any Person, Holdings shall, in each case, ensure that any such successor or assign assumes all of the obligations set forth in this Section 7.5.

Section 7.6 Rule 16b-3 Actions. Prior to the Closing, Holdings, the Company and Parent shall take all such steps as may be required to cause (a) any dispositions of Company Common Shares or Parent Common Shares (including derivative securities with respect to Company Common Shares or Parent Common Shares, as applicable) resulting from the Arrangement or the Merger and the other transactions contemplated by this Agreement by each individual who is or will be subject to the reporting requirements of Section 16(a) of the 1934 Exchange Act with respect to the Company or Parent, as applicable, immediately prior to the Merger Effective Time to be exempt under Rule 16b-3 promulgated under the 1934 Exchange Act and (b) any acquisitions of Holdings Common Shares, Company Common Shares or Parent Common Shares (including derivative securities with respect to Holdings Common Shares, Company Common Shares or Parent Common Shares) resulting from the Arrangement or the Merger and the other transactions contemplated by this Agreement, by each individual who may become or is reasonably expected to become subject to the reporting requirements of Section 16(a) of the 1934 Exchange Act with respect to Holdings to be exempt under Rule 16b-3 promulgated under the 1934 Exchange Act.

Section 7.7 Stock Exchange Listings; Trading of Exchangeable Units.

(a) Holdings, Partnership and Parent shall use their respective reasonable best efforts to cause (i) the Holdings Common Shares to be (A) approved for listing on NYSE, subject only to official notice of issuance, and (B) conditionally approved for listing on the TSX, subject only to the satisfaction of the customary listing conditions of the TSX, and (ii) the Exchangeable Units to be conditionally approved for listing on the TSX, subject only to satisfaction of the customary listing conditions of the TSX, in each case, prior to the Closing, and in each case the Company agrees to cooperate with such other Parties in taking, or causing to be taken, all actions necessary for such listings.

(b) Each of the Parties agrees to cooperate with each other in taking, or causing to be taken, all actions reasonably necessary, proper or advisable to delist Parent Common Shares from the NYSE and Company Common Shares from the NYSE and the TSX and to cause the Company to cease to be a reporting issuer in each jurisdiction in Canada and to terminate registration of the Company Common Shares under the 1934 Exchange Act and terminate registration of Parent Common Shares under the 1934 Exchange Act; provided that such delisting and termination shall not be effective until after the Effective Time with respect to Company Common Shares and the Merger Effective Time with respect to Parent Common Shares.

(c) Prior to the Closing, the Company shall use reasonable best efforts to provide to the Parent Parties, and shall cause each of its Subsidiaries to use its reasonable best efforts to provide, and shall use its reasonable best efforts to cause its Representatives (including its independent auditors) to provide, all cooperation reasonably requested by Parent (x) to enable each of Holdings and Partnership to become a reporting issuer under applicable Canadian Securities Laws in one or more jurisdictions in Canada and be qualified to file a prospectus in the form of a “short form prospectus” (as defined in National Instrument 41-101 (“**NI 41-101**”)—*General Prospectus Requirements*) for a distribution of its securities in one or more jurisdictions in Canada pursuant to section 2.2 of NI 44-101—*Short Form Prospectus Distributions* and (y) to otherwise facilitate the sale or resale, as applicable, by Partnership, Parent or any other holder of Exchangeable Units over the TSX or any other recognized Canadian marketplace, including:

(i) cooperating with the Parent Parties in making such applications and taking, or causing to be taken, all such other actions as are necessary to obtain any consent, authorization, Order or approval of, or any exemption by, any securities commission or similar regulatory authority that is required under applicable Canadian Securities Laws or the rules and policies of the TSX for purposes of clause (x) or (y) above;

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(ii) assisting with the preparation and filing of any non-offering “long form prospectus” (as defined in NI 41-101) of Partnership for purposes of clause (x) above;

(iii) assisting with the preparation and filing of any “base shelf prospectus” and any “shelf prospectus supplement” thereto for purposes of effecting an “at-the-market distribution” of Exchangeable Units as soon as practicable after Closing (“base shelf prospectus”, “shelf prospectus supplement” and “at-the-market distribution” each having the meaning given to them in NI 44-102— *Shelf Distributions*); and

(iv) using reasonable best efforts to prepare and furnish to Parent as promptly as practicable all information and disclosure relating to the Company and its Subsidiaries (and, where applicable, prepared after giving effect to the Arrangement and the Merger as if the Arrangement and the Merger had occurred) of the type and form required by applicable Canadian Securities Laws for purposes of any of the items in any of the foregoing clauses (i), (ii) or (iii), including applicable financial statements, audit reports and other financial information and data regarding the Company and its Subsidiaries, as may be reasonably requested by Parent.

The Company will use its reasonable best efforts to update any information and disclosure provided to Parent pursuant to clause (iv) above to ensure that such information and disclosure, (x) if included within an application of the type referred to in clause (i) above, remains accurate and complete in all material respects, and (y) if included within a prospectus referred to in clause (ii) or (iii) above, when taken as a whole, does not contain as of the time provided to Parent, after giving effect to any prior updates thereto provided by the Company pursuant to this paragraph, any untrue statement of a material fact or omit to state any material fact that is required to be stated in such prospectus or that is necessary in order to make the statements contained therein not materially misleading. The Company hereby consents to the use of the Company’s logos in connection with any of the materials referred to in this Section 7.7(c); provided, however, that such logos are used solely in a manner that is not intended, or reasonably likely, to harm or disparage the Company or any of its Subsidiaries or the reputation or goodwill of the Company or any of its Subsidiaries or any of their respective intellectual property rights.

Section 7.8 Takeover Statutes. If any state or provincial antitakeover statute, “moratorium,” “control share acquisition,” “business combination,” “fair price” or similar statute or regulation (collectively, “**Takeover Laws**”) is or may become applicable to the transactions contemplated by this Agreement, each of the Parties and its respective Affiliates shall use reasonable best efforts to (a) grant such approvals and take all such actions as are legally permissible so that the transactions contemplated hereby may be consummated as promptly as practicable on the terms contemplated hereby and (b) otherwise act to eliminate or minimize the effects of any Takeover Laws on the transactions contemplated hereby.

Section 7.9 Financing Cooperation.

(a) **Efforts to Obtain the Financing.** Parent shall use, and cause its Affiliates to use, its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things reasonably necessary, proper or advisable to arrange and obtain the Financing described in the Financing Letters on the terms and conditions (including the flex provisions) described therein and in the related fee letter including using reasonable best efforts (i) to maintain in effect the Financing Letters until the consummation of the transactions contemplated hereby, (ii) to negotiate and enter into definitive agreements with respect to the financing contemplated by the Debt Commitment Letter (collectively, the “**Debt Financing Agreements**”) on the terms and conditions (including the flex provisions) contained in the Debt Commitment Letter and related fee letter or, if available, on other terms that are acceptable to Parent and would not adversely affect (including with respect to timing, taking into account the expected timing of the Marketing Period) the ability of the Parent Parties to consummate the transactions contemplated herein, (iii) to satisfy on a timely basis all conditions to funding that are applicable to Parent and its Affiliates in the Debt Commitment Letter and such definitive agreements thereto (other than any

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condition where the failure to be so satisfied is a direct result of the Company's failure to furnish information described in Section 7.9(b) and in the Equity Purchase Agreement and to consummate the Financing at or prior to the Closing, and (iv) to enforce (including through litigation in the event of a material breach thereof by any party thereto) its rights under or with respect to the Financing Letters. Neither Parent nor any of its Affiliates shall agree to any amendments or modifications to, or grant any waivers of, any condition or other provision under the Financing Letters without the prior written consent of the Company to the extent such amendments, modifications or waivers would reasonably be expected to (A) reduce the aggregate amount of cash proceeds available from the Financing to fund the amounts required to be paid by the Parent Parties under this agreement below the amount required to consummate the transactions contemplated by this Agreement, including the Arrangement and the Merger (including by changing the amount of fees to be paid or original issue discount) (B) impose new or additional conditions or otherwise expand, amend or modify any of the conditions to the receipt of the Financing in a manner reasonably likely to prevent or delay or impair the ability of each of the Parent Parties to consummate the transactions contemplated by this Agreement, (C) decrease the aggregate Equity Financing as set forth in the Equity Purchase Agreement delivered on the date hereof below the amount required to consummate the transactions contemplated by this Agreement, including the Arrangement and the Merger, or (D) amend or modify any other term in a manner reasonably likely to prevent or delay or impair the ability of each of the Parent Parties to consummate the transactions contemplated by this Agreement, including the Arrangement and the Merger, or adversely impact the ability of the Parent Parties to enforce their rights against the other parties to the Financing Letters or the Debt Financing Agreements. Without limiting the generality of the foregoing, Parent shall give the Company prompt (and in any event within two Business Days) written notice (x) of any actual or alleged breach or default (or any event that, with or without notice, lapse of time or both, would reasonably be expected to give rise to any breach or default) by any party to any of the Financing Letters or Debt Financing Agreements, (y) of the receipt of any written notice or other written communication with respect to any actual or alleged breach, default, termination or repudiation by any party to any of the Financing Letters or any definitive document related to the Financing or any provisions of the Financing Letters or any definitive document related to the Financing (z) if the Parent Parties determine in good faith that they will not be able to satisfy any of the obligations to, or otherwise be able to obtain, some or any portion of the Financing on the terms, in the manner or from the sources contemplated by the Financing Letters (including any "market flex" provisions) or Debt Financing Agreements prior to the Outside Date. Upon the occurrence of any circumstance referred to in clause (x), (y) or (z) of the preceding sentence or if any portion of the Debt Financing otherwise becomes unavailable, and such portion is reasonably required to fund the aggregate Arrangement Cash Consideration and all fees, expenses and other amounts contemplated to be paid by the Parent Parties or the Surviving Company pursuant to this Agreement, Parent shall use its reasonable best efforts to arrange and obtain in replacement thereof alternative financing from alternative sources in an amount sufficient to consummate the transactions contemplated by this Agreement (including the Arrangement and the Merger) on terms and conditions not less favorable to the Company or Parent (in the reasonable judgment of Parent) than the terms set forth in the Debt Commitment Letter (including the flex provisions thereof). Any reference in this Agreement to (1) the Debt Financing shall include any such alternative financing, (2) the Debt Commitment Letter shall include the commitment letter and the corresponding fee letter with respect to any such alternative financing, (3) the Debt Financing Agreements shall include the definitive agreements with respect to any such alternative financing and (4) the Debt Financing Sources shall include the financing institutions contemplated to provide any such alternative financing. Notwithstanding anything to the contrary contained in this Agreement, nothing contained in this Section 7.9(a) shall require, and in no event shall the reasonable best efforts of the Parent Parties be deemed or construed to require, any of the Parent Parties to (i) seek the Equity Financing from any source other than those counterparty to, or in any amount in excess of that contemplated by, the Equity Purchase Agreement or (ii) pay any fees or any interest rates applicable to the Debt Financing materially in excess of those contemplated by the Debt Commitment Letter (including the flex provisions), or agree to any "market flex" term less favorable to the Parent Parties or the Surviving Company than such corresponding market flex term contained in or contemplated by the Debt

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Commitment Letter (in either case, whether to secure waiver of any conditions contained therein or otherwise). Parent shall keep the Company informed on a reasonably current basis in reasonable detail of the status of its efforts to arrange the Financing and provide copies of all documents provided to the lenders or otherwise related to the Financing to the Company, and shall provide to the Company, as soon as reasonably practicable but in any event within three calendar days of the date the Company delivers to Parent a written request, any information requested by the Company relating to any circumstance referred to in clause (x), (y) or (z) of this Section 7.9(a).

(b) Financing Cooperation. Prior to the Closing, the Company shall use reasonable best efforts to provide to the Parent Parties, and shall cause each of its Subsidiaries to use its reasonable best efforts to provide to the Parent Parties, and shall use its reasonable best efforts to cause its Representatives, including legal and accounting, to provide, in each case at Parent's sole expense, all cooperation reasonably requested by Parent that is customary or necessary in connection with arranging, obtaining and syndicating the Financing and causing the conditions in the Financing Letters to be satisfied, including using reasonable best efforts to:

- (i) assist with the preparation of Offering Documents;
- (ii) prepare and furnish to Parent and the Debt Financing Sources as promptly as practicable all Required Information and all other available pertinent information and disclosures relating to the Company and its Subsidiaries (including their businesses, operations, financial projections and prospects) as may be reasonably requested by Parent and customary to assist in preparation of the Offering Documents;
- (iii) designate members of senior management of the Company to execute customary authorization letters with respect to Offering Documents and participate in a customary and reasonable number of presentations, road shows, due diligence sessions, drafting sessions and sessions with ratings agencies in connection with the Financing, including direct contact between such senior management of the Company and its Subsidiaries and Parent's Financing Sources and other potential lenders in the Financing;
- (iv) assist Parent in obtaining any corporate credit and family ratings from any ratings agencies contemplated by the Debt Commitment Letter;
- (v) request the Company's independent auditors to cooperate with the Financing, including by providing customary accountant's comfort letters (including "negative assurance") and consents from the Company's independent auditors;
- (vi) assist in the preparation of, and execute and deliver, definitive financing documents, including guarantee and collateral documents and customary closing certificates as may be required by the Financing;
- (vii) facilitate the pledging of collateral for the Financing;
- (viii) assist the Financing sources in benefiting from the existing lending relationships of the Company and its Subsidiaries;
- (ix) request from the Company's existing lenders such customary documents in connection with refinancings as reasonably requested by Parent in connection with the Financing and collateral arrangements, including customary payoff letters, lien releases, instruments of termination or discharge;
- (x) furnish Parent and the Debt Financing Sources at least two (2) Business Days prior to the Closing Date with all documentation and other information required by Governmental Authorities with respect to the Debt Financing under applicable "know your customer" and anti-money laundering rules and regulations, including the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, as amended and requested in writing by Parent no less than nine (9) Business Days before the Closing Date;

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(xi) cooperate with Parent and take all corporate actions, subject to the occurrence of the Effective Time, reasonably requested by Parent to permit the consummation of the Financing; and

(xii) use commercially reasonable efforts to assist Parent, as reasonably requested by Parent, to cooperate and assist in Parent's efforts to obtain any regulatory approval required to consummate the Equity Financing in accordance with its terms.

provided, however, that notwithstanding anything to the contrary contained in this Agreement, (A) nothing in this Agreement (including this Section 7.9) shall require any such cooperation to the extent it would (i) require the Company or any of its Subsidiaries or Representatives, as applicable, to waive or amend any terms of this Agreement or agree to any commitment or other fees or reimburse any expenses prior to the Closing, (ii) interfere unreasonably with the business or operations of the Company or its Subsidiaries, (iii) require the Company or any of its Subsidiaries to take any action that will conflict with, violate or result in a breach of the Company's or any of its Subsidiaries' organizational documents, any material Contract to which the Company or any of its Subsidiaries is a party or any Laws, or (iv) result in any officer or director of the Company or any of its Subsidiaries incurring any personal liability with respect to any matters relating to the Financing, (B) neither the Company nor any of its Subsidiaries shall be required to incur any liability that is not contingent upon the Closing (or, without limitation of the foregoing, execute any definitive financing documents (except the authorization letter delivered pursuant to the foregoing clause (iii)) prior to the Closing or any other agreement, certificate, document or instrument that would be effective prior to the Closing), and (C) none of the Company Board of Directors or any of the boards of directors (or equivalent bodies) of its Subsidiaries shall be required to enter into any resolutions or take similar action approving the Financing. Parent shall indemnify and hold harmless the Company and its Subsidiaries and their respective Representatives from and against any and all liabilities, losses, damages, claims, costs, expenses (including attorneys' fees), interest, awards, judgments and penalties suffered or incurred in connection with the Financing or this Section 7.9(b), except to the extent suffered or incurred as a result of any such indemnitee's, or such indemnitee's respective Representatives' gross negligence, bad faith, willful misconduct or material breach of this Agreement. Parent shall, promptly upon request by the Company, reimburse the Company for all reasonable out-of-pocket costs (including reasonable attorneys' fees) incurred by the Company or its Subsidiaries in connection with this Section 7.9. Parent shall cause all non-public or confidential information provided by or on behalf of the Company or any of its Subsidiaries pursuant to this Section 7.9 to be kept confidential in accordance with the Non-Disclosure Agreement.

(c) Logos. The Company hereby consents to the use of the Company's logos in connection with the Financing in a form and manner mutually agreed with the Company; provided, however, that such logos are used solely in a manner that is not intended, or reasonably likely, to harm or disparage the Company or any of its Subsidiaries or the reputation or goodwill of the Company or any of its Subsidiaries or any of their respective intellectual property rights.

(d) Current Information. In connection with any Offering Document prepared by Parent and used to market any debt securities contemplated pursuant to the Debt Commitment Letter prior to the Closing, the Company will, upon request of Parent, use its reasonable best efforts to periodically update any Required Information included in such Offering Document so that Parent may ensure that such Required Information, when taken as a whole, does not contain as of the time provided, giving effect to any supplements, any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements contained therein not materially misleading.

(e) No Financing Condition. The Parent Parties acknowledge and agree that the obtaining of the Financing, or any alternative financing, is not a condition to the obligations of the Parent Parties and reaffirm their obligations to consummate the transactions contemplated by this Agreement irrespective and independently of the availability of the Financing or any alternative financing, subject to fulfillment or waiver of the conditions set forth in Article 8.

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Section 7.10 Other Transactions. The Company agrees that (i) upon request by Parent, the Company shall, subject to applicable Laws, effect such reorganizations of its business, operations and assets or such other transactions as Parent may reasonably request including, but not limited to the Liquidation (but which the Company shall in no event be required to undertake prior to immediately prior to the Closing), (each, a “**Pre-Closing Reorganization**”) and (ii) it shall cooperate with Parent and its advisors in order to determine the nature of the Pre-Closing Reorganizations that might be undertaken and the manner in which they might most effectively be undertaken; provided that the Company shall not be required to effect any Pre-Closing Reorganization or take any other action (or fail to take any action) pursuant to this Section 7.10 unless the Company determines in good faith that such Pre-Closing Reorganization or any other action (or failure to take any action) would not (A) be prejudicial to the Company and its Subsidiaries or the Company’s securityholders in any material respect; (B) result in any material breach by the Company of its organizational documents, any existing contract or commitment or any Law; (C) change the form or reduce the amount of the consideration due to the Company Shareholders pursuant to the transactions contemplated by this Agreement; (D) require the Company to obtain the prior approval of the Company Shareholders or, after the mailing of the Joint Information Statement/Circular, to require any amendment thereto; (E) impede or materially delay the completion of the Arrangement and the Merger or the receipt of any governmental approvals or consents necessary to satisfy, or the satisfaction of, any condition to the obligations of the Parties set forth in Article 8, or (F) otherwise have an adverse effect that is material to the Company and its Subsidiaries or the Company’s securityholders in the event the Closing does not occur. Parent shall promptly provide written notice to the Company of any proposed Pre-Closing Reorganization and, notwithstanding anything in this Section 7.10 to the contrary, the Company shall not be required to complete any proposed Pre-Closing Reorganization not requested by Parent in writing at least twenty (20) Business Days prior to the anticipated Closing Date. The Parent Parties and the Company shall work cooperatively and use commercially reasonable efforts to prepare prior to the Closing Date all documentation necessary and to take all such other actions as are reasonably necessary to give effect to any Pre-Closing Reorganization in accordance with this Section 7.10. The Parent Parties agree to waive any breach of a representation, warranty, covenant or agreement by the Company where such breach is a result of an action taken by the Company in good faith pursuant to a Pre-Closing Reorganization requested by Parent in accordance with this Section 7.10. Parent shall promptly indemnify and hold the Company and its Subsidiaries harmless from and against any and all direct and indirect liabilities, losses, damages, claims, costs, expenses, fees (including advisor fees), interest, Taxes (including any Taxes imposed with respect to the accrual or receipt of any indemnification payment pursuant this sentence and any withholding Taxes required to be remitted by the Company or any of its Subsidiaries), judgments and penalties suffered or incurred (currently or in the future) by the Company or any of its Subsidiaries in connection with or as a result of any Pre-Closing Reorganization requested by Parent in accordance with this Section 7.10.

Section 7.11 Publicity. The initial press release regarding this Agreement, the Arrangement, the Merger and the transactions contemplated by this Agreement shall be a joint press release to be reasonably agreed upon by Parent and the Company. Thereafter, none of Parties shall, and none of the Parties shall permit any of their respective Affiliates to, issue or cause the publication of any press release or similar public announcement with respect to, or otherwise make any public statement concerning, this Agreement, the Arrangement, the Merger or the other transactions contemplated by this Agreement without first consulting with Parent, in the case of a proposed announcement or statement by the Company or its Subsidiaries, or the Company, in the case of a proposed announcement or statement by a Parent Party or any of their respective Affiliates and, in each case, providing Parent or the Company, as applicable, a reasonable opportunity to comment; provided, however, that the restrictions set forth in this Section 7.11 will not apply to any release or public statement (a) made or proposed to be made by the Company in connection with a Company Adverse Recommendation Change or any action taken pursuant thereto, or (b) in connection with any dispute between the Parties regarding this Agreement, the Arrangement, the Merger, or the transactions contemplated by this Agreement; provided, further, that the foregoing shall be subject to each Party’s overriding obligation to make disclosure in accordance with applicable Law, and if such disclosure is required and the other Party has not reviewed or commented on such disclosure, the Party or such Affiliate making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party, and if such prior notice is

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not possible, to give such notice immediately following the making of such disclosure or filing. For the avoidance of doubt, the foregoing shall not prevent either Party from making internal announcements to employees and having discussions with shareholders and financial analysts and other stakeholders so long as such statements and announcements are consistent with the most recent press releases, public disclosures or public statements made by the Parties.

Section 7.12 Brand Headquarters; Names of Company and Parent

(a) Headquarters. Effective upon and following the Closing, (i) the Company's current headquarters in Oakville, Ontario will continue to be the Company's headquarters and the global home of the flagship "TIM HORTONS" brand and (ii) Parent's current headquarters in Miami, Florida will continue to be Parent's headquarters and the global home of the flagship "BURGER KING" brand.

(b) Name of Company and Parent. Effective upon and following the Closing, (i) the current name of the Company will be the name of the Company following consummation of the Arrangement and (ii) the current name of Parent will be the name of the Surviving Company following consummation of the Merger.

Section 7.13 Certain Matters in Respect of Holdings and Partnership

(a) Name of Holdings. Effective as of and following the Closing, the name of Holdings will be a name mutually agreed upon by Parent and the Company.

(b) Holdings Board of Directors. Parent, the Parent Board of Directors, Holdings and the board of directors of Holdings shall take all actions necessary (including, to the extent necessary, procuring the resignation or removal of any directors on the board of directors of Holdings immediately following the consummation of the Arrangement and the Merger) so that, as of immediately following the consummation of the Arrangement and the Merger, the number of directors that comprise the full board of directors of Holdings shall be no more than eleven (11), and such board of directors shall, following the consummation of the Arrangement and the Merger, consist of (a) eight (8) individuals of the Parent Board of Directors as of immediately prior to the Closing and designated by Parent and (b) three (3) individuals of the Company Board of Directors as of immediately prior to the Closing and designated by the Company prior to the Closing, each of which Company designees shall be a "resident Canadian" for purposes of the CBCA and at least two (2) of which Company designees would qualify as "independent" under U.S. Securities Laws and Canadian Securities Laws and the respective rules and policies of the TSX and NYSE. In the event that, prior to the Closing, any designee of the Company to the board of directors of Holdings is unable to serve on such board of directors, a replacement shall be similarly selected by the Company from the existing members of the Company Board of Directors as of immediately prior to the Closing.

(c) Continuance of Holdings as Federal Corporation; Certificate of Incorporation of Holdings. As soon as reasonably practicable following the date hereof (and in any event, not later than one (1) Business Day prior to the Closing Date), Holdings shall complete all steps necessary or desirable in order to be continued as a corporation under the federal laws of Canada. Not later than the Business Day prior to the Closing Date, the Certificate of Incorporation of Holdings in effect immediately prior to the Arrangement shall be amended and restated to be in the form attached hereto as Schedule G (the "**New Holdings Articles of Amendment**") and, as so amended, shall be the Certificate of Incorporation of Holdings until thereafter amended in accordance with applicable Law and the New Holdings Articles of Amendment.

(d) Bylaws of Holdings. Immediately prior to filing of the Articles of Arrangement, the bylaws of Holdings shall be amended and restated to be in the form attached hereto as Schedule H (the "**New Holdings Bylaws**") and, as so amended, shall be the bylaws of Holdings until thereafter amended in accordance with applicable Law, the New Holdings Articles of Amendment and the New Holdings Bylaws.

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(e) Registration of Partnership as Limited Partnership; Restatement of Partnership Agreement. As soon as reasonably practicable following the date hereof (and in any event no later than one (1) Business Day prior to the Closing), Partnership shall complete all steps necessary or desirable in order to convert and register as a limited partnership under the laws of Ontario with Holdings as general partner of Partnership and 8997896 Canada Inc. as limited partner of Partnership. Immediately prior to filing of the Articles of Arrangement, the partnership agreement of the Partnership shall be amended and restated to be in the form of limited partnership agreement substantially in the form attached hereto as Schedule I, with such changes as the Parties may agree, it being understood that each party will not unreasonably withhold agreement with respect to any suggested change that effectuates, or that does not adversely affect or interfere with, the principles set forth in Section 3.4(a) of the form of limited partnership agreement attached hereto as Schedule I, including the intended equivalence of the economic rights (for the avoidance of doubt, not taking any tax consequences or tax characterization into account and not taking into account any guaranteed payments, reimbursements or other distributions to Holdings in respect of expenses and other costs incurred by Holdings pursuant to Section 5.4(f) of the form of limited partnership agreement attached hereto as Schedule I or otherwise) of an Exchangeable Unit, a Common Unit and a Holdings Common Share (the “**Partnership Agreement**”) and, as so amended and restated, shall be the partnership agreement of the Partnership until thereafter amended in accordance with applicable Law and the Partnership Agreement.

(f) Registration Rights Agreements. As of the Effective Time, Holdings and Partnership shall (i) assume the Registration Rights Agreements and (ii) cause the Parent Shareholders party to a Registration Rights Agreement to have the same rights as they possess under such Registration Rights Agreement with respect to the Holdings Common Shares or Exchangeable Units that such Parent Shareholders receive as a result of the Merger.

Section 7.14 Company Dividends. If on or after the date hereof, the Company declares, sets aside or pays any dividend prior to the Effective Time, or sets any record date therefore prior to the Effective Time as permitted by Section 6.1(b)(ii), in each case in respect of the Company Common Shares, other than quarterly cash dividends with record dates and payment dates within the ranges of dates identified in Section 7.14 of the Company Disclosure Letter in an amount not to exceed C\$0.32 per Company Common Share, then the Company and Parent shall make such adjustments to the Arrangement Cash Consideration payable to the Company Shareholders hereunder as they determine acting in good faith to be necessary to restore the original intention of the Parties in the circumstances.

Section 7.15 Certain Adjustments of Partnership Units. Prior to the Merger Effective Time, Holdings and the Partnership shall take all actions necessary to ensure that (a) the number of Exchangeable Units issued to holders of Parent Common Shares pursuant to the Merger shall equal the sum of (i) the number of Exchangeable Election Shares plus (ii) the number of Non-Election Shares multiplied by 0.01 (in each case, subject to any proration in Section 2.3(f)(iii)), (b) the number of common units of the Partnership issued to Holdings as of immediately after the Merger Effective Time shall equal the number of Holdings Common Shares issued and outstanding as of immediately after the Merger Effective Time (provided that in no event shall the fair market value of Holdings’ interest in the Partnership be less than 50.1% of the fair market value of all equity interests in the Partnership), and (c) the number of preferred units of the Partnership issued to Holdings (as contemplated by the Partnership Agreement and the Equity Financing) shall equal the number of Holdings Preferred Shares issued as of the Closing Date.

Section 7.16 Tax Matters. For U.S. federal income Tax purposes, the Parties agree to treat the receipt of the Exchangeable Security Consideration by holders of Parent Common Shares pursuant to the Merger as a transaction described in Section 721 of the Code. Except to the extent otherwise required pursuant to a “determination” within the meaning of Section 1313(a) of the Code, the Parties shall take no position inconsistent with the foregoing on any Tax Return, in connection with any Tax Proceeding or otherwise.

Section 7.17 Debt Tender Offers and Redemptions .

(a) Debt Tender Offers . As soon as reasonably practicable after the receipt of any written request by Parent to do so, the Company shall use its reasonable best efforts to commence offers to purchase (including change of control offers) and/or consent solicitations related to any or all of the outstanding aggregate principal amount and all other amounts due of any or all series of notes, debentures or other debt securities of the Company or its Subsidiaries, on such terms and conditions, including pricing terms, that are specified and requested, from time to time, by Parent (each a “ **Debt Tender Offer** ” and collectively, the “ **Debt Tender Offers** ”) and Parent shall assist the Company in connection therewith; provided that Parent shall only request the Company to conduct any Debt Tender Offer in compliance with the documents governing the applicable debt securities and the applicable U.S. Securities Laws and Canadian Securities Laws. Notwithstanding the foregoing, the closing of the Debt Tender Offers shall be conditioned on the occurrence of the Closing, and the parties shall use their respective reasonable best efforts to cause the Debt Tender Offers to close on the Closing Date. Subject to the preceding sentence, the Company shall provide, and shall cause its Subsidiaries to, and shall use its reasonable best efforts to cause their respective Representatives to, provide all cooperation reasonably requested by Parent in connection with the Debt Tender Offers, including using reasonable best efforts in assisting with the preparation of the offer to purchase, consent solicitation statement, letter of transmittal and/or form of consent. The Company (i) shall waive any of the conditions to the Debt Tender Offers (other than the occurrence of the Closing) and make any change to the Debt Tender Offers, in each case, as may be reasonably requested by Parent and (ii) shall not, without the written consent of Parent, waive any condition to the Debt Tender Offers or make any changes to the Debt Tender Offers. Parent shall ensure that at the Effective Time the Company has all funds necessary to pay for such notes, debentures or other debt securities that have been properly tendered and not withdrawn pursuant to the Debt Tender Offers. The Parent Parties acknowledge and agree that neither the pendency nor the consummation of any Debt Tender Offer is a condition to the obligations of the Parent Parties to consummate the transactions contemplated by this Agreement.

(b) Agents . The dealer manager, solicitation agent, information agent, depository, paying agent and/or any other agents retained in connection with the Debt Tender Offers shall be selected by Parent and shall be reasonably acceptable to the Company. Without limiting Section 7.17(e), the Company shall enter into customary agreements (including indemnities) with such parties so selected and on terms and conditions acceptable to Parent.

(c) Redemptions . With respect to any series of notes, debentures or other debt securities of the Company or its Subsidiaries, if requested by Parent in writing on a timely basis, and solely to the extent permitted by the documents governing the applicable debt securities, in lieu of commencing a Debt Tender Offer for such series (or in addition thereto), the Company shall, to the extent permitted by the applicable indentures or other documents governing such series of securities, (i) issue a notice of redemption at least 30 days but not more than 60 days before the redemption date agreed with Parent (or such later time as may be required by such indenture, other governing documents or law) for all of the outstanding aggregate principal amount of such securities of such series pursuant to the requisite provisions of such indenture or other governing documents or (ii) take any actions reasonably requested by Parent that are customary or necessary to facilitate the redemption, defeasance, satisfaction and/or discharge of such series pursuant to the applicable section of such governing documents, and shall redeem, defease or satisfy and/or discharge, as applicable, such series in accordance with the terms of such governing documents at the Effective Time; provided, that any such redemption, defeasance, satisfaction and/or discharge must be conditioned on the occurrence of the Closing and shall be required only to the extent such condition is permitted by the documents governing the applicable debt securities. Parent shall only request the Company to conduct any transaction contemplated by this Section 7.17(c) in compliance with the documents governing the applicable debt securities and the applicable U.S. Securities Laws and Canadian Securities Laws. Parent shall ensure that at the Effective Time the Company has all funds necessary in connection with

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any such redemption, defeasance, satisfaction and/or discharge. The Parent Parties acknowledge and agree that neither the pendency nor the consummation of any such redemption, defeasance, satisfaction and/or discharge is a condition to the obligations of the Parent Parties to consummate the transactions contemplated by this Agreement.

(d) Collateral Arrangements. With respect to any series of notes, debentures or other debt securities of the Company or its Subsidiaries, if requested by Parent in writing on a timely basis, and solely to the extent permitted by the documents governing the applicable debt securities, in lieu of commencing a Debt Tender Offer for such series (or in addition thereto), the Company shall use reasonable best efforts to provide to the Parent Parties, and shall cause each of its Subsidiaries to use its reasonable best efforts to provide to the Parent Parties, and shall use its reasonable best efforts to cause its Representatives, including legal and accounting, to provide, in each case at Parent's sole expense, all cooperation reasonably requested by Parent that is customary or necessary in connection with securing such series of notes, debentures or other debt securities of the Company or its Subsidiaries, including using reasonable best efforts to assist in the preparation of, and execute and deliver guarantee, supplemental indentures and collateral documents, facilitate the pledging of collateral for the benefit of such series of notes, debentures or other debt securities of the Company or its Subsidiaries, request from the Company's existing lenders such customary documents as reasonably requested by Parent in connection with such collateral arrangements, and cooperate with Parent and take all corporate actions, in each case subject to the occurrence of the Effective Time, reasonably requested by Parent in connection with such collateral arrangements. The Parent Parties acknowledge and agree that neither the pendency nor the consummation of any transaction contemplated by this Section 7.17 (d) is a condition to the obligations of the Parent Parties to consummate the transactions contemplated by this Agreement.

(e) Indemnification; Reimbursement of Costs. Parent shall indemnify and hold harmless the Company and its Subsidiaries and their respective Representatives from and against any and all liabilities, losses, damages, claims, costs, expenses (including attorney's fees) interest, Taxes (including any Taxes imposed with respect to the accrual or receipt of any indemnification payment pursuant to this sentence), awards, judgments and penalties suffered or incurred in connection with this Section 7.17. Parent shall, promptly upon request by the Company, reimburse the Company for all reasonable out-of-pocket costs (including reasonable attorneys' fees) incurred by the Company or its Subsidiaries in connection with this Section 7.17.

Section 7.18 Company Voting Agreements. The Company agrees that each director of the Company will and the Company shall cause each director to, within three (3) Business Days after the date of this Agreement, deliver to each of Parent and the Company a Company Voting Agreement to vote, subject to the terms and conditions thereof, all of the Company Common Shares held by him or her in favor of the Arrangement Resolution and to agree that references to such intention may be made in the Joint Information Statement/Circular and other documents relating to the Arrangement and the Merger.

ARTICLE 8 CONDITIONS PRECEDENT

Section 8.1 Mutual Conditions Precedent. The respective obligations of the Parties to complete the Arrangement are subject to the satisfaction, or mutual waiver by Parent and the Company in writing, on or before the Closing Date, of each of the following conditions, each of which are for the mutual benefit of the Parties and which may be waived, in whole or in part, by Parent and the Company at any time:

(a) the Company Shareholder Approval shall have been obtained at the Company Meeting in accordance with the Interim Order and applicable Laws;

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(b) each of the Interim Order and Final Order shall have been obtained on terms consistent with this Agreement and the Final Order shall not have been set aside or modified in a manner unacceptable to either the Company or Parent, each acting reasonably, on appeal or otherwise;

(c) the Form S-4 shall have been declared effective and no stop order suspending the effectiveness of the Form S-4 shall be in effect and no similar action in respect of the Information Statement shall have been initiated or threatened by the SEC and not concluded or withdrawn;

(d) (i) the Holdings Common Shares shall have been (A) approved for listing on the NYSE, subject only to official notice of issuance, and (B) conditionally approved for listing on the TSX, subject only to the satisfaction of customary listing conditions of the TSX, and (ii) the Exchangeable Units shall have been conditionally approved for listing on the TSX, subject only to the satisfaction of customary listing conditions of the TSX;

(e) the Required Regulatory Approvals shall have been obtained or concluded and shall be in full force and effect and any waiting or suspensory periods related to the Required Regulatory Approvals shall have expired or been terminated, in each case, without the imposition of any Restraint;

(f) No Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law or Order (whether temporary, preliminary or permanent), in any case which is in effect and which prevents, prohibits or makes illegal consummation of the Arrangement, the Merger or any of the other transactions contemplated in this Agreement; and

(g) the Information Statement shall have been mailed to Parent's Shareholders in accordance with Section 2.5 at least twenty (20) Business Days (or twenty (20) calendar days if no documents are incorporated by reference therein) prior to the Closing Date.

Section 8.2 Additional Conditions Precedent to Obligations of the Company. The obligation of the Company to complete the Arrangement shall be subject to the satisfaction, or waiver by the Company in writing, on or before the Closing Date, of each of the following conditions, each of which is for the exclusive benefit of the Company and which may be waived by the Company at any time, in whole or in part, in its sole discretion and without prejudice to any other rights that the Company may have:

(a) Parent and the other Parent Parties shall have complied in all material respects with their respective obligations, covenants and agreements required to be performed by them under this Agreement to be performed and complied with on or before the Closing Date;

(b) the Parent Shareholder Consent shall have been delivered to Parent and the Company in accordance with the Parent Shareholder Voting Agreement;

(c) (i) the representations and warranties of Parent and Holdings contained in Section 4.3(a) (Capital Structure of Parent) and Section 5.3 (Capital Structure) shall, in all but *de minimis* respects, be true and correct as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date); (ii) the representations and warranties of Parent and Holdings contained in Section 4.4 (Authority; Recommendation), Section 4.24 (Voting Requirements), Section 4.25 (Takeover Statutes), Section 5.1(b) (Power and Authority), Section 5.1(c) (Power and Authority) and Section 5.2 shall, in all material respects, be true and correct as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date); (iii) the representation and warranty of Parent contained in Section 4.8(a) (Absence of Certain Changes or Events) shall be true and correct in all respects as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent that such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date); and (iv) except to the extent that any such representation and warranty expressly speaks as of an

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earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date, all other representations and warranties of Parent and Holdings set forth in this Agreement shall be true and correct as of the date hereof and shall be true and correct as of the Closing Date as though made on the Closing Date (in each case, without giving effect to any qualifications or limitations as to materiality or Parent Material Adverse Effect or similar phrases set forth therein), except, in the case of this clause (iv), for such failures to be true and correct that have not had or would not reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect;

(d) since the date of this Agreement, no fact, circumstance, change, effect, event or occurrence has occurred that has had or would reasonably be expected to have, individually or in the aggregate, a Parent Material Adverse Effect; and

(e) the Company shall have received a certificate of (i) Parent signed by an executive officer of Parent for and on behalf of Parent and dated the Closing Date certifying that the conditions set out in Section 8.2(a) and Section 8.2(c) have been satisfied and (ii) Holdings signed by an executive officer of Holdings for and on behalf of Holdings and dated the Closing Date certifying that the conditions set out in Section 8.2(a) (with respect to covenants of the Parent Parties other than Parent) and Section 8.2(c) (with respect to representations and warranties of Holdings) have been satisfied.

Section 8.3 Additional Conditions Precedent to Obligations of Parent Parties. The obligation of the Parent Parties to complete the Arrangement shall be subject to the satisfaction, or waiver by Parent in writing, on or before the Closing Date, of each of the following conditions, each of which is for the benefit of the Parent Parties and which may be waived by Parent at any time, in whole or in part, in its sole discretion and without prejudice to any other rights that Parent may have:

(a) the Company shall have complied in all material respects with its obligations, covenants and agreements required to be performed by it under this Agreement (other than pursuant to Section 7.9(b) and Section 7.17) to be performed and complied with on or before the Closing Date;

(b) (i) the representations and warranties of the Company contained in Section 3.3(a) (Capital Structure) shall, in all but *de minimis* respects, be true and correct as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date); (ii) the representations and warranties of the Company contained in Section 3.3(d) (Stockholder Rights Plan), Section 3.4 (Authority; Recommendation), Section 3.24 (Voting Requirements), Section 3.25 (Takeover Statutes), Section 3.26 (Broker and Other Advisors) and Section 3.27 (Opinions of Financial Advisors) shall, in all material respects, be true and correct as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date); (iii) the representation and warranty of the Company contained in Section 3.8(a) (Absence of Certain Changes or Events) shall be true and correct in all respects as of the date hereof and as of the Closing Date as though made on the Closing Date (except to the extent that such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date); (iv) except to the extent that any such representation and warranty expressly speaks as of an earlier date, in which case such representation and warranty shall be so true and correct as of such earlier date, all other representations and warranties of the Company set forth in this Agreement shall be true and correct as of the date hereof and shall be true and correct as of the Closing Date as though made on the Closing Date (in each case, without giving effect to any qualifications or limitations as to materiality or Company Material Adverse Effect or similar phrases set forth therein), except, in the case of this clause (iv), for such failures to be true and correct that have not had or would not reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect;

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(c) since the date of this Agreement, no fact, circumstance, change, effect, event or occurrence has occurred that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect;

(d) Parent shall have received a certificate of the Company signed by an executive officer of the Company for and on behalf of the Company and dated the Closing Date certifying that the conditions set out in Section 8.3(a) and Section 8.3(b) have been satisfied;

(e) The number of Company Common Shares held by Company Shareholders that have validly exercised Dissent Rights shall not exceed nine percent (9%) of the number of Company Common Shares outstanding as of the date hereof; and

(f) if requested by Parent in accordance with Section 7.10, the Company shall have undertaken the Liquidation.

Section 8.4 Conditions Precedent to the Merger. The respective obligations of the Parties to consummate the Merger are conditioned solely upon the consummation of the Arrangement.

Section 8.5 Cure Provision. No Parent Party, on the one hand, nor the Company, on the other hand, may elect to not complete the transactions contemplated hereby as the result of the failure of any condition set forth in Section 8.1, Section 8.2 or Section 8.3 or terminate this Agreement pursuant to Section 9.1(c)(ii) or Section 9.1(d)(iii), and no payments shall be payable as a result of any such termination pursuant to Section 9.2, unless the Party intending to rely thereon has delivered a written notice to the other Party specifying in reasonable detail all breaches of covenants, inaccuracies of representations and warranties or other matters which the Party delivering such notice is asserting as the basis for the non-fulfillment of the applicable condition or the availability of a termination right, as the case may be. If any such notice is delivered with respect to a matter that is capable of being cured, provided that a Party is proceeding diligently to cure such matter, no Party may terminate this Agreement unless such matter remains uncured as of the earlier of (i) the tenth (10th) Business Day following the date of receipt of such notice; and (ii) the Outside Date. If such notice has been delivered by the Company prior to the date of the Company Meeting, the Company may elect to postpone the Company Meeting until the expiry of such period (without causing a breach of any other provisions contained herein).

ARTICLE 9 TERMINATION

Section 9.1 Termination.

(a) Termination by Mutual Consent. This Agreement may be terminated at any time prior to the Closing by mutual written consent of the Company and Parent.

(b) Termination by Either the Company or Parent. This Agreement may be terminated by either the Company or Parent at any time prior to the Closing if:

(i) the Closing shall not have occurred by March 31, 2015 (such date, as it may be extended pursuant to this Section 9.1(b)(i), the “**Outside Date**”); provided that the right to terminate this Agreement pursuant to this Section 9.1(b)(i) shall not be available to a Party if the failure of such Party to fulfill any of its obligations or breach of any of its representations and warranties under this Agreement has been a principal cause of, or resulted in, the failure of the Closing to occur by the Outside Date; provided, further, that if all of the conditions to the obligations of the Parties are satisfied or (to the extent permitted by Law) waived as of March 31, 2015, other than the condition set forth in Section 8.1(e) and the condition set forth in Section 8.1(f) (as it relates to Section 8.1(e)) and those conditions that by their nature (including, for the avoidance of doubt, Section 8.3(e) and Section 8.3(f)) are to be satisfied at the Closing, either Party may, by written notice to the other Party, extend the Outside Date until April 30, 2015; provided, further, that

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neither Parent nor the Company shall be entitled to terminate this Agreement pursuant to this Section 9.1(b)(i) at any time after a Closing Failure Notice shall have been given.

(ii) the Company Shareholder Approval is not obtained at the Company Meeting;

(iii) any Governmental Authority of competent jurisdiction shall have issued a Law or Order or taken any other action permanently restraining, enjoining or otherwise prohibiting the Arrangement or the Merger, and such Law, Order, ruling or other action is or shall have become final and nonappealable; provided that the terminating Party shall have complied with its obligations under Section 7.2.

(c) Termination by Parent. This Agreement may be terminated by Parent at any time prior to the Closing if:

(i) at any time prior to the time the Company Shareholder Approval is obtained there has occurred a Company Adverse Recommendation Change;

(ii) there shall be any breach or inaccuracy in any of the Company's representations or warranties set forth in this Agreement or the Company has failed to perform any of its covenants or agreements set forth in this Agreement, which breach, inaccuracy or failure to perform would cause any of the conditions set forth in Section 8.3(a) or Section 8.3(b) not to be satisfied by the Outside Date and such breach, inaccuracy or failure to perform by its nature or timing cannot be cured by the Outside Date; provided that Parent is not then in breach of this Agreement such that any of the conditions set forth in Section 8.2(a) and Section 8.2(c) would not be capable of being satisfied by the Outside Date; or

(iii) the Parent Shareholder Voting Agreement is not duly executed and delivered to the Company and Parent within twenty-four (24) hours after the execution of this Agreement.

(d) Termination by the Company. This Agreement may be terminated by the Company at any time prior to the Closing if:

(i) at any time prior to the time the Company Shareholder Approval is obtained, in accordance with Section 6.4(e), in order to concurrently enter into an Alternative Acquisition Agreement that constitutes a Company Superior Proposal and the Company immediately prior to, or simultaneously with, such termination pays to Parent in immediately available funds any fees required to be paid pursuant to Section 9.2(a);

(ii) either (A) the Parent Shareholder Voting Agreement is not duly executed and delivered to the Company and Parent within twenty-four (24) hours after the execution of this Agreement or (B) the Parent Shareholder Consent is not duly executed and delivered to the Company and Parent in accordance with the Parent Shareholder Voting Agreement within five (5) Business Days after the effectiveness of the Form S-4;

(iii) there shall be any breach or inaccuracy in any of the representations or warranties given by the Parent Parties set forth in this Agreement or a Parent Party has failed to perform any of its covenants or agreements set forth in this Agreement, which breach, inaccuracy or failure to perform would cause any of the conditions set forth in Section 8.2(a) or Section 8.2(c) not to be satisfied by the Outside Date and such breach, inaccuracy or failure to perform by its nature or timing cannot be cured by the Outside Date; provided that the Company is not then in breach of this Agreement such that any of the conditions set forth in Section 8.3(a) and Section 8.3(b) would not be capable of being satisfied by the Outside Date.

Section 9.2 Termination Fees.

(a) If a Company Termination Fee Event occurs, the Company shall pay (or cause to be paid) to Parent a termination fee of C\$345,000,000 (the "**Termination Fee**") by wire transfer in immediately

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available funds to an account specified by Parent in consideration for the disposition of Parent's rights under this Agreement. If a Parent Termination Fee Event occurs, Parent shall pay (or cause to be paid) to the Company a termination fee of C\$500,000,000 (the "**Parent Termination Fee**") by wire transfer in immediately available funds to an account specified by the Company in consideration for the disposition of the Company's rights under this Agreement. If the Agreement is terminated by either Parent or the Company pursuant to Section 9.1(b)(ii), the Company shall pay (or cause to be paid) to Parent a termination fee of C\$40,000,000 (the "**Reimbursement Payment**") by wire transfer in immediately available funds to an account specified by Parent no later than two (2) Business Days after the date of such termination (provided that in the event the Company is obligated to pay the Reimbursement Payment and is subsequently obligated to pay to Parent the Termination Fee, the amount of the subsequent payment of the Termination Fee shall be reduced by the amount of the Reimbursement Payment previously paid to Parent under this Section 9.2). The Termination Fee shall be payable at the time specified in Section 9.2(b) .

(b) "**Company Termination Fee Event**" means:

(i) the termination of this Agreement (A) by the Company pursuant to Section 9.1(d)(i) , in which case the Company shall pay the Termination Fee prior to or concurrently with such termination or (B) by Parent pursuant to Section 9.1(c)(i) , in which case the Company shall pay the Termination Fee no later than two (2) Business Days after the date of such termination; or

(ii) the termination of this Agreement by (A) either the Company or Parent pursuant to Section 9.1(b)(i) or Section 9.1(b)(ii) or (B) Parent pursuant to Section 9.1(c)(ii) , if, in each case, (x) prior to such termination, a Company Acquisition Proposal shall have been made public or proposed publicly to the Company or the Company Shareholders and has not been withdrawn prior to the completion of the Company Meeting, and (y) at any time after the execution of this Agreement and prior to the expiration of the twelfth (12th) month after the termination of this Agreement, the Company shall have consummated any Company Acquisition Proposal, in which case the Termination Fee shall be paid by the Company on the date of consummation of such transaction. For purposes of this Section 9.2(b)(ii) references to "20%" in the definition of "Company Acquisition Proposal" shall be substituted with references to "50%."

(c) "**Parent Termination Fee Event**" means (i) the termination of this Agreement by the Company or Parent pursuant to Section 9.1(b)(i) or, subject to clause (ii) of this definition, Section 9.1(b)(iii) (but, in the case of Section 9.1(b)(iii) , only if arising in connection with any Relevant Law) if, at the time of either such termination, all of the conditions to the obligations of the Parties set forth in Section 8.1 and Section 8.3 have been satisfied or waived in writing (other than those conditions that by their nature (including, for the avoidance of doubt, Section 8.3(e) and Section 8.3(f)) are to be satisfied at the Closing, which conditions would be capable of being satisfied if the Closing Date were the date of termination), other than the conditions set forth in Section 8.1(e) (but only in the event the failure of such condition is due to the failure to receive the Investment Canada Act Approval) or Section 8.1(f) (but, in the case of Section 8.1(f) , only if the applicable Law or Order, as the case may be, is pursuant to the Investment Canada Act) or (ii) the termination of this Agreement by Parent pursuant to Section 9.1(b)(iii) (but only in the event the failure of such condition is due to Investment Canada Act Approval), in which case the Parent Termination Fee shall be paid by the Parent within two (2) Business Days of such termination.

(d) Each of the Parties acknowledges that the agreements contained in this Section 9.2 are an integral part of the transactions contemplated in this Agreement and that without these agreements the other Parties would not enter into this Agreement. Accordingly, if the Company or Parent fails to timely pay any amount due pursuant to this Section 9.2 and, in order to obtain the payment, the Company or Parent, as applicable, commences a suit which results in a judgment against the other Party for the payment set forth in this Section 9.2 , the Party that has failed to timely pay pursuant to this Section 9.2 shall pay the other Party its reasonable and documented costs and expenses (including

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reasonable and documented attorneys' fees) in connection with such suit, together with interest on such amount at the prime rate of the Royal Bank of Canada in effect on the date such payment was required to be made to and including the date on which such payment was actually received. Notwithstanding any other provision in this Agreement, in no event will (i) the Company be obligated to pay the Termination Fee more than once (provided that in the event the Company is obligated to pay the Reimbursement Payment and is subsequently obligated to pay to Parent the Termination Fee, the amount of the subsequent payment of the Termination Fee shall be reduced by the amount of the Reimbursement Payment previously paid to Parent under this Section 9.2) or (ii) Parent be obligated to pay the Parent Termination Fee more than once.

(e) In the event that Parent shall receive full payment of the Termination Fee pursuant to this Section 9.2 under circumstances where the Termination Fee was payable, (i) the receipt of the Termination Fee by Parent shall be in consideration for the disposition of Parent Parties' rights under this Agreement, and shall be deemed to be liquidated damages for, and shall be the sole and exclusive remedy of the Parent Parties and their respective Affiliates and shareholders against the Company or any of its Affiliates for, any and all losses or damages suffered or incurred by any Parent Party or any other Person in connection with this Agreement (and the termination hereof), the transactions contemplated hereby or any matter forming the basis for such termination, and (ii) following such receipt (A) no Parent Party nor any other Person shall be entitled to bring or maintain any claim, action or proceeding against the Company or any of its Affiliates arising out of or in connection with this Agreement (or the termination thereof) or the transactions contemplated herein and (B) neither the Company nor any of its Affiliates shall have any further liability with respect to this Agreement or the transactions contemplated hereby to any Parent Party or any of their respective Affiliates. Notwithstanding anything in this Agreement to the contrary, while the Parent Parties may pursue both a grant of specific performance in accordance with Section 10.11 and the payment of the Termination Fee under Section 9.2, under no circumstances shall the Parent Parties be permitted or entitled to receive both a grant of specific performance of the Company's obligation to consummate the transactions contemplated hereby and any monetary damages, including all or any portion of the Termination Fee.

(f) In the event that the Company shall receive full payment of the Parent Termination Fee pursuant to this Section 9.2 under circumstances where the Parent Termination Fee was payable, (i) the receipt of the Parent Termination Fee by the Company shall be in consideration for the disposition of the Company's rights under this Agreement, and shall be deemed to be liquidated damages for, and shall be the sole and exclusive remedy of the Company and its Subsidiaries and its shareholders against the Parent Related Parties or any of their respective Affiliates, any and all losses or damages suffered or incurred by the Company or any other Person in connection with this Agreement, the transactions contemplated hereby (and the termination thereof) or any matter forming the basis for such termination, and (ii) following such receipt (A) neither the Company nor any other Person shall be entitled to bring or maintain any claim, action or proceeding against the Parent Related Parties or any of their respective Affiliates arising out of or in connection with this Agreement, any of the transactions contemplated hereby (or the termination thereof) and (B) neither Parent nor any of their respective Affiliates shall have any further liability with respect to this Agreement or the transactions contemplated hereby to the Company. Notwithstanding anything in this Agreement to the contrary, while the Company may pursue both a grant of specific performance in accordance with Section 10.11 and the payment of the Parent Termination Fee under Section 9.2, under no circumstances shall the Company be permitted or entitled to receive both a grant of specific performance of the Parent Parties' obligation to consummate the transactions contemplated by this Agreement and any monetary damages, including all or any portion of the Parent Termination Fee.

Section 9.3 Effect of Termination. If this Agreement is terminated in accordance with Section 9.1, this Agreement shall become void and of no force and effect and no Party will have any liability or further obligation to the other Party hereunder, except that (a) the provisions of Article 1, Section 7.1(c), Section 9.2,

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Article 10 and this Section 9.3 shall survive any termination hereof in accordance with Section 9.1 and (b) the indemnification obligations of Parent set forth in the last sentence of Section 7.10 and in Sections 7.9 and 7.17 shall survive any termination hereof for the maximum limitation period permitted under the Law. Notwithstanding anything to the contrary contained in this Agreement, (i) neither the termination of this Agreement nor anything contained in Section 9.2 or this Section 9.3 will (A) relieve any Party from any liability for any material breach of any covenant contained in this Agreement or any intentional or willful breach of any covenants, representations or warranties contained in this Agreement, including any intentional or willful making of a misrepresentation in this Agreement, or (B) relieve Parent from any liability pursuant to Sections 7.9 or 7.17 the last sentence of Section 7.10 and (ii) the Non-Disclosure Agreement shall survive any termination hereof in accordance with Section 9.1.

ARTICLE 10
GENERAL

Section 10.1 Notices. Any demand, notice or other communication to be given in connection with this Agreement (unless stated otherwise to the contrary) must be (a) given in writing and will be given by overnight courier personal delivery or by facsimile or electronic transmission, in each case, with either confirmation of receipt or if given via facsimile or email with a confirmatory copy delivered by internationally or nationally recognized courier services within three (3) Business Days following transmission of such facsimile or email, and (b) addressed to the recipient as follows:

(i) if to a Parent Party:

Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126
Attention: Daniel Schwartz
Jill Granat
Facsimile: 305-378-7275
email: dschwartz@whopper.com
jgranat@whopper.com

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

Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022 USA
Attention: Stephen Fraidin
William B. Sorabella
David B. Feirstein
Facsimile: (212) 446-6460
email: stephen.fraidin@kirkland.com
william.sorabella@kirkland.com
david.feirstein@kirkland.com

and

Davies Ward Phillips and Vineberg LLP
155 Wellington Street West
Toronto, Ontario
Canada M5V 3J7
Attention: Patricia Olasker
Steven Harris
Facsimile: (416) 863-0871
email: polasker@dwpv.com
sharris@dwpv.com

and

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 6th Avenue
New York, New York 10019 USA
Attention: Jeffrey B. Samuels
Facsimile: (212) 373-3112
email: jsamuels@paulweiss.com

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(ii) if to the Company:

Tim Hortons Inc.
874 Sinclair Road
Oakville, ON, Canada
Attention: Jill Sutton
Facsimile: (905) 845-2931
email: Sutton_jill@timhortons.com

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

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019 USA
Attention: Adam O. Emmerich
Gordon S. Moodie
Facsimile: (212) 403-2000
Email: aoemmerich@WLRK.com
gsmoodie@WLRK.com

and

Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 4600, P.O. Box 50
Toronto, Ontario
Canada M5X 1B8
Attention: Clay Horner
Doug Bryce
Facsimile: (416) 862-6666
email: chorner@osler.com
dbryce@osler.com

or to such other street address, individual or electronic communication number or address as may be designated by notice given by either Party to the other. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by facsimile or electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the following Business Day if not given during such hours on any day.

Section 10.2 Expenses. Except as otherwise specified herein and except in respect of any filings fees associated the Form S-4, which fees shall be paid by Parent, each Party will pay its respective legal and accounting costs and expenses incurred in connection with the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement and any other costs and expenses whatsoever and howsoever incurred.

Section 10.3 No Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by any Party without the prior written consent of the other Parties; provided that each of Holdings and Parent shall have the right to assign all or any portion of its rights and obligations pursuant to this Agreement from and after the completion of the Arrangement and the Merger to one or more of its Subsidiaries or to any Debt Financing Source pursuant to the terms of the Debt Commitment Letters for purposes of creating a security interest herein or otherwise assigning as collateral in respect of the Debt Financing. No assignment by any Party shall relieve such Party of any of its obligations hereunder. Subject to the immediately preceding sentences in this Section 10.3, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and assigns.

Section 10.4 Governing Law; Service of Process

(a) This Agreement, and any dispute arising out of, relating to, or in connection with this Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario without giving effect to any choice or conflict of law provision or rule (whether of the Province of Ontario or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the Province of Ontario, except that the provisions hereof which expressly relate to the DGCL (including the approval and effectiveness of the Merger) shall be construed, performed, governed and enforced in accordance with the DGCL. The Parties hereby irrevocably and unconditionally consent to and submit to the courts of the Province of Ontario for any actions, suits or proceedings arising out of or relating to this Agreement or the matters contemplated herein (and agree not to commence any action, suit or proceeding relating thereto except in such courts) and further agree that service of any process, summons, notice or document by registered mail to the addresses of the Parties set forth in this Agreement shall be effective service of process for any action, suit or proceeding brought against any Party in such court. The Parties hereby irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Agreement or the matters contemplated herein in the courts of the Province of Ontario and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such court that any such action, suit or proceeding so brought has been brought in an inconvenient forum.

(b) Each Party hereby agrees that any service of process, summons, notice or document by registered mail addressed to such Person at its address set forth in Section 10.1 shall be effective service of process for any suit, action or proceeding relating to any dispute arising out of this Agreement or the transactions contemplated by this Agreement.

(c) Notwithstanding anything in this Section 10.4 to the contrary, and without limiting anything set forth in Section 10.13, each of the Parties agrees that it will not bring or support (and it will not support any of its Affiliates to bring or support) any claim, suit, action or other proceeding (whether at law, in equity, in contract, in tort or otherwise) against or involving any Debt Financing Source (or any of the parties referred to in subclause (i) of the definition of “Parent Related Parties” with respect to such Debt Financing Source) in any way relating to this Agreement or any of the transactions contemplated by this Agreement (including any related Debt Financing), including any dispute arising out of or relating in any way to the Debt Commitment Letter, Debt Financing or the performance thereof, in any forum other than any New York State court or federal court sitting in the County of New York and the Borough of Manhattan (and appellate courts thereof).

(d) Notwithstanding anything in this Section 10.4 to the contrary, and without limiting anything set forth in Section 10.13, each of the Parties agrees that it will not bring or support (and it will not support any of its Affiliates to bring or support) any claim, suit, action or other proceeding (whether at law, in equity, in contract, in tort or otherwise) against or involving any source of the Equity Financing in any way relating to this Agreement or any of the transactions contemplated by this Agreement (including any related Equity Financing), including any dispute arising out of or relating in any way to the Equity Purchase Agreement, Equity Financing or the performance thereof, in any forum other than any Delaware state court or federal court sitting in the County of New Castle (and appellate courts thereof).

Section 10.5 Entire Agreement. This Agreement, together with the Non-Disclosure Agreement, the Company Voting Agreements, the Debt Commitment Letters, the Equity Purchase Agreement, and any documents delivered hereunder, constitutes the entire agreement between the Parties and supersedes all prior agreements and understandings, both written and oral, among the Parties, with respect to the subject matter thereof; provided that the Non-Disclosure Agreement shall survive the execution and delivery of this Agreement except that the standstill restrictions, restrictions on contact and restrictions on designations of approved financing sources in the Non-Disclosure Agreement shall terminate (solely with respect to the Parent Parties and their respective Affiliates) immediately following the execution and delivery of this Agreement solely for

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purposes of permitting any action contemplated hereby and in accordance herewith and solely until the termination of this Agreement in accordance with its terms.

Section 10.6 No Third Party Beneficiaries .

(a) Except (i) with respect to the Indemnified Parties and only after the Effective Time, as provided in Section 7.5 (Indemnification and Insurance), (ii) with respect to the indemnification and reimbursement obligations of Parent pursuant to Section 7.9 (Financing) and Section 7.17, (iii) the rights of the Parent Related Parties set forth in Section 9.2(f) and Affiliates of the Company set forth in Section 9.2(e), and (iv) that the Company shall have the right to pursue claims for damages on behalf of the Company Shareholders (including damages based on the loss of the economic benefits of the Arrangement and the other transactions contemplated herein, including the loss of premium offered to such Company Shareholders) in the event of a Parent Party's breach of this Agreement giving rise to any such claim (provided that this clause (iv) is not intended to create any right of the Company Shareholders to bring an action against a Parent Party pursuant to this Agreement (it being understood that any amounts received by the Company in connection therewith may be retained by Company)), the Parties hereby agree that their respective representations, warranties and covenants set forth herein are solely for the benefit of the other Parties hereto, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than the Parties hereto any rights or remedies hereunder, including the right to rely upon the representations and warranties set forth herein. Notwithstanding the foregoing, the provisions of Section 9.2(f), Section 10.4(c), Section 10.7, Section 10.12 and this Section 10.6 (and the definitions related thereto) shall be enforceable by each Financing Source (and each is an intended third party beneficiary thereof and in this regard, Parent will act as trustee for each Financing Source in respect of the foregoing covenants and accepts these trusts and will hold and enforce these covenants on behalf of each Financing Source).

(b) The representations and warranties in this Agreement are the product of negotiations among the Parties and are for the sole benefit of the Parties. Any inaccuracies in such representations and warranties are subject to waiver by the Parties in accordance with Section 10.8 without notice or liability to any other Person. The representations and warranties in this Agreement may represent an allocation among the Parties of risks associated with particular matters.

(c) Except as provided in this Section 10.6, this Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns.

Section 10.7 Amendment .

(a) Subject to compliance with applicable Law, this Agreement may be amended by the Company and Parent (on behalf of itself and the Parent Parties), by action taken or authorized by the Company Board of Directors and the Parent Board of Directors, respectively, at any time before or after the receipt of the Company Shareholder Approval or the Parent Shareholder Approval, except that, after receipt of the Company Shareholder Approval or the Parent Shareholder Approval, there may not be, without further approval of the Company Shareholders or the Parent Shareholders, respectively, any amendment of this Agreement that changes the amount or the form of the consideration to be delivered under this Agreement to the Company Shareholders or Parent Shareholders, respectively.

(b) Notwithstanding the foregoing, the Plan of Arrangement may only be supplemented or amended in accordance with the provisions thereof.

(a) Notwithstanding anything to the contrary contained herein, Section 9.2(f), Section 10.4(c), Section 10.6, Section 10.13 and this Section 10.7 (and any provision of this Agreement to the extent a modification, waiver by Parent or termination of such provision would modify the substance of any of the foregoing provisions) may not be modified, waived by Parent or terminated in a manner that is adverse in any respect to a Financing Source without the prior written consent of such Financing Source.

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Section 10.8 Waiver and Modifications. Any Party may (a) waive, in whole or in part, any inaccuracy of, or consent to the modification of, any representation or warranty made to it thereunder or in any document to be delivered pursuant hereto, (b) extend the time for the performance of any of the obligations or acts of the other Parties (c) to the extent permitted by Law and subject to Section 10.7, waive or consent to the modification of any of the covenants herein contained for its benefit or waive or consent to the modification of any of the obligations of the other Parties hereto, or (d) to the extent permitted by Law and subject to Section 10.7, waive the fulfilment of any condition to its own obligations contained herein. No waiver or consent to the modifications of any of the provisions of this Agreement will be effective or binding unless made in writing and signed by the Party or Parties purporting to give the same and, unless otherwise provided, will be limited to the specific breach or condition waived. The rights and remedies of the Parties hereunder are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at Law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects any further exercise of such right or remedy or the exercise of any other right or remedy to which that Party may be entitled. No waiver or partial waiver of any nature, in any one or more instances, will be deemed or construed a continued waiver of any condition or breach of any other term, representation or warranty in this Agreement.

Section 10.9 Severability. Upon such determination that any provision is illegal, invalid or unenforceable all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated by this Agreement, including the Arrangement and the Merger, be consummated as originally contemplated to the fullest extent possible.

Section 10.10 Further Assurances. Subject to the provisions of this Agreement, the Parties will, from time to time, do all acts and things and execute and deliver all such further documents and instruments, as the other Parties may, either before or after the Closing, reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

Section 10.11 Injunctive Relief. The Parties hereto agree that irreparable damage for which monetary damages, even if available, would not be an adequate remedy, would occur in the event that the Parties hereto do not perform their obligations under the provisions of this Agreement (including failing to take such actions as are required of them hereunder to consummate this Agreement) in accordance with its specified terms or otherwise breach such provisions. The Parties acknowledge and agree (and further agree not to take any contrary position in any litigation concerning this Agreement) that (a) the Parties shall be entitled to an injunction or injunctions, specific performance, or other equitable relief, to prevent breaches or threatened breaches of this Agreement and to enforce specifically the terms and provisions hereof (including the obligations of the Parties hereto to consummate the Closing in accordance with Article 2) in the courts of the Province of Ontario without proof of damages or otherwise, and that such relief may be sought in addition to and shall not limit, diminish, or otherwise impair, any other remedy to which they are entitled under this Agreement, at law, in equity or otherwise, (b) the provisions set forth in Section 9.2 are not intended to and do not adequately compensate for the harm that would result from a breach of this Agreement and shall not be construed to limit, diminish or otherwise impair in any respect any Party's right to specific enforcement, and (c) the right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without that right, neither the Company nor Parent would have entered into this Agreement. Each of the Parties agrees that it will not oppose the granting of an injunction, specific performance and other equitable relief on the basis that (A) the other Parties have an adequate remedy at law or (B) an award of specific performance is not an appropriate remedy for any reason at law or equity. The Parties acknowledge and agree that any Party seeking an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement shall not be required to provide any bond or other security in connection with any such order or injunction.

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Section 10.12 Counterparts. This Agreement may be executed and delivered in any number of counterparts (including by facsimile or electronic transmission), each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument, and each Party may enter into this Agreement by executing a counterpart and delivering it to the other Party (by personal delivery, facsimile, electronic transmission or otherwise).

Section 10.13 No Recourse. In no event, shall the Company or any of its Affiliates, and the Company agrees not to and to cause its Affiliates not to, (A) seek to enforce this Agreement against, make any claims for breach of this Agreement against, or seek to recover monetary damages from, any source of Financing or (B) seek to enforce the commitments against, make any claims for breach of the Debt Commitment Letters or Equity Purchase Agreement, as applicable, against, or seek to recover monetary damages from, or otherwise sue, Financing Sources for any reason in connection therewith, including in connection with Debt Financing commitments or the obligations of Financing Sources thereunder. Nothing in this Section 10.13 shall in any way limit or qualify the obligations and liabilities of the parties to the Debt Commitment Letter to each other or in connection therewith or the right of the Company to seek specific performance against the Parent Parties under Section 10.11.

Section 10.14 Obligations of the Parent Parties. Parent agrees that:

(a) Parent will cause each other Parent Party to perform its obligations under this Agreement, the Plan of Arrangement and the agreements contemplated hereby and thereby in accordance with the terms hereof and thereof;

(b) Parent absolutely guarantees, as a principal and not as a surety, to the Company the full and complete performance by each other Parent Party of its obligations under this Agreement and the Plan of Arrangement and the agreements contemplated hereby and thereby, including all payment obligations given or undertaken or expressed to be given or undertaken in this Agreement, the Plan of Arrangement and the agreements contemplated hereby and thereby which are to be performed on or prior to the Closing, subject to the limitations of liability in Section 9.2(f); and

(c) Parent will be responsible for any breach or liability of each other Parent Party under this Agreement, the Plan of Arrangement and the agreements contemplated hereby and thereby.

(d) Parent hereby waives diligence, presentment, demand of performance, filing of any claim, any right to require any proceeding first against any other Parent Party.

{The remainder of this page is left intentionally blank—Signature page follows}

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IN WITNESS WHEREOF the Parties have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

BURGER KING WORLDWIDE, INC.

By: /s/ Jill Granat
Name: Jill Granat
Title: Secretary

1011773 B.C. UNLIMITED LIABILITY COMPANY

By: /s/ Jill Granat
Name: Jill Granat
Title: Secretary

NEW RED CANADA PARTNERSHIP

By: /s/ Jill Granat
Name: Jill Granat
Title: Secretary

BLUE MERGER SUB, INC.

By: /s/ Jill Granat
Name: Jill Granat
Title: Secretary

8997900 CANADA INC.

By: /s/ Jill Granat
Name: Jill Granat
Title: Secretary

TIM HORTONS INC.

By: /s/ Marc Caira
Name: Marc Caira
Title: President and Chief Executive Officer

[Signature Page to Arrangement Agreement and Plan of Merger]

PLAN OF ARRANGEMENT

**FORM OF PLAN OF ARRANGEMENT UNDER SECTION 192
OF THE CANADA BUSINESS CORPORATIONS ACT**

**ARTICLE 1
DEFINITIONS AND INTERPRETATION**

1.1 Definitions

In this Plan of Arrangement, unless there is something in the subject matter or context inconsistent therewith, the following words and terms shall have the meanings hereinafter set forth:

“Amalgamation Sub” means 8997900 Canada Inc., a corporation incorporated under the laws of Canada;

“Arrangement” means the arrangement of the Company under section 192 of the CBCA on the terms and subject to the conditions set forth in this Plan of Arrangement, subject to any amendments or variations thereto made in accordance with the Arrangement Agreement and Section 6.1 hereof or made at the discretion of the Court in the Final Order (with the consent of the Company and Blue, each acting reasonably);

“Arrangement Agreement” means the Arrangement Agreement and Plan of Merger dated as of August 26, 2014, among Parent, Holdings, Partnership, Merger Sub, Amalgamation Sub and the Company (including the Schedules attached thereto) as may be amended, supplemented, restated or otherwise modified from time to time in accordance with its terms;

“Arrangement Cash Consideration” means \$88.50 in cash per Company Common Share, as adjusted pursuant to Section 3.3 hereof;

“Arrangement Consideration” means the Arrangement Cash Consideration, the Arrangement Mixed Consideration or the Arrangement Share Consideration, as applicable;

“Arrangement Exchange Agent” means • at its offices set out in the Letter of Transmittal and Election Form;

“Arrangement Mixed Consideration” means \$65.50 in cash and 0.8025 Holdings Common Shares per Company Common Share;

“Arrangement Mixed Consideration Value” means an amount equal to the sum of (a) \$65.50 plus (b) the value of 0.8025 Holdings Common Shares, based on the opening price of a Holdings Common Share on the TSX for the first trading day immediately following the Effective Time;

“Arrangement Resolution” means the special resolution of the Company to be considered and, if thought fit, passed by the Company Shareholders at the Company Meeting to approve the Arrangement, to be substantially in the form of Schedule A to the Arrangement Agreement;

“Arrangement Share Consideration” means, in respect of each Company Common Share subject to the Arrangement, 3.0879 Holdings Common Shares per Company Common Share, as adjusted pursuant to Section 3.3 hereof;

“Articles of Arrangement” means the articles of arrangement of the Company in respect of the Arrangement to be filed with the Director after the Final Order is made, which shall be in form and substance satisfactory to Parent and the Company, each acting reasonably;

“AS Common Shares” means the common shares in the capital of Amalgamation Sub;

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“ **AS Delivered Common Shares** ” has the meaning ascribed thereto in Section 3.1(l);

“ **Available Cash Election Amount** ” means (a) the product of (i) the aggregate number of outstanding Company Common Shares (other than any Company Common Shares held by Amalgamation Sub) as of the step referenced in Section 3.1(k) multiplied by (ii) \$65.50 *minus* (b) the aggregate amount of cash to be paid in respect of all Mixed Election Shares and No Election Shares *minus* (c) the product of (i) the aggregate number of Company Common Shares, measured as of the Election Deadline, in respect of which Dissent Rights have been validly exercised under Article 4 and which have not been withdrawn *multiplied by* (ii) the Arrangement Cash Consideration;

“ **BHI** ” means Berkshire Hathaway Inc., a corporation existing under the laws of the State of Delaware;

“ **BHI Aggregate Consideration** ” means the US\$3 billion purchase price payable by BHI to Holdings pursuant to the Securities Purchase Agreement;

“ **Business Day** ” means a day other than a Saturday, a Sunday or any other day on which major commercial banking institutions in Toronto, Ontario or New York, New York are authorized by law to be closed;

“ **Cash Election Amount** ” means the product of (a) the number of Cash Election Shares multiplied by (b) the Arrangement Cash Consideration;

“ **Cash Election Share** ” has the meaning ascribed thereto in Section 3.2(a);

“ **Cash Fraction** ” has the meaning ascribed thereto in Section 3.3(a);

“ **CBCA** ” means the *Canada Business Corporations Act* ;

“ **Certificate of Arrangement** ” means the certificate of arrangement certifying that the Arrangement has been effected, issued pursuant to subsection 192(7) of the CBCA after the Articles of Arrangement have been filed;

“ **Company** ” means Tim Hortons Inc., a corporation existing under the laws of Canada;

“ **Company Common Shares** ” means the common shares in the capital of the Company;

“ **Company DSU** ” means, at any time, each award of deferred stock units with respect to Company Common Shares granted pursuant to the Company Stock Plans or otherwise which is, at such time, outstanding, whether or not vested;

“ **Company Equity Awards** ” means the Company Options, Company DSUs, Company PSUs and Company RSUs;

“ **Company Meeting** ” means the special meeting of the Company Shareholders, including any adjournment or postponement thereof, to be called and held in accordance with the Arrangement Agreement and the Interim Order for the purpose of considering and, if thought fit, approving the Arrangement Resolution;

“ **Company Optionholder** ” means a holder of one or more Company Options;

“ **Company Option** ” means, at any time, each award of options to acquire Company Common Shares granted pursuant to the Company Stock Plans or otherwise which are, at such time, outstanding and unexercised, whether or not vested;

“ **Company PSU** ” means, at any time, each award of performance share units with respect to Company Common Shares granted pursuant to the Company Stock Plans or otherwise which is, at such time, outstanding, whether or not vested;

“ **Company RSU** ” means, at any time, each award of restricted stock units with respect to Company Common Shares granted pursuant to the Company Stock Plans or otherwise which is, at such time, outstanding, whether or not vested, for the avoidance of doubt, including any award of restricted stock units that was initially granted based on performance goals but that is subject only to time-based vesting criteria as of the Effective Time;

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“ **Company Shareholder** ” means a holder of one or more Company Common Shares, and includes holders of Company Common Shares issued pursuant to Section 3.1(g), 3.1(h) and 3.1(i);

“**Company Stock Plans**” means the Company 2006 Stock Incentive Plan, the Company 2012 Stock Incentive Plan and the Company Non-Employee Director Deferred Stock Unit Plan;

“**Company Trust**” means the TDL RSU Employee Benefit Plan Trust;

“ **Court** ” means the Ontario Superior Court of Justice (Commercial List);

“ **Director** ” means the Director appointed pursuant to section 260 of the CBCA;

“ **Dissent Rights** ” has the meaning set out in Section 4.1;

“**Dissenting Shareholder** ” means a Company Shareholder who has duly exercised its Dissent Rights and has not withdrawn or been deemed to have withdrawn such exercise of Dissent Rights, but only in respect of Company Common Shares in respect of which Dissent Rights are validly exercised by such Company Shareholder;

“ **Effective Date** ” means the date of the Certificate of Arrangement;

“ **Effective Time** ” means 12:01 a.m. (Toronto Time) on the Effective Date, or such other time as the parties may agree to in writing before the Effective Date;

“ **Election Deadline** ” means 5:00 p.m. (Toronto Time) on the Business Day which is three Business Days preceding the anticipated Effective Date;

“ **Escrow Agreements** ” means, collectively, (a) the escrow agreement dated as of October 27, 2014 among JPMorgan Chase Bank, N.A., as administrative agent and escrow agent, 1011778 B.C. Unlimited Liability Company, as borrower, and New Red Finance, Inc., as co-borrower and (b) the escrow agreement dated as of October 8, 2014 among Wilmington Trust, National Association, as trustee, escrow agent and securities intermediary, 1011778 B.C. Unlimited Liability Company, as issuer, and New Red Finance, Inc., as co-issuer;

“ **Exchange Ratio** ” means 3.0879;

“ **Final Order** ” means the order of the Court in a form acceptable to the Company and Parent, each acting reasonably, approving the Arrangement under section 192(4) of the CBCA, as such order may be affirmed, amended, modified, supplemented or varied by the Court (following the prior written consent of the Company and Parent, such consent not to be unreasonably withheld, delayed or conditioned) at any time prior to the Effective Date or, if appealed, then, unless such appeal is withdrawn, abandoned or denied, as affirmed or amended (following the prior written consent of the Company and Parent, such consent not to be unreasonably withheld, delayed or conditioned) on appeal;

“ **Former Shareholders** ” means the holders of Common Shares immediately prior to the Effective Time together with holders of Company Equity Awards who receive Company Common Shares pursuant to Section 3.1(g), 3.1(h) and 3.1(i);

“ **Governmental Authority** ” means any international, multinational, federal, provincial, territorial, state, regional, municipal, local or other government or governmental body and any ministry, department, division, bureau, agent, official, agency, commission, board or authority of any government, governmental body, quasi-governmental or private body (including the TSX, the NYSE, or any other stock exchange), domestic or foreign, exercising any statutory, regulatory, expropriation or taxing authority under the authority of any of the foregoing and any domestic, foreign or international judicial, quasi-judicial or administrative court, tribunal, commission, board, panel, arbitrator or arbitral body acting under the authority of any of the foregoing;

“ **Holdings** ” means • , a corporation incorporated under the laws of Canada;

“ **Holdings Arrangement Options** ” means options to acquire Holdings Common Shares received in exchange for Company Options pursuant to Section 3.1(m);

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“ **Holdings Common Shares** ” means the common shares in the capital of Holdings;

“ **Holdings Preferred Shares** ” means the Class A 9% Cumulative Compounding Perpetual Preferred Shares in the capital of Holdings, to be issued to BHI pursuant to the Securities Purchase Agreement;

“ **Holdings Warrant** ” means the warrant to purchase Holdings Common Shares to be issued to BHI pursuant to the Securities Purchase Agreement;

“ **Interim Order** ” means the interim order of the Court in a form reasonably acceptable to each of the Company and Parent, to be issued following the application therefor contemplated by Section 2.2(d) of the Arrangement Agreement providing for, among other things, the calling and holding of the Company Meeting, as such order may be amended, modified, supplemented or varied by the Court with the prior written consent of both the Company and Parent, such consent not to be unreasonably withheld, conditioned or delayed;

“ **In the Money Amount** ” has the meaning ascribed thereto in Section 3.1(m);

“ **Law** ” means any and all laws, statutes, codes, ordinances (including zoning), approvals, decrees, rules, regulations, bylaws, notices, policies, protocols, guidelines, treaties or other requirements of any Governmental Authority and any legal requirements arising under the common law or principles of law or equity;

“ **Letter of Transmittal and Election Form** ” means the letter of transmittal and election form for use by Company Shareholders with respect to the Arrangement;

“ **Liens** ” means any pledge, claim, lien, charge, option, hypothec, mortgage, security interest, restriction, adverse right, prior assignment, lease, sublease, license, sublicense, right to possession or any other encumbrance, right or restriction of any kind or nature whatsoever, whether contingent or absolute;

“ **LLC** ” means a limited liability company under the laws of Delaware to be formed as an indirect wholly owned subsidiary of Holdings prior to the Effective Date;

“ **Merger** ” has the meaning ascribed to it in the Arrangement Agreement;

“ **Merger Effective Time** ” has the meaning ascribed to it in the Arrangement Agreement;

“ **Merger Sub** ” means Blue Merger Sub, Inc., a Delaware limited liability company;

“ **Mixed Election Share** ” has the meaning ascribed thereto in Section 3.2(a);

“ **NYSE** ” means the New York Stock Exchange;

“ **Net Surrender Shares** ” has the meaning ascribed thereto in Section 3.1(i);

“ **New Amalco** ” means the entity formed pursuant to Section 3.1(r);

“ **New AS Common Shares** ” means common shares in the capital of New Amalco;

“ **No Election Share** ” has the meaning ascribed thereto in Section 3.1(j);

“ **Parent** ” means Burger King Worldwide Inc., a corporation incorporated under the laws of Delaware;

“ **Partnership** ” means • , a limited partnership formed under the laws of the Province of Ontario;

“ **Person** ” includes an individual, sole proprietorship, corporation, body corporate, incorporated or unincorporated association, syndicate or organization, partnership, limited partnership, limited liability company, unlimited liability company, joint venture, joint stock company, trust, natural person in his or her capacity as trustee, executor, administrator or other legal representative, a government or Governmental Authority or other entity, whether or not having legal status;

“ **Plan of Arrangement** ”, “ **hereof** ”, “ **herein** ”, “ **hereto** ” and like references mean and refer to this plan of arrangement;

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“ **Rights Agreement** ” means that certain Shareholders Rights Plan Agreement, dated as of August 6, 2009, between the Company and Computershare Trust Company of Canada;

“ **Securities Purchase Agreement** ” means the securities purchase agreement dated August 26, 2014 between Holdings and BHI, as amended;

“ **Selling Shareholders** ” means the Company Shareholders (but does not include the Dissenting Shareholders);

“ **Share Election Share** ” has the meaning ascribed thereto in Section 3.2(a);

“ **Special Voting Share** ” means the special voting share in the capital of Holdings;

“ **Surrendered Company Option** ” means the vested portion of a Company Option for which a Company Optionholder has validly executed an applicable surrender form providing for surrender contingent upon the occurrence of the Effective Time;

“ **Tax Act** ” means the *Income Tax Act* (Canada);

“ **Trustee** ” means • ;

“ **TSX** ” means the Toronto Stock Exchange; and

“ **Voting Trust Agreement** ” has the meaning ascribed thereto in the Arrangement Agreement.

Words and phrases used herein that are defined in the Arrangement Agreement and not defined herein shall have the same meaning herein as in the Arrangement Agreement, unless the context otherwise requires. Words and phrases used herein that are defined in the CBCA and not defined herein or in the Arrangement Agreement shall have the same meaning herein as in the CBCA, unless the context otherwise requires.

1.2 Interpretation Not Affected By Headings, etc.

The division of this Plan of Arrangement into Articles, Sections and subsections and the insertion of headings are for convenience of reference only and shall not affect in any way the meaning or interpretation of this Plan of Arrangement.

1.3 Article References

Unless the contrary intention appears, references in this Plan of Arrangement to an Article, Section or subsection by number or letter or both refer to the Article, Section or subsection, respectively, bearing that designation in this Plan of Arrangement.

1.4 Number and Gender

In this Plan of Arrangement, unless the contrary intention appears, words importing the singular include the plural and vice versa, and words importing gender shall include all genders.

1.5 Date for Any Action

If the date on which any action is required to be taken hereunder by any of the parties is not a Business Day in the place where the action is required to be taken, such action shall be required to be taken on the next succeeding day which is a Business Day in such place.

1.6 Statutory References

Unless otherwise indicated, references in this Plan of Arrangement to any statute include all regulations made pursuant to such statute and the provisions of any statute or regulation which amends, supplements or supersedes any such statute or regulation.

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1.7 Currency

Unless otherwise stated, all references in this Plan of Arrangement to sums of money are expressed in lawful money of Canada.

1.8 Time

Time shall be of the essence in every matter or action contemplated hereunder. All times expressed herein are in Toronto, Ontario local time unless otherwise stipulated.

ARTICLE 2 **ARRANGEMENT AGREEMENT**

2.1 Arrangement Agreement

This Plan of Arrangement is made pursuant to, and is subject to the provisions of, the Arrangement Agreement and constitutes an arrangement as referred to in Section 192 of the CBCA. This Plan of Arrangement shall become effective at, and be binding at and after, the Effective Time on Holdings, the Company, Parent, Partnership, Amalgamation Sub, New Amalco, Merger Sub, all Company Shareholders (including Dissenting Shareholders) and beneficial owners of Company Common Shares, and all holders or beneficial owners of Company Equity Awards.

ARTICLE 3 **ARRANGEMENT**

3.1 Arrangement

Commencing at the Effective Time, the following events or transactions shall occur and shall be deemed to occur in the following sequence, except where noted, without any further act or formality:

- (a) at the Effective Time, the Rights Agreement shall be terminated (and all rights thereunder shall expire) and shall be of no further force or effect;
- (b) two minutes following the preceding step, the Escrow Property (as defined in each of the Escrow Agreements) shall be, and shall be deemed to be, released to or for the account of or at the direction of 1011778 B.C. Unlimited Liability Company;
- (c) concurrent with the preceding step, BHI shall, and shall be deemed to, pay to Holdings the BHI Aggregate Consideration and the Holdings Preferred Shares and Holdings Warrant shall be, and shall be deemed to be, issued to BHI;
- (d) commencing two minutes following the preceding step, transactions are completed in sequence pursuant to securities acquisition agreements and forward contracts that result in the relevant portion of the aggregate of the Escrow Property received pursuant to Section 3.1(b) and the BHI Aggregate Consideration received pursuant to Section 3.1(c) being exchanged for Canadian dollars and contributed to Amalgamation Sub;
- (e) two minutes following the completion of the preceding step,
 - (i) each Company Common Share held by a Dissenting Shareholder shall be, and shall be deemed to be, transferred to Amalgamation Sub by the holder thereof, without any further act or formality by or on behalf of the Dissenting Shareholder, and thereupon each Dissenting Shareholder shall cease to have any rights as holders of such Company Common Shares other than the rights set out in Article 4 hereof,

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- (ii) the registered holder thereof shall cease to be the registered holder of such Company Common Share and the name of such registered holder shall be removed from the register of Company Shareholders as of the time of this step; and
 - (iii) Amalgamation Sub shall be recorded as the registered holder of such Company Common Share and shall be deemed to be the legal and beneficial owner thereof free and clear of all Liens;
- (f) two minutes following the preceding step, each Company DSU outstanding immediately prior to the Effective Time shall be, and shall be deemed to be, fully vested, and the Company shall pay as soon as practicable thereafter each holder of a Company DSU an amount in cash equal to the product of (i) the Arrangement Mixed Consideration Value multiplied by (ii) the number of Company Common Shares subject to such Company DSU, all in full satisfaction of the obligations of the Company in respect of the Company DSUs and all of the Company DSUs, as well as the Company Non-Employee Director Deferred Stock Unit Plan, shall be, and shall be deemed to be, terminated;
- (g) concurrent with the preceding step, each Company PSU outstanding immediately prior to the Effective Time shall be, and shall be deemed to be, fully vested, with performance goals deemed satisfied based on the maximum or highest level achievable under the Company PSU, and there shall be disbursed from the Company Trust (to the extent Company Common Shares are available to be disbursed) or the Company shall issue to each holder of a Company PSU in settlement of such PSU that number of Company Common Shares subject to such Company PSU (based on the deemed satisfaction of performance goals) and the name of such holder shall be recorded as the registered holder of such Company Common Shares acquired pursuant to such Company PSUs all in full satisfaction of the obligations of the Company in respect of the Company PSUs and all of the Company PSUs shall be, and shall be deemed to be, terminated;
- (h) concurrent with the preceding step, each Company RSU outstanding immediately prior to the Effective Time shall be, and shall be deemed to be, fully vested, and there shall be disbursed from the Company Trust (to the extent Company Common Shares are available to be disbursed) or the Company shall issue to each holder of a Company RSU in settlement of such RSU that number of Company Common Shares deliverable pursuant to the terms of such Company RSU and the name of such holder shall be recorded as the registered holder of such Company Common Shares acquired pursuant to such Company RSUs all in full satisfaction of the obligations of the Company in respect of the Company RSUs and all of the Company RSUs shall be, and shall be deemed to be, terminated;
- (i) two minutes following the preceding step, subject to the requirement of Section 7.4(c) of the Arrangement Agreement, each Surrendered Company Option shall be, and shall be deemed to be, surrendered and transferred to the Company in consideration for the issuance by the Company of that number of Company Common Shares (the “**Net Surrender Shares**”) equal to, rounded down to the nearest whole share, (i) the number of Company Common Shares subject to such Surrendered Company Option immediately prior to the Effective Time minus (ii) the number of whole and partial (computed to the nearest four decimal places) Company Common Shares subject to such Surrendered Company Option that, when multiplied by the Fair Market Value (as such term is defined in the applicable Company Stock Plan) of a Company Common Share as of immediately prior to the time of this step, is equal to the aggregate exercise price of such Surrendered Company Option, and the holder of such Surrendered Company Option shall be recorded on the register of holders of Company Common Shares as the registered holder of the Net Exercise Shares, all in full satisfaction of the obligations of the Company in respect of the Surrendered Company Options and all of the Surrendered Company Options shall be, and shall be deemed to be, terminated;
- (j) two minutes following the preceding step, each Company Shareholder who has not deposited with the Arrangement Exchange Agent a duly completed Letter of Transmittal and Election Form prior to the Election Deadline, or has otherwise failed to comply with the requirements of Section 3.2(b) and the

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Letter of Transmittal and Election Form, shall be deemed to have elected to receive, in respect of all Company Common Shares held by such holder (each such share, a “**No Election Share**”), the Arrangement Mixed Consideration;

- (k) two minutes following the preceding step, each outstanding Company Common Share (other than any Company Common Share held by Amalgamation Sub) shall be transferred and assigned to Amalgamation Sub in accordance with the election of such holder pursuant to Section 3.2 or deemed election of such holder pursuant to Section 3.1(j) in exchange for, subject to Sections 3.3 and 3.6, the payment by Amalgamation Sub of (i) the Arrangement Cash Consideration, (ii) the Arrangement Mixed Consideration or (iii) the Arrangement Share Consideration, as applicable, and:
 - (i) in respect of each Company Common Share so transferred and assigned, the registered holder thereof shall cease to be the registered holder of such Company Common Share and the name of such registered holder shall be removed from the register of Company Shareholders as of the time of this step;
 - (ii) in respect of each Company Common Share so transferred and assigned, Amalgamation Sub shall be recorded as the registered holder of such Company Common Share and shall be deemed to be the legal and beneficial owner thereof free and clear of all Liens; and
 - (iii) there shall be added to the stated capital account maintained by Holdings for Holdings Common Shares an amount equal to the aggregate fair market value of the AS Delivered Common Shares issued to Holdings by Amalgamation Sub pursuant to Section 3.1(l);
- (l) concurrent with the preceding step, in consideration for Holdings delivering, on behalf of Amalgamation Sub, Holdings Common Shares directly to the Selling Shareholders pursuant to Section 3.1(k), AS Common Shares (the “**AS Delivered Common Shares**”) with an aggregate fair market value equal to the aggregate fair market value of the Holdings Common Shares so delivered shall be issued to Holdings, and in respect thereof, there shall be added to the stated capital account maintained by Amalgamation Sub for AS Common Shares an amount equal to the excess of the fair market value of the aggregate number of Company Common Shares acquired by Amalgamation Sub pursuant to Section 3.1(k) over the cash paid by Amalgamation Sub to acquire those Company Common Shares;
- (m) two minutes following the preceding step, each Company Option (and its tandem stock appreciation right) that is outstanding immediately prior to the time of this step (other than the Surrendered Company Options), whether or not vested, shall be exchanged for a Holdings Arrangement Option (with a tandem stock appreciation right) to acquire from Holdings that number of Holdings Common Shares equal to the product of: (i) the number of Company Common Shares subject to such Company Option immediately prior to the Effective Time multiplied by (ii) the Exchange Ratio, provided that the number of Holdings Common Shares issuable shall be rounded down to the nearest whole number of Holdings Common Shares. The exercise price per Holdings Common Share subject to a Holdings Arrangement Option shall be an amount equal to the quotient of: (i) the exercise price per Company Common Share subject to each such Company Option immediately before the Effective Time divided by (ii) the Exchange Ratio, provided that the aggregate exercise price payable on exercise of a Holdings Arrangement Option shall be rounded up to the nearest whole cent. Notwithstanding the foregoing, if it is determined in good faith that the excess of the aggregate fair market value of the Holdings Common Shares subject to a Holdings Arrangement Option immediately after the issuance of the Holdings Arrangement Option over the aggregate option exercise price for such shares pursuant to the Holdings Arrangement Option (such excess referred to as the “**In the Money Amount**” of the Holdings Arrangement Option) would otherwise exceed the excess of the aggregate fair market value of the Company Common Shares subject to such Company Options immediately before the issuance of the Holdings Arrangement Option over the aggregate option exercise price for such shares pursuant to the Company Option, (such excess referred to as the In the Money Amount of the Company Options), the previous provisions shall be modified so that the In the Money Amount of the Holdings

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Arrangement Option does not exceed the In the Money Amount of the Company Option, but only to the extent necessary and in a manner that does not otherwise adversely affect the holder of the Holdings Arrangement Option. Except as otherwise provided herein, each Holdings Arrangement Option (and its tandem stock appreciation right) shall be on the same terms and conditions as were applicable to the exchanged Company Option (and its tandem stock appreciation right) immediately before the Effective Time (including, but not limited to, the term to expiry, conditions to and manner of exercising and vesting schedule) and Holdings shall assume all the obligations of the Company under the Company Stock Plans pertaining to the Company Options (and their tandem stock appreciation rights) and the agreements evidencing the grants thereof. Holdings shall comply with the requirements of Section 7.4(c) of the Arrangement Agreement with respect to each Holdings Arrangement Option until final settlement of all Holdings Arrangement Options;

- (n) commencing two minutes following the preceding step, transactions are completed in sequence pursuant to transfer agreements that result in all AS Delivered Common Shares acquired by Holdings pursuant to Section 3.1(l) being contributed to LLC. Thereafter LLC shall be deemed to be the legal and beneficial owner thereof free and clear of all Liens;
- (o) not less than two minutes following the completion of the preceding step and at the Merger Effective Time, pursuant to and in accordance with the laws of the State of Delaware, the Merger shall become effective;
- (p) coincident with the Merger Effective Time,
 - (i) Holdings, the Partnership and the Trustee shall execute the Voting Trust Agreement, and
 - (ii) Holdings shall issue to and deposit with the Trustee the Special Voting Share, in consideration of the payment to Holdings of \$1.00, to be thereafter held of record by the Trustee as trustee for and on behalf of, and for the use and benefit of, the holders of the Exchangeable Units in accordance with the Voting Trust Agreement;
- (q) two minutes following the preceding step, the stated capital of the Company Common Shares shall be reduced to \$1.00 without any distribution; and
- (r) at 5:00 p.m. (Toronto time) on the first Business Day following the Effective Date,
 - (i) Amalgamation Sub and the Company shall amalgamate to form New Amalco with the same effect as if they were amalgamated under s. 181 of the CBCA, except that the separate legal existence of the Company will not cease and the Company will survive the amalgamation, as more fully described in Section 3.4; and
 - (ii) without limiting the foregoing, the separate legal existence of Amalgamation Sub will cease without Amalgamation Sub being liquidated or wound up, Amalgamation Sub and the Company will continue as one Company, and the property of Amalgamation Sub (other than Company Common Shares held by Amalgamation Sub and any amounts owing by the Company to Amalgamation Sub) will become the property of New Amalco.

3.2 Election

With respect to the exchange of Company Common Shares (including Company Common Shares issued (under this Plan of Arrangement or otherwise) in respect of Company Equity Awards pursuant to Sections 3.1(g), 3.1(h) and 3.1(i)) effected pursuant to Section 3.1 (k):

- (a) each Company Shareholder (other than Dissenting Shareholders) may elect to receive, in respect of each Company Common Share held, the Arrangement Cash Consideration (each such Company Common Share, a “**Cash Election Share**”), the Arrangement Mixed Consideration (each such Company Common Share, a “**Mixed Election Share**”) or the Arrangement Share Consideration (each such Company Common Share, a “**Share Election Share**”), subject to Sections 3.3 and 3.6;

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- (b) the election provided for in Section 3.2(a) shall be made by each Company Shareholder by depositing with the Arrangement Exchange Agent, prior to the Election Deadline, a duly completed Letter of Transmittal and Election Form indicating such holder's election. The Company shall provide at least two (2) Business Days' notice of the Election Deadline to Company Shareholders by means of a news release disseminated on newswire; provided, that if the Effective Date is delayed to a subsequent date, the Election Deadline shall be similarly delayed to a subsequent date, and the Company shall promptly announce any such delay and, when determined, the rescheduled Election Deadline, which rescheduled deadline if necessary shall be at the discretion of the Company provided that at least one (1) Business Day of advance notice thereof shall have been provided; and
- (c) any duly completed Letter of Transmittal and Election Form, once deposited with the Arrangement Exchange Agent, shall be irrevocable and may not be withdrawn by a Company Shareholder.

3.3 Adjustments to Arrangement Share and Cash Consideration

Notwithstanding Sections 3.1(k) and 3.2 or any provision herein to the contrary, if:

- (a) the Cash Election Amount exceeds the Available Cash Election Amount, then the following consideration shall be paid in respect of each Cash Election Share:
 - (i) an amount of cash equal to the product of (A) the Arrangement Cash Consideration *multiplied by* (B) the greater of (I) a fraction, rounded to six (6) decimal places, the numerator of which is the Available Cash Election Amount and the denominator of which is the Cash Election Amount and (II) zero (0) (the amount calculated in clause (B) of this paragraph, the "**Cash Fraction**"); and
 - (ii) a number of Holdings Common Shares equal to the product of (A) the Arrangement Share Consideration *multiplied by* (B) the result of one (1) minus the Cash Fraction; and
- (b) the Available Cash Election Amount exceeds the Cash Election Amount, then the following consideration shall be paid in respect of each Share Election Share:
 - (i) an amount of cash equal to the result of (A) the amount of such excess *divided by* (B) the number of Share Election Shares; and
 - (ii) a number of Holdings Common Shares equal to the product of (A) the Arrangement Share Consideration *multiplied by* (B) a fraction, rounded to six (6) decimal places, the numerator of which is the difference between (1) the Arrangement Cash Consideration and (2) the amount calculated in clause (i) of this paragraph and the denominator of which is the Arrangement Cash Consideration.

3.4 Amalgamation of Amalgamation Sub and the Company

- (a) Pursuant to Section 3.1(r), Amalgamation Sub and the Company shall amalgamate to form New Amalco under the CBCA, with the effect described below, and, unless and until otherwise determined in the manner required by Law, the following shall apply:
 - (i) **Name.** The name of New Amalco shall be • .
 - (ii) **Registered Office.** The registered office of New Amalco shall be located in Oakville, Ontario. The address of the registered office shall be • .
 - (iii) **Business and Powers.** There shall be no restrictions on the business that New Amalco may carry on or on the powers it may exercise.
 - (iv) **Authorized Share Capital.** New Amalco shall be authorized to issue an unlimited number of common shares designated as "Common Shares".
 - (v) **Share Provisions.** The New AS Common Shares shall have the same terms as the AS Common Shares.

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- (vi) **Shares.** Each AS Common Share shall be converted into one fully paid and non-assessable New AS Common Share and the holders of the shares so converted shall be added to the register of shareholders of New Amalco. Each Company Common Share shall be cancelled without any repayment of capital.
- (vii) **Restrictions on Transfer.** The transfer of New AS Common Shares shall be restricted and no holder of New AS Common Shares shall transfer any such share without either: (i) the approval of the directors of New Amalco passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors; or (ii) the approval of the holders of at least a majority of the shares of New Amalco entitling the holders thereof to vote in all circumstances (other than holders of shares who are entitled to vote separately as a class) for the time being outstanding, expressed by a resolution passed at a meeting of the holders of such shares or by an instrument or instruments in writing signed by the holders of a majority of such shares.
- (viii) **Number of Directors.** The number of directors of New Amalco shall not be less than 1 and not more than 3, and otherwise as the shareholders of New Amalco may from time to time determine by special resolution.
- (ix) **Initial Directors.** The initial directors of New Amalco shall be:

	Name	Residence Address	Canadian Resident
	•	•	•
(x)	Other Restrictions. New Amalco’s securities, other than non-convertible debt securities, shall not be transferred without either: (i) the approval of the directors of New Amalco passed at a meeting of the board of directors or by an instrument or instruments in writing signed by a majority of the directors, or (ii) the approval of the holders of at least a majority of the shares of New Amalco entitling the holders thereof to vote in all circumstances (other than holders of shares who are entitled to vote separately as a class) for the time being outstanding, expressed by a resolution passed at a meeting of the holders of such shares or by an instrument or instruments in writing signed by the holders of a majority of such shares, or alternatively (iii), if applicable, the restriction contained in security holders’ agreements.		
(xi)	By-laws. The by-laws of New Amalco shall be the same as the by-laws of Amalgamation Sub.		
(xii)	First Annual General Meeting. The first annual general meeting of New Amalco shall be held within 18 months from the Effective Date.		
(xiii)	Stated Capital. The stated capital of the issued and outstanding New AS Common Shares shall be equal to the stated capital of the issued and outstanding AS Common Shares immediately before the amalgamation described in Section 3.1(r).		
(xiv)	Effect of Amalgamation. Upon the amalgamation of Amalgamation Sub and the Company to form New Amalco becoming effective pursuant to Section 3.1(r):		
	(A) the property of each of Amalgamation Sub and the Company shall continue to be the property of New Amalco (other than Company Common Shares held by Amalgamation Sub and any amounts owing by the Company to Amalgamation Sub);		
	(B) New Amalco shall continue to be liable for the obligations of Amalgamation Sub and the Company;		
	(C) all existing causes of action, claims or liabilities to prosecution with respect to Amalgamation Sub and the Company shall be unaffected;		
	(D) all civil, criminal or administrative actions or proceedings pending by or against Amalgamation Sub and the Company may be continued to be prosecuted by or against New Amalco;		

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- (E) all convictions against, or rulings, orders or judgments in favour of or against Amalgamation Sub and the Company may be enforced by or against New Amalco; and
- (F) the Articles of Arrangement shall be deemed to be the articles of incorporation of New Amalco and the Certificate of Arrangement shall be deemed to be the certificate of incorporation of New Amalco.

3.5 Deposit of Arrangement Consideration

On or prior to the Effective Date: (i) Amalgamation Sub shall deposit or cause to be deposited with the Arrangement Exchange Agent, the aggregate amount of cash that the Selling Shareholders are entitled to receive under the Arrangement; and (ii) Holdings shall deposit or cause to be deposited with the Arrangement Exchange Agent evidence of the Holdings Common Shares in book-entry form that the Selling Shareholders are entitled to receive under the Arrangement, to be held by the Arrangement Exchange Agent as agent and nominee for the Selling Shareholders at and after the time of the transactions in Section 3.1(k) for distribution to the Selling Shareholders in accordance with the provisions of Article 5 hereof.

3.6 Fractional Shares and Rounding of Cash Consideration

(a) No fractional Holdings Common Shares shall be issued to Selling Shareholders in connection with this Plan of Arrangement. Where the aggregate number of Holdings Common Shares to be issued to a Company Shareholder as consideration under this Plan of Arrangement would result in a fraction of a Holdings Common Share being issuable, then, the number of Holdings Common Shares to be delivered to such Company Shareholders shall be rounded down to the nearest whole Holdings Common Share and, in lieu of the delivery of such fractional Holdings Common Share, Holdings will pay to each such holder a cash payment (rounded down to the nearest cent) determined by reference to the average of the closing sale prices of the Company Common Shares on the TSX as reported by the TSX for each of the ten (10) consecutive trading days ending with the second complete trading day prior to the Effective Date (not counting the Effective Date).

(b) If the aggregate cash amount which a Selling Shareholder is entitled to receive pursuant to Section 3.1(k) would otherwise include a fraction of \$0.01, then the aggregate cash amount to which such Selling Shareholder shall be entitled to receive shall be rounded down to the nearest whole \$0.01.

ARTICLE 4 DISSENT RIGHTS

4.1 Dissent Rights

A holder of Company Common Shares immediately prior to the Effective Time may exercise rights of dissent (“**Dissent Rights**”) in accordance with the procedures set out in Section 190 of the CBCA, as modified by this Article 4, the Interim Order and the Final Order, with respect to such Company Common Shares in connection with the Arrangement, provided that notwithstanding Section 190(5) of the CBCA, the written objection to the Arrangement Resolution contemplated by Section 190(5) of the CBCA must be received by the Company by 5:00 p.m. (Toronto time) on the second Business Day immediately prior to the date of the Company Meeting. Each Dissenting Shareholder who is:

- (a) ultimately entitled to be paid fair value for such holder’s Company Common Shares, which fair value, notwithstanding anything to the contrary contained in Part XV of the CBCA, shall be determined as of the close of business on the day before the Final Order becomes effective, shall be deemed to have transferred such holder’s Company Common Shares to Amalgamation Sub as of the Effective Time as set out in Section 3.1(e) hereof, and will not be entitled to any other payment or consideration, including any payment that would be payable under the Arrangement had such Dissenting Shareholder not exercised Dissent Rights in respect of such Company Common Shares; or

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- (b) ultimately not entitled, for any reason, to be paid such fair value for such Company Common Shares, shall be deemed to have participated in the Arrangement with respect to such Company Common Shares, as of the Effective Time, on the same basis as a holder of Company Common Shares to which Section 3.1(k) hereof applies.

4.2 Recognition of Dissenting Shareholders

(a) In no circumstances at and after the Effective Time shall the Company, Holdings, Amalgamation Sub, New Amalco or any other person be required to recognize a Dissenting Shareholder as the holder of any Company Common Share in respect of which Dissent Rights have been validly exercised and the names of such Dissenting Shareholders shall be removed from the register of Company Common Shares maintained by or on behalf of the Company as provided in Section 3.1(e).

(b) In addition to any other restrictions under Section 190 of the CBCA, (i) holders of securities convertible or exercisable for Company Common Shares (including the Company Equity Awards); and (ii) Company Shareholders who voted (or have instructed a proxyholder to vote) in favour of the Arrangement Resolution, shall not be entitled to exercise Dissent Rights.

ARTICLE 5

DELIVERY OF CONSIDERATION

5.1 Delivery of Share Consideration and Cash Consideration

(a) Subject to delivery of a duly completed and executed Letter of Transmittal and Election Form, and such additional documents and instruments as the Arrangement Exchange Agent may reasonably require, each Company Shareholder, including holders of Company Common Shares issued (under this Plan of Arrangement or otherwise) in respect of Company Equity Awards (other than Dissenting Shareholders), shall be entitled to receive in exchange for his or her Company Common Shares (including Company Common Shares issued (under this Plan of Arrangement or otherwise) in respect of Company Equity Awards), and the Arrangement Exchange Agent shall deliver to such holder as promptly as practicable following the Effective Time (in each case, less any amounts withheld pursuant to Section 5.2 hereof), (i) the number of Holdings Common Shares to which such holder is entitled to receive under the Arrangement and (ii) a cheque for the cash consideration to which such holder is entitled to under the Arrangement. The Company or Holdings shall mail or cause the Arrangement Exchange Agent to mail, the Letter of Transmittal and Election Form, together with the joint information statement/circular to Company Shareholders. The Company shall make the Letter of Transmittal and Election Form available as may be reasonably requested from time to time by all persons who become holders (or beneficial owners) of Company Common Shares prior to the Election Deadline and the Company shall provide to the Arrangement Exchange Agent all information reasonably necessary for it to perform its obligations as specified herein and as specified in any agreement with the Arrangement Exchange Agent. Promptly after the Effective Time, Holdings shall send, or shall cause the Arrangement Exchange Agent to send, to each Selling Shareholder (other than any Selling Shareholder who has previously irrevocably deposited with the Arrangement Exchange Agent a duly completed and executed Letter of Transmittal and Election Form) a Letter of Transmittal and Election Form (with such appropriate changes made thereto to reflect that each such Selling Shareholder has been deemed to have elected to receive the Arrangement Mixed Consideration) together with instructions thereto.

(b) Notwithstanding anything to the contrary herein, the only property delivered to or acquired by a Former Shareholder herein is that which is stipulated to have been delivered to or acquired by such person in Section 3.1.

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5.2 Withholding Rights

Each of Holdings, New Amalco, the Company and the Arrangement Exchange Agent and any other Person that has a withholding obligation pursuant to this Plan of Arrangement (without duplication) shall be entitled to deduct and withhold from the Arrangement Consideration or any amount otherwise payable to a holder of Company Common Shares or Company Equity Awards pursuant to this Plan of Arrangement such amounts as are required to be deducted and withheld with respect to the making of such payment under the Tax Act, the United States Internal Revenue Code of 1986 or any provision of provincial, state, local, or foreign law, in each case as amended (“**Tax Law**”). Any amounts that are so withheld and paid over to the appropriate taxing authority shall be treated for all purposes of this Plan of Arrangement as having been paid to the Person in respect of which such deduction or withholding was made. To the extent that the amount so required under applicable Tax Law to be deducted or withheld on account of an amount payable under the Arrangement to a holder of Company Common Shares or Company Equity Awards exceeds the cash component of the consideration otherwise payable to the holder of such Company Common Shares or Company Equity Awards, each of Holdings, New Amalco, the Company and the Arrangement Exchange Agent (and any such other Person that has a withholding obligation pursuant to this Plan of Arrangement), as the case may be, is hereby authorized to sell such portion of the share component of the consideration otherwise payable to the holder of such Company Common Shares or Company Equity Awards as is necessary to provide sufficient funds to Holdings, New Amalco, the Company or the Arrangement Exchange Agent (or any such other Person that has a withholding obligation pursuant to this Plan of Arrangement), as the case may be, to enable it to comply with such deduction or withholding requirement and Holdings, New Amalco, the Company or the Arrangement Exchange Agent (or any such other Person that has a withholding obligation pursuant to this Plan of Arrangement) shall notify such holder of such sale and remit (x) the applicable portion of the net proceeds of such sale to the appropriate taxing authority and (y) the remaining net proceeds of such sale (after deduction for the amounts described in clause (x)) to such holder.

5.3 Interest and Distributions

(a) Under no circumstances shall interest accrue or be paid by Holdings, New Amalco, the Company or the Arrangement Exchange Agent to persons depositing duly completed and executed Letters of Transmittal pursuant to Section 5.1, regardless of any delay in making any payment contemplated hereby.

(b) No dividend or other distribution declared or made after the Effective Time with respect to Holdings Common Shares with a record date after the Effective Time shall be delivered to any Former Shareholders unless and until such Former Shareholder shall have complied with the provisions of Section 5.1. Subject to applicable law and to Section 5.2 hereof, at the time of such compliance, there shall be delivered to such Former Shareholder, without interest, the amount of the dividend or other distribution with a record date after the Effective Time theretofore paid with respect to such Holdings Common Shares.

5.4 Extinction of Rights

Any registered Company Shareholder that immediately prior to the Effective Time holds outstanding Company Common Shares that are exchanged pursuant to Section 3.1 and does not deliver the Letter of Transmittal and Election Form and such other additional documents and instruments as the Arrangement Exchange Agent may reasonably require, all as set out in Section 5.1, on or prior to the sixth anniversary of the Effective Date, shall cease to have a claim or interest of any kind or nature as a shareholder of Holdings or otherwise. On such date, the cash and Holdings Common Shares to which the former registered Company Shareholder referred to in the preceding sentence was ultimately entitled shall be deemed to have been surrendered to New Amalco and Holdings respectively in accordance with applicable Laws, together with all entitlements to dividends, distributions and interest thereon held for such former registered holder.

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5.5 No Liens

Any exchange or transfer of securities pursuant to this Plan of Arrangement shall be free and clear of any Liens.

5.6 Illegality of Delivery of Shares

Notwithstanding the foregoing, if it appears to Holdings or New Amalco that it would be contrary to applicable Laws to deliver, or cause to be delivered, Holdings Common Shares pursuant to the Arrangement to a Selling Shareholder that is not a resident of Canada or the United States, the Holdings Shares that otherwise would be issued to that Person will be issued to the Arrangement Exchange Agent for sale by Arrangement Exchange Agent on behalf of that Person. The Holdings Common Shares so issued to the Arrangement Exchange Agent will be pooled and sold as soon as practicable after the Effective Date, on such dates and at such prices as the Arrangement Exchange Agent determines in its sole discretion. The Arrangement Exchange Agent shall not be obligated to seek or obtain a minimum price for any of the Holdings Common Shares sold by it. Each such Person will receive a pro rata share of the cash proceeds from the sale of the Holdings Common Shares sold by the Arrangement Exchange Agent (less commissions, other reasonable expenses incurred in connection with the sale of the Holdings Common Shares and any amount withheld in respect of taxes) in lieu of the Holdings Common Shares themselves. The net proceeds will be remitted in the same manner as other payments pursuant to this Article 5. None of Holdings, Amalgamation Sub, New Amalco or the Arrangement Exchange Agent will be liable for any loss arising out of any such sales.

ARTICLE 6 **AMENDMENTS**

6.1 Amendments to Plan of Arrangement

(a) Parent and the Company may amend, modify and/or supplement this Plan of Arrangement at any time and from time to time prior to the Effective Time, provided that each such amendment, modification and/or supplement must be: (i) set out in writing; (ii) approved by Parent and the Company in writing, acting reasonably; (iii) filed with the Court and, if made following the Company Meeting, approved by the Court; and (iv) communicated to Company Shareholders if and as required by the Court.

(b) Any amendment, modification or supplement to this Plan of Arrangement may be proposed by the Company at any time prior to the Company Meeting (provided that Parent shall have consented thereto in writing) with or without any other prior notice or communication, and if so proposed and accepted by the Persons voting at the Company Meeting in the manner required under the Interim Order, shall become part of this Plan of Arrangement for all purposes.

(c) Any amendment, modification or supplement to this Plan of Arrangement that is approved or directed by the Court following the Company Meeting shall be effective only if: (i) it is consented to in writing by each of Parent and the Company (in each case, acting reasonably); and (ii) if required by the Court, it is consented to by the Company Shareholders, voting in the manner directed by the Court.

(d) Any amendment, modification or supplement to this Plan of Arrangement may be made following the Effective Date unilaterally by New Amalco, provided that it concerns a matter which is solely of a ministerial and administrative nature required to better give effect to the ministerial and administrative implementation of this Plan of Arrangement and is not adverse to the interests of any Former Shareholder or former Company Optionholder.

ARTICLE 7
PARAMOUNTCY

7.1 Paramountcy

From and after the Effective Time: (i) this Plan of Arrangement shall take precedence and priority over any and all Company Common Shares and Company Options (and its tandem stock appreciation right) issued prior to the Effective Time, (ii) the rights and obligations of the registered holders of Company Common Shares, Company Options (and its tandem stock appreciation right), Company DSUs, Company PSUs and Company RSUs, and the Company, Holdings, New Amalco, the Arrangement Exchange Agent and any transfer agent or other depositary therefor in relation thereto, shall be solely as provided for in this Plan of Arrangement, and (iii) all actions, causes of action, claims or proceedings (actual or contingent and whether or not previously asserted) based on or in any way relating to any Company Common Shares, Company Options (and its tandem stock appreciation right), Company DSUs, Company PSUs and Company RSUs shall be deemed to have been settled, compromised, released and determined without liability except as set forth herein.

ARTICLE 8
FURTHER ASSURANCES

8.1 Further Assurances

Notwithstanding that the transactions and events set out herein shall occur and shall be deemed to occur in the order set out in this Plan of Arrangement without any further act or formality, each of the parties to the Arrangement Agreement shall make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be required by any of them in order to further document or evidence any of the transactions or events set out herein.

ARRANGEMENT RESOLUTION

BE IT RESOLVED THAT:

1. The arrangement (the “ **Arrangement** ”) under Section 192 of the *Canada Business Corporations Act* (the “ **CBCA** ”) involving Tim Hortons Inc. (the “ **Company** ”), pursuant to the arrangement agreement and plan of merger (the “ **Arrangement Agreement** ”) between the Company, Burger King Limited Worldwide, Inc., 9060669 Canada Inc. (f/k/a 1011773 B.C. Unlimited Liability Company), New Red Canada Partnership (f/k/a New Red Canada Partnership), Blue Merger Sub, Inc. and 8997900 Canada Inc. dated August 26, 2014, all as more particularly described and set forth in the management information circular of the Company dated [•], 2014 (the “ **Circular** ”) accompanying the notice of this meeting and forming part of the joint information statement/circular contemplated by the Arrangement Agreement (as the Arrangement has been or may be modified, amended or supplemented in accordance with its terms) is hereby authorized, approved and adopted.
2. The plan of arrangement of the Company, as it has been or may be modified, amended or supplemented in accordance with the Arrangement Agreement and its terms, involving the Company and implementing the Arrangement, (the “ **Plan of Arrangement** ”) the full text of which is set out as Appendix [•] to the Circular, is hereby authorized, approved and adopted.
3. The Arrangement Agreement and related transactions, the actions of the directors of the Company in approving the Arrangement, and the actions of the officers or directors of the Company in executing and delivering the Arrangement Agreement, and any modifications, amendments or supplements thereto, and causing the performance by the Company of its obligations thereunder, are hereby ratified and approved.
4. Notwithstanding that this resolution has been passed (and the Arrangement adopted) by the holders of common shares of the Company or that the Arrangement has been approved by the Ontario Superior Court of Justice (the “ **Court** ”), the directors of the Company are hereby authorized and empowered, at their discretion, without further notice to or approval of the shareholders of the Company: (i) to amend, modify or supplement the Arrangement Agreement or the Plan of Arrangement to the extent permitted by the Arrangement Agreement or the Plan of Arrangement, as applicable; and (ii) subject to the terms of the Arrangement Agreement, not to proceed with the Arrangement and related transactions.
5. Any officer or director of the Company is hereby authorized and directed for and on behalf of the Company to make an application to the Court for an order approving the Arrangement and to execute, under the corporate seal of the Company or otherwise, and to deliver or cause to be delivered, for filing with the Director under the CBCA, articles of arrangement and such other documents as are necessary or desirable to give effect to the Arrangement and the Plan of Arrangement in accordance with the Arrangement Agreement, such determination to be conclusively evidenced by the execution and delivery of such articles of arrangement and any such other documents.
6. Any officer or director of the Company is hereby authorized and directed for and on behalf of the Company to execute or cause to be executed, under the corporate seal of the Company or otherwise, and to deliver or cause to be delivered all such other documents and instruments and to perform or cause to be performed all such other acts and things as, in such person’s opinion, may be necessary or desirable to give full force and effect to the foregoing resolution and the matters authorized thereby, such determination to be conclusively evidenced by the execution and delivery of such other document or instrument or the doing of any other such act or thing.



Canada Business Corporations Act (CBCA)
FORM 4
ARTICLES OF AMENDMENT
(Sections 27 or 177)

1 - Corporate name
9060669 Canada Inc.

2 - Corporation number
9 0 6 0 6 6 — 9

3 - The articles are amended as follows: (Please note that more than one section can be filled out)	
A: The corporation changes its name to: [NewRed Canada Inc.]	
B: The corporation changes the <u>province or territory</u> in Canada where the registered office is situated to: To complete the change, a Form 3 - Change of Registered Office Address <u>must</u> accompany the Articles of Amendment. 	
C: The corporation changes the minimum and/or maximum number of directors to: (For a fixed number of directors, please indicate the same number in both the minimum and maximum options).	
Minimum number	Maximum number
3	15
D: Other changes: (e.g., to the classes of shares, to restrictions on share transfers, to restrictions on the businesses of the corporation or to any other provisions that are permitted by the CBCA to be set out in the Articles) Please specify. See attached Schedules A and B. 	

4 - Declaration	
I hereby certify that I am a director or an authorized officer of the corporation.	
Signature:	
Print name:	Telephone number:

Note: Misrepresentation constitutes an offence and, on summary conviction, a person is liable to a fine not exceeding \$5000 or to imprisonment for a term not exceeding six months or to both (subsection 250(1) of the CBCA).

**Schedule A
Other Changes**

“The classes and the maximum number of shares that the Corporation is authorized to issue” referred to in paragraph 3 of the Articles of Continuance of the Corporation are amended as follows:

1. by increasing the authorized capital of the Corporation by the creation of a special voting share (the “Special Voting Share”) and • Class A 9.00% Cumulative Compounding Perpetual Preferred Shares (the “Class A Preferred Shares”); and
2. after giving effect to the foregoing, the classes and maximum number of shares that the Corporation is authorized to issue are an unlimited number of Common Shares, one Special Voting Share and • Class A Preferred Shares having the following rights, privileges, restrictions and conditions attached thereto (the “Common Share Provisions”, the “Special Voting Share Provisions” and the “Class A Preferred Share Provisions”, respectively):

COMMON SHARE PROVISIONS

The rights, privileges, restrictions and conditions attaching to the Common Shares are as follows:

1. **Dividends**

Subject to the prior rights of the holders of Class A Preferred Shares, the holders of Common Shares shall be entitled to receive dividends and the Corporation shall pay dividends thereon, as and when declared by the board of directors of the Corporation out of moneys properly applicable to the payment of dividends, in such amount and in such form as the board of directors may from time to time determine, and all dividends which the Corporation may declare on the Common Shares shall be declared and paid in equal amounts per share on all Common Shares at the time outstanding. No dividend shall be declared or paid on the Common Shares except as and to the extent permitted by the Class A Preferred Share Provisions.

2. **Dissolution**

In the event of the dissolution, liquidation or winding-up of the Corporation, whether voluntary or involuntary, or any other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the Common Shares shall be entitled to receive the remaining property and assets of the Corporation after satisfaction of all liabilities and obligations to creditors of the Corporation and after satisfaction of the Class A Preferred Share Liquidation Preference on all Class A Preferred Shares that are Issued but Not Cancelled (as such terms are defined in the Class A Preferred Share Provisions).

3. **Voting Rights**

The holders of the Common Shares shall be entitled to receive notice of and to attend all meetings of the shareholders of the Corporation and shall have one vote for each Common Share held at all meetings of the shareholders of the Corporation. The Common Shares, the Class A Preferred Shares and the Special Voting Share shall vote together as a single class.

SPECIAL VOTING SHARE PROVISIONS

The rights, privileges, restrictions and conditions attaching to the Special Voting Share are as follows:

1. Definitions

Where used in these Special Voting Share Provisions, the following terms shall, unless there is something in the context otherwise inconsistent therewith, have the meanings set out below and grammatical variations of such terms shall have corresponding meanings:

- (a) “ **Common Shareholders** ” means the holders from time to time of Common Shares;
- (b) “ **Common Shares** ” means the common shares in the capital of the Corporation;
- (c) “ **Exchangeable Units** ” means the exchangeable units issued by the Partnership;
- (d) “ **Exchangeable Unit Terms** ” means the rights, privileges, restrictions and conditions attaching to the Exchangeable Units;
- (e) “ **Partnership** ” means • LP, a limited partnership formed under the laws of the Province of Ontario;
- (f) “ **person** ” includes an individual, sole proprietorship, corporation, body corporate, incorporated or unincorporated association, syndicate or organization, partnership, limited partnership, limited liability company, unlimited liability company, joint venture, joint stock company, trust, natural person in his or her capacity as trustee, executor, administrator or other legal representative, a governmental entity or other entity, whether or not having legal status;
- (g) “ **Subsidiary** ” means, with respect to any person, any other person of which (a) more than 50% of the outstanding voting securities are directly or indirectly owned by such person (excluding joint ventures that are neither operated nor managed by such person), or (b) such person or any subsidiary of such person is a general partner (excluding partnerships in which such party or any subsidiary of such person does not have a majority of the voting interests in such partnership); and
- (h) “ **Unitholders** ” means the holders from time to time of Exchangeable Units.

2. Dividends

No dividend shall be payable to the holder of the Special Voting Share.

3. Voting Rights

3.1 Entitlement to Vote and Receive Notice of Shareholder Meetings

(a) Except as otherwise provided by law, the Special Voting Share shall entitle the holder thereof to vote on all matters submitted to a vote of the Common Shareholders at any shareholders meeting (a “ **Meeting** ”) of the Corporation and to exercise the right to consent to any matter on which the written consent (a “ **Consent** ”) of the Common Shareholders is sought by the Corporation.

(b) The holder of the Special Voting Share shall be entitled to attend all shareholder meetings of the Corporation which the Common Shareholders are entitled to attend, and shall be entitled to receive copies of all notices and other materials sent by the Corporation to its Common Shareholders relating to Meetings and any Consents sought by the Corporation from its Common Shareholders. All such notices and other materials shall be sent to the holder of the Special Voting Share concurrently with delivery to the Common Shareholders.

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3.2 Number of Votes

(a) With respect to any Meeting or Consent, the Special Voting Share entitles the holder thereof to cast and exercise that number of votes equal to the number of votes which would attach to the Common Shares receivable by the Unitholders upon the exchange of all Exchangeable Units outstanding from time to time (other than the Exchangeable Units held by the Corporation and its Subsidiaries) in the manner set forth in the Exchangeable Unit Terms.

(b) The determination of the number of votes attached to the Special Voting Share calculated in accordance with Section 3.2(a) shall be made as of the record date established by the Corporation or by applicable law for the determination of shareholders entitled to vote on such matter or, if no record date is established, the date such vote is taken or any consent of shareholders is obtained.

(c) Fractional votes shall not be permitted and any fractional voting rights otherwise resulting from Section 3.2(a) shall be rounded to the nearest whole number (with one-half being rounded upward).

3.3 Class Voting

(a) The Special Voting Share, the Common Shares and the Class A Preferred Shares shall vote together as a single class.

(b) The holder of the Special Voting Share shall not be entitled to vote separately as a class on a proposal to amend the articles of the Corporation to: (i) increase or decrease the maximum number of Special Voting Shares that the Corporation is authorized to issue, or increase any maximum number of authorized shares of a class having rights or privileges equal or superior to the Special Voting Share; or (ii) create a new class of shares equal or superior to the Special Voting Share.

4. Redemption

The Special Voting Share shall not be subject to redemption, except that at such time as no Exchangeable Units (other than Exchangeable Units owned by the Corporation and its Subsidiaries) shall be outstanding, the Special Voting Share shall automatically be redeemed and cancelled, with an amount equal to \$1.00 due and payable to the holder of the Special Voting Share upon such redemption.

CLASS A PREFERRED SHARE PROVISIONS

The Class A 9.00% Cumulative Compounding Preferred Shares in the capital of the Corporation (“Class A Preferred Shares”) shall have the following rights, privileges, preferences, restrictions and conditions (the “Class A Preferred Share Terms”).

Section 1. Definitions and Interpretation.

(a) **Certain Definitions** . As used in these Class A Preferred Share Terms:

(i) “Affiliate” of any particular person means any other person controlling, controlled by or under common control with such particular person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a person whether through the ownership of voting securities, contract or otherwise (*provided* that none of the Corporation or any of its subsidiaries shall be deemed an Affiliate of any Investor Group Member).

(ii) “Base Amount” means one of the following amounts, as applicable:

(A) \$[] ¹ per Class A Preferred Share for any payment made from and including the third anniversary of the Original Issue Date to but excluding the fourth anniversary of the Original Issue Date;

(B) \$[] per Class A Preferred Share for any payment made from and including the fourth anniversary of the Original Issue Date to but excluding the fifth anniversary of the Original Issue Date;

(C) \$[] per Class A Preferred Share for any payment made from and including the fifth anniversary of the Original Issue Date to but excluding the sixth anniversary of the Original Issue Date;

(D) \$[] per Class A Preferred Share for any payment made from and including the sixth anniversary of the Original Issue Date to but excluding the seventh anniversary of the Original Issue Date; and

(E) \$[] per Class A Preferred Share for any payment made from and including the seventh anniversary of the Original Issue Date.

(iii) “Call Amount” means \$[] ² per Class A Preferred Share.

(iv) “Board” means the board of directors of the Corporation.

(v) “Business Day” means a day that is a Monday, Tuesday, Wednesday, Thursday or Friday and is not a day on which banking institutions in New York City or Toronto, Canada generally are authorized or obligated by law, regulation or executive order to close.

(vii) “Common Shares” means the common shares in the capital of the Corporation.

(viii) “Dividend Period” means the period from and including any Regular Dividend Payment Date (or, prior to the first Regular Dividend Payment Date, from and including the Original Issue Date) to, but excluding the next Regular Dividend Payment Date.

(ix) “Eligible Institution” means either Wells Fargo Bank, N.A. or JPMorgan Chase Bank, N.A.

(x) “Investor” means Berkshire Hathaway Inc., a Delaware corporation; and “Investor Group Member” means the Investor or any subsidiary of the Investor.

¹ NTD: Base Amount to be 1.04x, 1.05x, 1.06x, 1.07x and 1.08x, respectively, the Per Share Amount (calculated by dividing \$3,000,000,000 by the aggregate number of Class A Preferred Shares issued on the Original Issue Date) and specified to six decimal places.

² NTD: Call Amount to be 1.099x the Per Share Amount and specified to six decimal places.

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(xi) “Issued but Not Cancelled” in respect of Class A Preferred Shares, means Class A Preferred Shares that have not been cancelled in accordance with Section 4(g), including Class A Preferred Shares that have been Redeemed but Not Cancelled.

(xii) “Junior Shares” means the Common Shares and any other class or series of shares of the Corporation that ranks junior to the Class A Preferred Shares either (or both) as to the payment of dividends and/or as to the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

(xiii) “Market Disruption Event” means any of the following events:

(a) any suspension of, or limitation imposed on, trading of Common Shares by the Relevant Exchange during any period or periods aggregating one half-hour or longer during the regular trading session on the relevant day, whether by reason of movements in price exceeding limits permitted by the Relevant Exchange as to securities generally, or otherwise relating to the Common Shares or options contracts relating to the Common Shares on the Relevant Exchange; or

(b) any event that disrupts or impairs (as determined by the Corporation in its reasonable discretion) the ability of market participants during any period or periods aggregating one half-hour or longer during the regular trading session on the relevant day in general to effect transactions in, or obtain market values for, the Common Shares on the Relevant Exchange or to effect transactions in, or obtain market values for, options contracts relating to the Common Shares on the Relevant Exchange.

(xiv) “Net Proceeds” means the difference between (A) the Offering Proceeds minus (B) the direct expenses for the fees and costs of the underwriters and legal counsel for the Corporation incurred and paid by the Corporation in effecting the Redemption Offering, and no other fees, expenses or other amounts.

(xv) “Net Proceeds Redemption” means a redemption of Class A Preferred Shares using the Net Proceeds of a Redemption Offering.

(xvi) “Net Proceeds Redemption Date” means, with respect to any Redemption Offering, the date of receipt by the Corporation of any Offering Proceeds from such Redemption Offering.

(xvii) “Offering Proceeds” means the gross cash proceeds of all sales of any shares of any series of Common Shares in a Redemption Offering.

(xviii) “Original Issue Date” means [•], 201[].

(xix) “Outstanding”, when used in relation to Class A Preferred Shares, means Class A Preferred Shares that have been issued but not Redeemed.

(xx) “Parity Shares” means any class or series of shares of the Corporation (other than Class A Preferred Shares) that both ranks equally with the Class A Preferred Shares in the payment of dividends and ranks equally with the Class A Preferred Shares in the distribution of assets on any liquidation, dissolution or winding up of the Corporation (without regard to whether dividends accrue on a cumulative or non-cumulative basis).

(xxi) “Preferred Shares” means any and all classes or series of shares of the Corporation that rank senior to the Common Shares as to the payment of dividends or as to the distribution of assets on any liquidation, dissolution or winding up of the Corporation, including the Class A Preferred Shares.

(xxii) “Redeemed”, when used in relation to Class A Preferred Shares, means Class A Preferred Shares that have been: (A) purchased or acquired by the Corporation, and cancelled in accordance with these Class A Preferred Share Terms or (B) Redeemed Subject to Final MWD or Redeemed but Not Cancelled, and “Redemption” has a corresponding meaning.

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(xxii) “Redeemed but Not Cancelled” in respect of Class A Preferred Shares, means Class A Preferred Shares that have been Redeemed Subject to Final MWD and for which the final Make Whole Dividend as provided in Section 2(b)(vii) or (viii), as applicable, all Past Due Dividends in respect thereof and all Additional Dividends on such Past Due Dividends, in each case, whether or not declared, have been paid, but for which a MWD Adjustment Payment may still be required under Section 2(b)(vi) so that such shares have not yet been cancelled in accordance with Section 4(g).

(xxiii) “Redeemed Subject to Final MWD” in respect of Class A Preferred Shares, means Class A Preferred Shares for which: (A) notice of redemption has been duly given in accordance with Section 4(b); (B) the Redemption Price has been paid in accordance with Section 4(c) or, together with Additional Regular Dividends, if any, deposited with an Eligible Institution in accordance with Section 4(e), but the final Make Whole Dividend in respect of such shares has not yet been paid in accordance with Section 2(b)(vii) or (viii) as applicable.

(xxiv) “Redemption Date” means a Net Proceeds Redemption Date, an Optional Redemption Date, a Ten Year Redemption Date or the date of consummation of a Triggering Event.

(xxv) “Redemption Offering” means the issuance by the Corporation of Common Shares after the tenth anniversary of the Original Issue Date to fund a redemption of Class A Preferred Shares and/or permit the Corporation to ensure such redemption will be permitted by law in (x) an underwritten primary public offering pursuant to an effective registration statement filed with the U.S. Securities and Exchange Commission in accordance with the Securities Act (whether alone or in connection with a secondary public offering) or pursuant to a prospectus filed with the securities commission of any of the Provinces of Canada under applicable Canadian securities laws, or (y) any other primary issuance in an arm’s length transaction with parties other than Investor or its Affiliates.

(xxvi) “Relevant Exchange” means the New York Stock Exchange or the principal U.S. national or regional securities exchange (which, for the avoidance of doubt, may include the Nasdaq Stock Market) on which the Common Shares are listed or quoted, or if the Common Shares are not listed or quoted on any such exchange, Pink Sheets LLC or similar U.S. over-the-counter organization on which the Common Shares are listed or quoted in dollars.

(xxvii) “Securities Act” means the U.S. Securities Act of 1933, as amended.

(xxviii) “Special Voting Share” means the special voting share in the capital of the Corporation.

(xxix) “Trading Day” means a Business Day on which the Relevant Exchange is scheduled to be open for business and on which there has not occurred a Market Disruption Event.

(xxx) “VWAP per Common Share” on any Trading Day means the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on Bloomberg (or, if Bloomberg ceases to publish such price, any successor service reasonably chosen by the Corporation) page []³ (or its equivalent successor if such page is not available) in respect of the period from the open of trading on the relevant Trading Day until the close of trading on such Trading Day (or if such volume-weighted average price is unavailable, the market price of one share of the Common Shares on such Trading Day determined, using a volume-weighted average method, by a nationally recognized investment banking firm (unaffiliated with the Corporation) retained for this purpose by the Corporation).

³ NTD: Page reference to be inserted should be based on NYSE trading price of the Common Shares.

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(b) In addition, the following terms are defined in the Sections referred to below:

<u>Term</u>	<u>Section</u>
"Additional Dividends"	Section 2(a)
"Additional Regular Dividends"	Section 4(c)
"Class A Preferred Share Liquidation Preference"	Section 3(a)
"Code"	Section 2(b)(iii)
"Dividend Payment Date"	Section 2(a)
"Dividend Record Date"	Section 2(a)
"Liquidation Preference"	Section 3(b)
"Make Whole Dividend"	Section 2(b)(i)
"MWD Adjustment Payment"	Section 2(b)(vi)
"MWD Deadline"	Section 2(b)(iv)
"Optional Redemption Date"	Section 4(a)
"Past Due Dividend"	Section 2(a); 2(b)(iv)
"Redemption Price"	Section 4(a)
"Regular Dividend Payment Date"	Section 2(a)
"Regular Quarterly Dividend"	Section 2(a)
"Surrender"	Section 4(c)
"Ten Year Redeemed Shares"	Section 4(h)
"Ten Year Redemption Date"	Section 4(h)
"Ten Year Redemption Request"	Section 4(h)
"Triggering Event"	Section 4(j)
"Triggering Event Redemption Notice"	Section 4(j)

(c) Other .

(i) Unless otherwise indicated, references to "Sections" or "sections" in these Class A Preferred Share Terms refer to sections of these Class A Preferred Share Terms unless the context clearly indicates otherwise.

(ii) Section, subsection and paragraph headings used in these Class A Preferred Share Terms are for convenience of reference only, and shall not affect the construction of these Class A Preferred Share Terms in limitation of the rights of holders of Class A Preferred Shares.

(iii) All references to "\$" or "dollars" mean the lawful currency of the United States of America.

Section 2. Dividends.

(a) Rate, Accrual and Payment . Holders of Class A Preferred Shares, in preference to the holders of shares of Common Shares and Junior Shares of the Corporation as provided in these Class A Preferred Share Terms, shall be entitled to receive, on each Class A Preferred Share, cumulative cash dividends payable quarterly in arrears on each [•], [•], [•], and [•], (each, a "Regular Dividend Payment Date"), commencing on [•], 201[]; *provided, however*, that if any Regular Dividend Payment Date occurs on a day that is not a Business Day, then any dividend otherwise payable on such Regular Dividend Payment Date will instead be payable on the immediately succeeding Business Day, without any adjustment to the amount payable (and each such succeeding Business Day, when applicable and, in every other case, each Regular Dividend Payment Date is referred to herein as a "Dividend Payment Date"). Dividends on each Class A Preferred Share shall accrue daily on a cumulative basis at a per annum rate of 9.00% on the amount of \$[]⁴ per Class A Preferred Share, whether or not declared by the Board, and will be payable quarterly in arrears in cash on each Dividend Payment Date (such quarterly amount for a full Dividend Period, the "Regular Quarterly Dividend"), when, as and if declared by the Board. If a Regular Quarterly Dividend is not declared in full by the Board or is not paid in full by a Dividend Payment Date to the holders of all Class A Preferred Shares, from and after such Dividend

⁴ NTD: Amount to be the Per Share Amount on the Original Issue Date and specified to six decimal places.

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Payment Date such unpaid amount shall be a “Past Due Dividend”. In addition to the Regular Quarterly Dividends, dividends (“Additional Dividends”) on each Class A Preferred Share shall accrue daily on a cumulative basis at a per annum rate of 9.00% on the amount of all Past Due Dividends (including, for the avoidance of doubt, Past Due Dividends described in Section 2(b)(iv)) with respect to such Class A Preferred Share, compounded quarterly on each Dividend Payment Date, whether or not declared by the Board (and upon such compounding, such Additional Dividends shall be added to and shall constitute Past Due Dividends hereunder), until the date the same are declared by the Board and paid in cash to the holders of the Class A Preferred Shares.

Dividends accrued and/or payable on the Class A Preferred Shares in respect of any Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The amount of dividends accrued and/or payable with respect to the Class A Preferred Shares on any date prior to the end of a Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months, and actual days elapsed over a 30-day month.

Dividends paid in cash on Class A Preferred Shares on any Dividend Payment Date will be payable to holders of record of Class A Preferred Shares as they appear on the share ledger of the Corporation on the applicable record date, which record date shall be the 15th calendar day before such Regular Dividend Payment Date or such other record date fixed by the Board that does not precede the date upon which the resolution fixing the record date is adopted, and is not more than 60 days prior to such Regular Dividend Payment Date (each, a “Dividend Record Date”). A Dividend Record Date shall not be required to be on a Business Day. All dividends payable in cash with respect to the Class A Preferred Shares shall be payable in dollars.

(b) Make Whole Dividend.

(i) For each fiscal year of the Corporation during which any Class A Preferred Shares are Outstanding, beginning with the year that includes the third anniversary of the Original Issue Date, in addition to the dividends payable pursuant to Section 2(a), the Corporation shall pay to the holder of the Class A Preferred Shares (at the Corporation’s option, in cash, Common Shares or in any combination thereof) an additional amount (a “Make Whole Dividend”) such that (x) such holder’s internal rate of return, determined as of the end of each such year on its investment in the Class A Preferred Shares, (A) taking into account all amounts received by such holder in respect of the Class A Preferred Shares, including all prior Make Whole Dividends through the end of such year, (B) assuming each Class A Preferred Share then Outstanding had been redeemed on the last day of such year at the Call Amount, and (C) taking into account all U.S. federal income taxes paid or accrued by such holder with respect to amounts included in the income of such holder from time to time as dividends on the Class A Preferred Shares through the end of such year (including U.S. federal income taxes payable as a result of the Make Whole Dividends, as well as additional U.S. federal income taxes, if any, that would be payable as a result of such redemption), is equal to (y) such holder’s internal rate of return determined in accordance with clause (x), but determined (A) without regard to the Make Whole Dividends and amounts related thereto, (B) by assuming that such holder was subject to U.S. federal income tax at a 14.175% rate on dividends with respect to the Class A Preferred Shares for the entire period from the Original Issue Date through the date of redemption and (C) by assuming that the redemption price from and after the third anniversary of the Original Issue Date of the Class A Preferred Shares is the Base Amount for the relevant period; *provided*, that if any Common Shares to be paid by the Corporation as part of a Make Whole Dividend pursuant to this Section 2(b) would at the time of such payment be “restricted securities” within the meaning of Rule 144(a)(3) of the Securities Act, then the Corporation will make such Make Whole Dividend payment in Common Shares only if resales thereof are covered by an effective registration statement; *provided, further*, that any Common Shares shall be valued for purposes of this Section 2(b)(i) at 97% of the average of the VWAP per Common Share over each of the five (5) consecutive Trading Days ending on the Trading Day immediately prior to the date on which such shares are delivered.

(ii) In the event the amount determined under Section 2(b)(i)(x) for the holder of Class A Preferred Shares for any fiscal year exceeds the amount determined under Section 2(b)(i)(y) for such year, succeeding Make Whole Dividends for such holder hereunder shall be reduced so as to cause such amounts to be equal. In

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the event succeeding Make Whole Dividends with respect to such holder are insufficient to account for such adjustments, such amounts shall be deducted from any redemption or liquidation proceeds otherwise payable to such holder, as provided herein.

(iii) For purposes of determining the amount described in Section 2(b)(i)(x):

(A) U.S. federal income taxes shall be computed using the highest marginal rate at which dividends are subject to tax for a non-life insurance company organized in the United States for each year in question, but in no event greater than 35%;

(B) there shall only be taken into account items of income and gain attributable to the investment in the Class A Preferred Shares;

(C) dividends shall be deemed included in taxable income and taxes shall be deemed paid with respect thereto on the last day of each taxable year; and

(D) all foreign tax credits under Sections 901 and 902 of the Code attributable to amounts included in income as dividends on the Class A Preferred Shares shall be taken into account, to the extent such credits would have been used during any year of determination based on the assumptions set forth in clauses (A), (B) and (C) of this paragraph.

(iv) The Make Whole Dividend for each year shall be paid no later than 75 days after the close of such year (such 75th day, the “MWD Deadline”). If a Make Whole Dividend (including a final Make Whole Dividend pursuant to Section 2(b)(vii) or 2(b)(viii)) is not paid in full on or by the applicable MWD Deadline then, from and after such MWD Deadline such unpaid amount (including, for the avoidance of doubt, the underpaid amount of any Make Whole Dividend) shall be a “Past Due Dividend”, and Additional Dividends will accrue thereon, compound and become Past Due Dividends as described in Section 2(a). For the avoidance of doubt, all Past Due Dividends and Additional Dividends shall be payable solely in cash.

(v) The holder of the Class A Preferred Shares and the Corporation shall provide each other within 30 days of the end of each year with sufficient information to calculate the Make Whole Dividend for such holder for such year, and the Corporation shall provide to such holder, no later than each MWD Deadline, reasonable detail as to the basis for its calculation of the applicable Make Whole Dividend. The Make Whole Dividend shall be computed based on information provided by the Corporation regarding underlying foreign tax credits associated with dividends paid under the Class A Preferred Shares and included in such holder’s taxable income, and such information shall be presumed correct in the absence of manifest error, subject, however, to the requirements of Section 2(b)(vi) following a final determination. The Corporation and such holder shall file all tax returns consistent with such computation.

(vi) In the event of any final determination (within the meaning of Section 1313 of the Code, a “final determination”) pursuant to an audit or other proceeding that would affect the computation of one or more Make Whole Dividends, the Corporation or such holder, as applicable, shall pay to the other the amount of any overpayment or underpayment of such amount, together with interest accrued daily on a cumulative basis at a per annum rate of 9.00% (such payment, a “MWD Adjustment Payment”). Notwithstanding any other provision hereof, but subject to Section 2(b)(ix), the rights and obligations of the Corporation and the relevant holder, as applicable, to receive or make a MWD Adjustment Payment with respect to any Make Whole Dividend shall, notwithstanding the Redemption of the Class A Preferred Shares giving rise to such Make Whole Dividend, survive until both (i) the seventh anniversary of the payment of such Make Whole Dividend has occurred and (ii) any such MWD Adjustment Payment resulting from a final determination that has been made as of such seventh anniversary has been paid, unless such rights and obligations are sooner terminated by the completed liquidation of the Corporation in accordance with Section 3. All MWD Adjustment Payments required to be paid hereunder shall be paid in cash in dollars.

(vii) In the event of a redemption of all Class A Preferred Shares Outstanding at the time of such redemption or a liquidation, dissolution or winding up of the affairs of the Corporation (for purposes of this

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paragraph, a “liquidation”), a final Make Whole Dividend for the year of redemption or liquidation shall be computed as provided in Section 2(b)(i), (ii), (iii) and (v) but (A) without regard to the assumed redemption provided in Section 2(b)(i)(x)(B), (B) treating any redemption or liquidation payment as an amount received for purposes of Section 2(b)(i)(x)(A), and (C) treating the relevant Base Amount as an amount received in such redemption or liquidation at the time of such redemption or liquidation for purposes of Section 2(b)(i)(y). Such final Make Whole Dividend shall be paid no later than the MWD Deadline for the year of redemption or liquidation. Notwithstanding anything to the contrary herein, such redemption or liquidation shall not be considered completed until such final Make Whole Dividend, all Past Due Dividends in respect thereof and all Additional Dividends on such Past Due Dividends, in each case, whether or not declared, have been paid.

(viii) In the event of a redemption during any year of less than all of the Class A Preferred Shares then Outstanding, the Make Whole Dividend for such year shall be computed separately with respect to the Class A Preferred Shares subject to such redemption and as provided in Section 2(b)(vii). Notwithstanding anything to the contrary herein, such redemption shall not be considered completed until such final Make Whole Dividend, all Past Due Dividends in respect thereof and all Additional Dividends on such Past Due Dividends, in each case, whether or not declared, have been paid. For the avoidance of doubt, Make Whole Dividends for years following the year for which the final Make Whole Dividend with respect to any Class A Preferred Share subject to a redemption is calculated shall be calculated without regard to such Class A Preferred Share.

(ix) The rights of the holder of the Class A Preferred Shares set out in this Section 2(b) shall terminate and be of no further force and effect if and at the time that 100% of the Issued but Not Cancelled Class A Preferred Shares are no longer held by any one Investor Group Member.

(c) Priority of Dividends . If any Class A Preferred Share is (x) Outstanding or is (y) Redeemed Subject to Final MWD and is not Redeemed but Not Cancelled, no dividend shall be declared or paid on the Common Shares, any other share of Junior Shares or any Parity Shares, and no Common Shares, other Junior Shares or Parity Shares shall be purchased, redeemed or otherwise acquired for consideration by the Corporation or any of its subsidiaries, directly or indirectly, unless on the date of such declaration, payment, purchase, redemption or other acquisition for consideration (i) all Past Due Dividends, accrued and unpaid Additional Dividends to the date of payment of such Past Due Dividends, and unpaid Make Whole Dividends for all prior fiscal years (including the final Make Whole Dividend if applicable) that have become payable, all Past Due Dividends in respect of any Make Whole Dividend and all Additional Dividends described in Section 2(b)(iv), with respect to all such Class A Preferred Shares, shall have been declared and paid in full and (ii) an amount equal to the full Regular Quarterly Dividend for all Outstanding Class A Preferred Shares for the then-current Dividend Period shall have been declared and paid in full (or declared and such amount shall have been deposited by the Corporation in trust for the pro rata benefit of the holders of Class A Preferred Shares on the applicable record date therefor with an Eligible Institution). The foregoing sentence shall not prohibit purchases, redemptions or other acquisitions of Common Shares in connection with cashless exercises of options and similar actions under any equity incentive plan (including any stock option plan) of the Corporation in the ordinary course of business. If holders of at least a majority of the Outstanding Class A Preferred Shares have delivered a Ten Year Redemption Request pursuant to Section 4(h) or a Triggering Event Redemption Notice pursuant to Section 4(j), no dividend shall be declared or paid on the Common Shares or any other share of Junior Shares (except that dividends declared on the Common Shares or any other Junior Shares prior to the date of such delivery may be paid), and no Common Shares or other Junior Shares shall be purchased, redeemed or otherwise acquired for consideration by the Corporation or any of its subsidiaries, directly or indirectly, unless on the date of such declaration, payment, purchase, redemption or other acquisition for consideration all Ten Year Redeemed Shares subject to such Ten Year Redemption Request or all Class A Preferred Shares subject to such Triggering Event Redemption Notice, as the case may be, have been redeemed in full in accordance with Section 4(h) or 4(j), as the case may be.

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Section 3. Liquidation Rights.

(a) Voluntary or Involuntary Liquidation . In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, holders of Class A Preferred Shares shall be entitled to receive, in accordance with the last sentence of Section 4(a), for each Class A Preferred Share that is Issued but Not Cancelled, out of the assets of the Corporation or proceeds thereof (whether capital or surplus) available for distribution to shareholders of the Corporation, and after satisfaction of all liabilities and obligations to creditors of the Corporation, before any distribution of such assets or proceeds is made to or set aside for the holders of Common Shares, other Junior Shares or any other shares of the Corporation ranking junior to the Class A Preferred Shares as to such distribution, payment in full in cash in an amount equal to the sum of (i) for each Outstanding Class A Preferred Share, the Call Amount, plus (ii) for each Class A Preferred Share that is Issued but Not Cancelled, the accrued and unpaid dividends per share, including any and all Past Due Dividends and Additional Dividends on such Past Due Dividends, in each case, whether or not declared, to each date of payment, unpaid Make Whole Dividends for all prior fiscal years and the final Make Whole Dividend, all Past Due Dividends in respect of any Make Whole Dividend, all Additional Dividends described in Section 2(b)(iv), and all unpaid MWD Adjustment Payments payable by the Corporation resulting from a final determination that has been made at or prior to the time of the liquidation, dissolution or winding up, in each case, whether or not declared (such sum, the “Class A Preferred Share Liquidation Preference”).

(b) Partial Payment . If in any distribution described in this Section 3 the assets of the Corporation or proceeds thereof are not sufficient to pay in full the aggregate Class A Preferred Share Liquidation Preference and the aggregate Liquidation Preferences (as defined below) of all Parity Shares, the amounts paid to the holders of Class A Preferred Shares and to the holders of Parity Shares shall be paid *pro rata* in accordance with the respective aggregate Class A Preferred Share Liquidation Preference and the aggregate Liquidation Preference of such Parity Shares. The “Liquidation Preference” of Parity Shares means the amount otherwise payable to the holders of such Parity Shares with respect to any distribution described in this Section 3 (assuming no limitation on the assets of the Corporation available for such distribution), including the amount of declared but unpaid dividends to the extent provided in the Articles of the Corporation with respect to such Parity Shares.

(c) Residual Distributions . If the Class A Preferred Share Liquidation Preference has been paid in full on all Class A Preferred Shares that are Issued but not Cancelled to each respective holder thereof, the holders of other shares of the Corporation shall be entitled to receive all remaining assets of the Corporation (or proceeds thereof) according to their respective rights and preferences.

(d) Merger, Amalgamation, Consolidation and Sale of Assets Not Liquidation . For purposes of this Section 3, but subject to Section 4(j), the merger, amalgamation or consolidation of the Corporation with any other corporation or other entity, including a merger, amalgamation or consolidation in which the holders of Class A Preferred Shares receive cash, securities or other property for their shares, or the sale, lease or exchange (for cash, securities or other property) of all or substantially all of the assets of the Corporation, shall not constitute a liquidation, dissolution or winding up of the Corporation.

Section 4. Redemption.

(a) Optional Redemption. The Corporation may not redeem the Class A Preferred Shares for the first three years following the Original Issue Date. On or after the third anniversary of the Original Issue Date, the Corporation may, at its option, redeem, in whole at any time or in part from time to time, Class A Preferred Shares at the time Outstanding, upon notice given as provided in Section 4(b), at a redemption price paid in cash for each Class A Preferred Share redeemed equal to the sum of (i) the Call Amount per share, plus (ii) the accrued and unpaid dividends on such share, including any and all Past Due Dividends and Additional Dividends on such Past Due Dividends, in each case, whether or not declared, to the date of payment, and unpaid Make Whole Dividends for all prior fiscal years, all Past Due Dividends in respect of any Make Whole Dividend and all Additional Dividends described in Section 2(b)(iv), in each case, whether or not declared (such sum, the

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“ Redemption Price,” and such date of payment, the “ Optional Redemption Date”). Any redemption of less than all of the Class A Preferred Shares at the time Outstanding pursuant to an optional redemption shall be in an amount of not less than []⁵ Class A Preferred Shares. Notwithstanding anything to the contrary herein, the Redemption Price and the Class A Preferred Share Liquidation Preference shall be calculated on an aggregate basis for each holder entitled to receive the payment thereof.

(b) Notice of Redemption . Notice of every redemption of Class A Preferred Shares shall be given by first class mail, postage prepaid, addressed to the holders of record of the shares to be redeemed at their respective last addresses appearing on the books of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption, in the event of an optional redemption pursuant to Section 4(a) or a Ten Year Redemption Date, on the date of receipt of Offering Proceeds in the event of a Net Proceeds Redemption or on the date of consummation of a Triggering Event. Any notice mailed as provided in this Section 4(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of Class A Preferred Shares called for redemption shall not affect the validity of the redemption of any other Class A Preferred Shares, nor shall it excuse the Corporation from its obligation to redeem Class A Preferred Shares to the extent required hereunder. Each notice of redemption given to a holder shall state: (1) the Redemption Date; (2) the number of Class A Preferred Shares to be redeemed and, if less than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (3) the aggregate Redemption Price; and (4) the place or places where certificates for such shares are to be surrendered against payment of the Redemption Price.

(c) Redemption Generally. The Redemption Price for any Class A Preferred Share called for redemption shall be payable in cash on the Redemption Date to the holder of such share against surrender of the certificate(s) evidencing such share to the Corporation (or, if such holder alleges that such certificate has or certificates have been lost, stolen or destroyed, upon delivery of a lost certificate affidavit and agreement reasonably acceptable to the Corporation to indemnify the Corporation against any claim that may be made against the Corporation on account of the alleged loss, theft or destruction of such certificate) (such surrender or delivery of affidavit and indemnity agreement, a “ Surrender” of such Class A Preferred Shares). Any declared but unpaid dividends payable on a Redemption Date that occurs subsequent to the Dividend Record Date for a Dividend Period (“ Additional Regular Dividends”) shall not be paid to the holder entitled to receive the Redemption Price on the Redemption Date, but rather shall be paid to the holder of record of the redeemed shares on such Dividend Record Date relating to the Dividend Payment Date as provided in Section 2.

(d) Partial Redemption . In case of any redemption of fewer than all of the Class A Preferred Shares at the time Outstanding, and if there is more than one holder, the Class A Preferred Shares required to be redeemed shall be redeemed on a *pro rata* basis. If fewer than all the Class A Preferred Shares represented by any certificate are redeemed, a new certificate shall be issued representing the unredeemed shares without charge to the holder thereof promptly following the Redemption Date.

(e) Deposit with Eligible Institution. If notice of redemption has been duly given but the holder of any Class A Preferred Shares to be redeemed does not Surrender its Class A Preferred Shares, then the Corporation may deposit, on or before the Redemption Date specified in such notice all funds necessary for the payment of the aggregate Redemption Price (plus Additional Regular Dividends, if any) in trust for the *pro rata* benefit of the holders of the shares called for redemption, with an Eligible Institution, so as to be and continue to be available solely therefor. Any funds unclaimed at the end of three years from the Redemption Date shall, to the fullest extent permitted by law, be released by such Eligible Institution (or its successor, which must also be an Eligible Institution) to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the Redemption Price of such shares or the Additional Regular Dividend, if any, with respect to such shares.

⁵ NTD: Insert number equal to 10% of Class A Preferred Shares issued on the Original Issue Date.

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(f) Effectiveness of Redemption . From and after the Redemption Date with respect to Class A Preferred Shares that are Redeemed Subject to Final MWD, all Regular Quarterly Dividends and Additional Dividends on such Regular Quarterly Dividends shall cease to accrue on such shares and, with respect to voting, such shares shall have only the rights set forth in Section 7(d). Upon Class A Preferred Shares becoming Redeemed but Not Cancelled, all obligations of the Corporation, and all rights of the respective holders, with respect to such shares shall forthwith cease and terminate, except only (A) the right (together with the obligation) of the Corporation and the respective holders to receive or pay MWD Adjustment Payments under Section 2(b)(vi), and (B) the obligations and rights set forth in Section 7(d) and the third sentence of Section 4(j).

(g) Cancellation of Redeemed Shares. Each Class A Preferred Share that is purchased or acquired by the Corporation (for greater certainty, other than shares that are Redeemed Subject to Final MWD or Redeemed but Not Cancelled) shall be cancelled. Notwithstanding anything to the contrary herein, no Class A Preferred Share called for redemption (which for greater certainty shall include a required redemption in the event of a Triggering Event as contemplated in Section 4(j)) shall be cancelled unless and until: (i) it has been Redeemed but Not Cancelled and (ii) the Corporation and the holder of such share no longer have any right or obligation with respect to any MWD Adjustment Payment attributable to such share as provided in Section 2(b)(vi). Each Redeemed but Not Cancelled Class A Preferred Share shall remain issued until cancelled in accordance with this Section 4(g). From and after the time a Class A Preferred Share is Redeemed Subject to Final MWD, until such share is cancelled in accordance with the foregoing, the ownership of such share shall remain on the share register of the Corporation and such holder shall remain the holder thereof until such shares are so cancelled, provided that upon such share becoming Redeemed but not Cancelled its rights shall be limited to the rights enumerated in Section 4(f). Each Class A Preferred Share that is cancelled in accordance with this Section 4(g) may not be reissued by the Corporation.

(h) Redemption at Option of the Holders Following Tenth Anniversary. If after the tenth anniversary of the Original Issue Date the holders of not less than a majority of the Outstanding Class A Preferred Shares deliver to the Secretary of the Corporation a notice of request for redemption pursuant to this Section 4(h) (a “Ten Year Redemption Request”), the Corporation shall, to the fullest extent permitted by law, redeem all of the Outstanding Class A Preferred Shares of such holders (the “Ten Year Redeemed Shares”) at a price equal to the Redemption Price for each Ten Year Redeemed Share on a date that is not more than 90 days after the date of such notice (such date, the “Ten Year Redemption Date”). If necessary to pay all or a portion of the aggregate Redemption Price, the Corporation shall (i) take any action necessary or appropriate to cause the occurrence of one or more Redemption Offerings to redeem on each Net Proceeds Redemption Date from the Net Proceeds of a Redemption Offering the maximum number of Ten Year Redeemed Shares that it is able to redeem in cash from such Net Proceeds, at a price equal to the Redemption Price for each Ten Year Redeemed Share, upon notice given to all holders of Ten Year Redeemed Shares as provided in Section 4(b) of these Class A Preferred Share Terms. For the avoidance of doubt, if Net Proceeds from a Redemption Offering are insufficient to redeem all Outstanding Ten Year Redeemed Shares, the Net Proceeds of each successive Redemption Offering shall be applied to redeem Ten Year Redeemed Shares, at the Redemption Price, until all Outstanding Ten Year Redeemed Shares have been redeemed. For the purpose of determining whether redemption is permitted by law, the Corporation shall value its assets at the highest amount permissible under applicable law.

(i) Selection of Underwriters . If holders of Outstanding Class A Preferred Shares elect to force a Redemption Offering as provided in Section 4(h) above, the Corporation shall retain investment banker(s) of such holders’ choosing to serve as lead underwriter(s). All fees and expenses of the Redemption Offering and the redemption of Class A Preferred Shares will be for the account of the Corporation.

(j) Redemption at the Option of the Holders in the Event of a Triggering Event. In the event that a Triggering Event (as defined below) is announced, the holders of not less than a majority of the Outstanding Class A Preferred Shares may give notice within 15 days of such announcement to the Secretary of the Corporation (a “Triggering Event Redemption Notice”). Upon receipt of a Triggering Event Redemption Notice, the Corporation shall, to the fullest extent permitted by law, redeem all of the Outstanding Class A Preferred

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Shares of such holders at a price equal to the Redemption Price for each such Class A Preferred Share on the date of the consummation of the Triggering Event. The Corporation shall take such steps as may be necessary or desirable to ensure that any transaction that may result in a Triggering Event shall preserve and not impair the right of the holder of the Class A Preferred Shares to receive the final Make Whole Dividend, Past Due Dividends in respect thereof and Additional Dividends on such Past Due Dividends and the right or obligation of the Corporation or the holder of the Class A Preferred Shares to receive or pay (as applicable) any MWD Adjustment Payment. For this purpose, a “Triggering Event” means the occurrence of one or more of the following: (a) the acquisition of the Corporation by another entity by means of any transaction or series of related transactions (including, without limitation, any merger, amalgamation, arrangement, consolidation or reorganization) if the Corporation’s stockholders constituted immediately prior to such transaction or series of related transactions hold less than fifty percent (50%) of the voting power of the surviving or acquiring entity; (b) the closing of the transfer, in one transaction or a series of related transactions, to a person or entity (or a group of persons or entities) of the Corporation’s securities if, after such closing, the Corporation’s stockholders constituted immediately prior to such transaction or series of related transactions hold less than fifty percent (50%) of the voting power of the Corporation or its successor; or (c) a sale, license or other disposition (in one transaction or a series of related transactions) of all or substantially all of the assets of the Corporation.

Section 5. Certain Other Provisions Relating to Ranking. If any Class A Preferred Share is (x) Outstanding or is (y) Redeemed Subject to Final MWD and is not Redeemed but Not Cancelled, no other class or series of shares of the Corporation shall (a) rank equally with or senior to the Class A Preferred Shares in the payment of dividends (without regard to whether dividends accrue on a cumulative or non-cumulative basis) and rank equally with, junior to or senior to the Class A Preferred Shares with respect to the distribution of assets on any liquidation, dissolution or winding up of the Corporation or (b) rank equally with or senior to the Class A Preferred Shares with respect to the distribution of assets on any liquidation, dissolution or winding up of the Corporation and rank equally with, junior to or senior to the Class A Preferred Shares in the payment of dividends (without regard to whether dividends accrue on a cumulative or non-cumulative basis) .

Section 6. Conversion. Class A Preferred Shares shall not be convertible into any other securities.

Section 7. Voting Rights.

(a) General. Except as otherwise expressly provided in these Class A Preferred Share Terms, or as provided by applicable law, the holders of Class A Preferred Shares shall be entitled to (i) receive notice of and to attend all meetings of the shareholders of the Corporation that the holders of the Common Shares are entitled to attend, (ii) receive copies of all notices and other materials sent by the Corporation to its shareholders relating to such meetings, and (iii) vote at such meetings. The holders of the Class A Preferred Shares shall have one ⁶ vote for each Class A Preferred Share held at all such meetings. Except as otherwise required by law or as provided in Section 7(b), the Common Shares, the Class A Preferred Shares and the Special Voting Share shall vote together as a single class.

(b) Class A Preferred Shares Voting Rights as to Particular Matters. In addition to any other vote or consent of shareholders required by law, by these Class A Preferred Share Terms or by the Articles of the

⁶ NTD The number of preferred shares will be set on the day before closing. The number of preferred shares will be such that the Investor will have approximately 13% of the total votes attached to the voting shares of Holdings as at the closing date (ie. the common shares, the special voting share and the preferred shares). It is currently estimated that the total number of common shares, plus the total number of votes attached to the special voting share, will be approximately 460,000,000. Accordingly, using this number as an example, there would be a total of about 68,700,000 preferred shares, which at one vote per share is about 13% of the total votes. (the math is: 460,000,000 divided by 0.87 = 528,700,000, 528,700,000 – 460,000,000 = 68,700,000; 68,700,000 divided by 528,700,000 = 13%). These numbers are estimates and are rounded, and we will not know the actual numbers until two days before closing. We will fill in the actual number of preferred shares, and file the articles of amendment on the day before closing to increase the authorized share capital.

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Corporation, the vote or consent of the holders of a majority of (x) the Class A Preferred Shares at the time Outstanding and (y) if applicable pursuant to Section 7(d), the Class A Preferred Shares at the time Redeemed Subject to Final MWD, voting in person or by proxy and separately as a class, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating any of the following, whether by merger, amalgamation, arrangement, consolidation or otherwise, and any of the following taken, whether by merger, amalgamation, arrangement, consolidation, or otherwise, without such consent or vote shall be null and void *ab initio*, and of no force or effect:

(i) *Authorization, Creation or Issuance of Shares of the Corporation*. Any amendment or alteration of the articles of the Corporation to (A) authorize or create, or increase the authorized amount of, any shares of any class or series of shares of the Corporation, or the issuance of any shares of any class or series of shares of the Corporation, in each case, ranking senior to or equally with the Class A Preferred Shares with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of the Corporation, or having or sharing any voting or consent rights with respect to any matter described in this Section 7(b) or (B) decrease the authorized amount of Common Shares;

(ii) *Authorization or Issuance of Additional Class A Preferred Shares or Certain Other Shares*. The authorization or issuance of (or obligation to issue) (A) any Class A Preferred Shares in addition to the [] Class A Preferred Shares authorized and issued on the Original Issue Date, (B) any shares of any class or series of shares of the Corporation constituting Parity Shares or ranking senior to the Class A Preferred Shares with respect to either or both the payment of dividends and/or the distribution of assets on any liquidation, dissolution or winding up of the Corporation, or (C) any shares of any class or series of shares of the Corporation that is not perpetual and has a term that ends on or before the eleventh anniversary of the Original Issue Date, or provides for mandatory redemption thereof on any date on or before the eleventh anniversary of the Original Issue Date, or provides for any right of the holder thereof, whether or not contingent on the occurrence of any event, the passage of time, or any other circumstance, to put such shares to the Corporation or otherwise cause or require the purchase of such shares by the Corporation on or before the eleventh anniversary of the Original Issue Date, or that is convertible or exchangeable into any of the foregoing;

(iii) *Amendments*. Any amendment, alteration or repeal of any provision of these Class A Preferred Share Terms or the articles or bylaws of the Corporation that affects or changes the rights, preferences, privileges or powers of the Class A Preferred Shares, including, without limitation, the defined terms in the Articles of the Corporation as used with respect to the Class A Preferred Shares; and

(iv) *Share Exchanges, Reclassifications, Mergers, Amalgamations and Consolidations*. Any consummation of a binding share exchange or reclassification involving the Class A Preferred Shares, or of a merger, amalgamation, arrangement or consolidation of the Corporation with another corporation or other entity, unless as a result thereof (x) the Class A Preferred Shares remain outstanding or are converted into or exchanged for preference securities of the surviving entity with rights, preferences, privileges and powers substantially identical to those of the Class A Preferred Shares (taking into account the extent to which any such shares have been Redeemed), and (y) there is no other class or series of equity outstanding that would not be permitted to be issued and outstanding pursuant to Section 5 or that would require the approval of holders of Class A Preferred Shares as provided in this Section 7(b) if the same were to be issued by the Corporation on the date of consummation of such exchange, reclassification, merger, amalgamation, arrangement or consolidation (provided, that if pursuant to such transaction the holders of Class A Preferred Shares hold preference securities in a surviving entity, the equity of such surviving entity shall also comply with the requirements of this clause (y)).

(c) No Voting Parity Shares. No other class or series of shares of the Corporation shall have or share any voting or consent rights with the holders of Class A Preferred Shares with respect to any matter described in Section 7(b).

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(d) Changes After Redemption. From and after the time that any Class A Preferred Share has been Redeemed Subject to Final MWD but prior to such share being Redeemed but Not Cancelled, no vote or consent of the holder of such share shall be required pursuant to Section 7(a) or 7(b), other than Sections 7(b)(ii)(A) and 7(b)(iii), and the holder of such share shall be deemed to waive any other voting rights it may have under applicable law in respect of such share. From and after the time that any Class A Preferred Share has been Redeemed but Not Cancelled, no vote or consent of the holder of such share shall be required pursuant to Sections 7(a) or 7(b), and the holder of such share shall be deemed to waive any other voting rights it may have under applicable law in respect of such share. The Corporation shall ensure that any transaction referred to in Section 7(b) shall preserve and not impair the right of the holder of Class A Preferred Shares that have been Redeemed Subject to Final MWD to receive the final Make Whole Dividend, Past Due Dividends in respect thereof and Additional Dividends on such Past Due Dividends and the right or obligation of the Corporation or the holder of such Class A Preferred Shares to receive or pay (as applicable) any MWD Adjustment Payment.

Section 8. Class A Preferred Shares Equal. Each Class A Preferred Share shall be identical in all respects to every other Class A Preferred Share.

Section 9. Notices. All notices or communications in respect of Class A Preferred Shares shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or if given in such other manner as may be permitted in these Class A Preferred Share Terms.

Section 10. Replacement Certificates. The Corporation shall replace any mutilated certificate at the holder's expense upon surrender of that certificate to the Corporation. The Corporation shall replace certificates that become destroyed, stolen or lost at the holder's expense upon delivery to the Corporation of reasonably satisfactory evidence that the certificate has been destroyed, stolen or lost, together with any indemnity that may be reasonably required by the Corporation.

Section 11. Other Rights. The Class A Preferred Shares shall not have any rights, preferences, privileges or voting powers or relative, participating, optional or other special rights, or qualifications, limitations or restrictions thereof, other than as set forth herein or as provided by applicable law.

**Schedule B
Other Changes**

The Articles of the Corporation are amended as follows:

1. by deleting the “Restrictions on share transfers” referred to in paragraph 4 of the Articles of Continuance of the Corporation in its entirety and substituting therefor the following:

“None.”

2. by deleting the “Other Provisions” referred to in paragraph 8 of the Articles of Continuance of the Corporation in its entirety and substituting therefor the following:

“The board of directors of the Corporation may, at any time and from time to time, by resolution appoint one or more additional directors, who shall hold office for a term expiring not later than the close of the next following annual meeting of shareholders of the Corporation, provided that the total number of directors so appointed by the board of directors of the Corporation during the period between any two annual meetings of shareholders of the Corporation shall not exceed one-third of the number of directors elected at the earlier of such two annual meetings of shareholders of the Corporation.”

[•]

AMENDED AND RESTATED BY-LAW 1

A by-law relating generally to the conduct of the affairs of [•] (the “Corporation”).

BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of the Corporation as follows:

INTERPRETATION

1. Definitions

In this by-law and all other by-laws of the Corporation, unless the context otherwise specifies or requires:

- (a) “ **Act** ” means the *Canada Business Corporations Act* , R.S.C. 1985, c. C-44 and the regulations thereunder, as from time to time amended, and every statute or regulation that may be substituted therefor and, in the case of such amendment or substitution, any reference in the by-laws of the Corporation shall be read as referring to the amended or substituted provisions;
- (b) “ **affiliate** ” means with respect to any Person, any other Person that, directly or indirectly, controls, or is controlled by, or is under common control with, such Person. As used in this definition, “control” (including, with its correlative meanings, “controlled by” and “under common control with”) shall mean the possession, directly or indirectly, through one or more intermediaries, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise;
- (c) “ **by-law** ” means any by-law of the Corporation from time to time in force and effect;
- (d) “ **Exchangeable Units** ” means the exchangeable units in the capital of the Partnership;
- (e) “ **LPA** ” means the amended and restated limited partnership agreement dated • in respect of the Partnership, as the same may be amended, restated, replaced or supplemented from time to time;
- (f) “ **Partnership** ” means • L.P., a limited partnership formed under the laws of the Province of Ontario,
- (g) “ **Person** ” includes an individual, sole proprietorship, corporation, body corporate, incorporated or unincorporated association, syndicate or organization, partnership, limited partnership, limited liability company, unlimited liability company, joint venture, joint stock company, trust, natural person in his or her capacity as trustee, executor, administrator or other legal representative, a Governmental Entity or other entity, whether or not having legal status;
- (h) “ **Statutory Rights** ” means the right of a holder of voting shares of the Corporation under sections 21, 103(5), 120(6.1), 137, 138(4), 143, 144, 145, 157(2), 167, 168(2), 175, 211, 214, 229, 239 and 241 of the Act;
- (i) “ **Unitholders** ” means the registered holders from time to time of Exchangeable Units, other than the Corporation and its affiliates;
- (j) all terms contained in the by-laws which are defined in the Act shall have the meanings given to such terms in the Act;
- (k) words importing the singular number only shall include the plural and vice versa; words importing any gender shall include all genders; words importing persons shall include partnerships, syndicates, trusts and any other legal or business entity; and
- (l) the headings used in the by-laws are inserted for reference purposes only and are not to be considered or taken into account in construing the terms or provisions thereof or to be deemed in any way to clarify, modify or explain the effect of any such terms or provisions.

REGISTERED OFFICE

2. The Corporation may from time to time (i) by resolution of the directors change the place and address of the registered office of the Corporation within the Province in Canada specified in its articles, and (ii) by an amendment to its articles, change the Province in Canada in which its registered office is situated.

SEAL

3. The Corporation may, but need not, have a corporate seal. An instrument or agreement executed on behalf of the Corporation by a director, an officer or an agent of the Corporation is not invalid merely because the corporate seal, if any, is not affixed thereto.

DIRECTORS

4. Number

The number of directors, or the minimum and maximum number of directors of the Corporation, is set out in the articles of the Corporation. If a minimum and maximum number of directors is set out in the articles of the Corporation, the number of directors of the Corporation shall be the number of directors determined from time to time by resolution of the directors and otherwise such number as elected by the shareholders of the Corporation at the most recent meeting of shareholders. At least twenty-five per cent of the directors (or one director, if the Corporation has less than four directors) shall be resident Canadians. If the Corporation is a distributing corporation and any of its outstanding securities are held by more than one person, it shall have at least three directors, at least two of whom are not officers or employees of the Corporation or its affiliates.

5. Powers

The directors shall manage, or supervise the management of, the business and affairs of the Corporation and may exercise all such powers and do all such acts and things as may be exercised or done by the Corporation and are not by the Act, the articles, the by-laws, any special resolution of the Corporation or by statute expressly directed or required to be done in some other manner.

6. Duties

Every director and officer of the Corporation in exercising their powers and discharging their duties shall:

- (a) act honestly and in good faith with a view to the best interests of the Corporation; and
- (b) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

Every director and officer of the Corporation shall comply with the Act, the regulations thereunder, the Corporation's articles and by-laws and any unanimous shareholder agreement.

7. Qualification

Every director shall be an individual 18 or more years of age and no one who is of unsound mind and has been so found by a court in Canada or elsewhere or who has the status of a bankrupt shall be a director.

8. Election of Directors

Directors shall be elected by the shareholders of the Corporation by ordinary resolution. Whenever at any election of directors of the Corporation the number or the minimum number of directors required by the articles is not elected by reason of the lack of consent, disqualification, incapacity or death of any candidates, the

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directors elected at that meeting may exercise all the powers of the directors if the number of directors so elected constitutes a quorum, but such quorum of directors may not fill the resulting vacancy or vacancies.

An individual who is elected or appointed to hold office as a director is not a director and is deemed not to have been elected or appointed to hold office as a director unless

- (a) he or she was present at the meeting when the election or appointment took place and he or she did not refuse to hold office as a director; or
- (b) he or she was not present at the meeting when the election or appointment took place and
 - (i) he or she consented to hold office as a director in writing before the election or appointment or within 10 days after it, or
 - (ii) he or she has acted as a director pursuant to the election or appointment.

9. Nominations of Directors

Subject to the provisions of the Act and the articles of the Corporation, only persons who are nominated in accordance with the procedures set out in this paragraph 9 shall be eligible for election as directors.

Nominations of persons for election to the board may be made at any annual meeting of shareholders, or at any special meeting of shareholders if one of the purposes for which the special meeting was called was the election of one or more directors. Such nominations must be made:

- (a) by or at the direction of the board (or any duly authorized committee thereof), including pursuant to a notice of meeting;
- (b) by or at the direction or request of one or more shareholders of the Corporation pursuant to a proposal within the meaning of, and made in accordance with, the provisions of the Act, or a requisition of the shareholders made in accordance with the provisions of the Act; or
- (c) by any person (a “Nominating Shareholder”): (i) who, at the close of business on the date of the giving of the notice provided for below in this paragraph 9 and at the close of business on the record date for notice of such meeting, is entered in the securities register of the Corporation as a holder of one or more shares carrying the right to vote at such meeting or who beneficially owns shares that are entitled to be voted at such meeting; and (ii) who complies with the notice procedures set out below in this paragraph 9.

In addition to any other applicable requirements, for a nomination to be made by a Nominating Shareholder pursuant to subparagraph (c) above, the Nominating Shareholder must have given notice thereof that is both timely and in proper written form (as set out below in this paragraph 9) to the secretary of the Corporation at the principal executive office of the Corporation.

To be timely, a Nominating Shareholder’s notice to the secretary of the Corporation must be made:

- (a) in the case of an annual meeting of shareholders, not less than 90 days and not more than 120 days prior to the date of the annual meeting of shareholders; provided, however, that in the event that the annual meeting of shareholders is to be held on a date that is less than 50 days after the date (the “Notice Date”) on which the first public announcement (as defined below) of the date of the annual meeting of shareholders was made, notice by the Nominating Shareholder may be made not later than the close of business on the tenth (10th) day following the Notice Date; and
- (b) in the case of a special meeting of shareholders (which is not also an annual meeting of shareholders) called for the purpose of electing directors (whether or not called for other purposes), not later than the close of business on the sixtieth (60th) day following the day on which the first public announcement of the date of the special meeting of shareholders was made.

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Notwithstanding anything in Section 9(a) or (b), in the event that less than 70 days' notice of the date of the meeting is given or made to shareholders, notice by the shareholder to be timely must be so received not later than the close of business on the tenth (10th) day following the earlier of the day on which such notice or public announcement of the date of the meeting was mailed or made (as applicable). The time periods for the giving of notice by a Nominating Shareholder set out above shall in all cases be determined based on the original date of the applicable annual meeting of shareholders or special meeting of shareholders, as applicable.

To be in proper written form, a Nominating Shareholder's notice to the secretary of the Corporation must set out:

- (a) as to each person whom the Nominating Shareholder proposes to nominate for election to the board: (i) the name, age, business address and residential address of the person; (ii) the principal occupation or employment of the person; (iii) the country of residence of the person; (iv) the class or series and number of shares in the capital of the Corporation that are controlled or directed or that are owned beneficially or of record by the person as of the record date for the meeting of shareholders (if such date shall then have been made publicly available and shall have occurred) and as of the date of such notice; and (v) any other information relating to the person that would be required to be disclosed in a dissident's proxy circular in connection with a solicitation of proxies for election of directors pursuant to the Act and Applicable Securities Laws (as defined below); and
- (b) as to the Nominating Shareholder giving the notice: (i) full particulars regarding any proxy, contract, agreement, arrangement, understanding or relationship pursuant to which such Nominating Shareholder has a right to vote or direct the voting of any shares of the Corporation; and (ii) any other information relating to such Nominating Shareholder that would be required to be made in a dissident's proxy circular in connection with solicitations of proxies for election of directors pursuant to the Act and Applicable Securities Laws (as defined below).

The Corporation may require any proposed nominee for election as a director to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as an independent director or that could be material to a reasonable shareholder's understanding of the independence, or lack thereof, of such proposed nominee.

No person shall be eligible for election as a director unless nominated in accordance with this paragraph 9; provided, however, that nothing in this paragraph 9 shall be deemed to preclude discussion by a shareholder (as distinct from the nomination of directors) at a meeting of shareholders of any matter that is properly before such meeting pursuant to the provisions of the Act.

The chairman of the meeting of shareholders shall have the power and duty to determine whether a nomination of a person for election to the board was made in accordance with this paragraph 9 and, if the chairman determines that a nomination does not comply with this paragraph 9, to declare that such defective nomination shall be disregarded.

For the purposes of this paragraph 9:

- (a) "public announcement" means disclosure in a press release reported by a national news service in Canada, or in a document publicly filed by the Corporation under its profile on (i) the System for Electronic Document Analysis and Retrieval at www.sedar.com and (ii) the Electronic Data Gathering, Analysis and Retrieval system (EDGAR) at www.sec.gov/edgar; and
- (b) "Applicable Securities Laws" means the (i) applicable securities legislation, as amended from time to time, of each province and territory of Canada, the rules, regulations and forms made or promulgated under any such statute and the published national instruments, multilateral instruments, policies, bulletins and notices of the securities commission or similar regulatory authority of each province and territory of Canada and (ii) the applicable securities laws of the United States, including, without limitation, the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

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Notwithstanding any other provision of the by-laws, notice given to the secretary of the Corporation pursuant to this paragraph 9 may only be given by personal delivery, email (at such email address as may be stipulated from time to time by the secretary of the Corporation for purposes of this notice) or facsimile transmission, and shall be deemed to have been given and made only at the time it is served by personal delivery to the secretary at the address of the principal executive office of the Corporation or delivered to the secretary by email (at the aforesaid email address) or facsimile transmission (provided that receipt of confirmation of such facsimile transmission has been received); provided that if such delivery or electronic communication is made on a non-business day or later than 5:00 p.m. (Toronto time) on a day that is a business day, then such delivery or electronic communication shall be deemed to have been made on the next following day that is a business day.

Notwithstanding any of the foregoing, the board may, in its sole discretion, waive any requirement in this paragraph 9.

10. **Term of Office**

A director's term of office (subject to the provisions (if any) of the Corporation's articles and paragraph 13 below), unless such director was elected for an expressly stated term, shall be from the date of the meeting at which such director is elected or appointed until the close of the annual meeting of shareholders next following such director's election or appointment or until such director's successor is elected or appointed. If qualified, a director whose term of office has expired is eligible for re-election as a director.

11. **Ceasing to Hold Office**

A director ceases to hold office if such director:

- (a) dies;
- (b) sends to the Corporation a written resignation, which shall be effective upon receipt by the Corporation, or at the time specified in the resignation, whichever is later;
- (c) is removed from office in accordance with paragraph 13 below;
- (d) becomes bankrupt; or
- (e) is found by a court in Canada or elsewhere to be of unsound mind.

12. **Vacancies**

Notwithstanding any vacancy among the directors, the remaining directors may exercise all the powers of the directors so long as a quorum of the number of directors remains in office. Subject to subsections 111(1) and (3) of the Act and to the provisions (if any) of the Corporation's articles, where there is a quorum of directors in office and a vacancy occurs, such quorum of directors may appoint a qualified person to fill such vacancy for the unexpired term of such appointee's predecessor.

13. **Removal of Directors**

Subject to subsections 107 and 109(2) of the Act, the shareholders of the Corporation may by ordinary resolution at a special meeting remove any director before the expiration of such director's term of office and may, by a majority of the votes cast at the meeting, elect any person in such director's stead for the remainder of such director's term.

If a meeting of shareholders was called for the purpose of removing a director from office as a director, the director so removed shall vacate office forthwith upon the passing of the resolution for such director's removal.

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14. Validity of Acts

An act of a director or officer is valid notwithstanding an irregularity in their election or appointment or a defect in their qualification.

MEETINGS OF DIRECTORS

15. Place of Meetings

Meetings of directors and of any committee of directors may be held at any place.

16. Calling Meetings

A meeting of directors may be convened by the Chair of the Board (if any), the Chief Executive Officer or any three directors at any time and the Secretary shall upon direction of any of the foregoing convene a meeting of directors.

17. Notice

Notice of the time and place for the holding of any such meeting shall be sent to each director not less than two days (exclusive of the day on which the notice is sent but inclusive of the day for which notice is given) before the date of the meeting; provided that meetings of the directors or of any committee of directors may be held at any time without formal notice if all the directors are present (except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if all the absent directors have waived notice. The notice shall specify any matter referred to in subsection 115(3) of the Act that is to be dealt with at the meeting.

For the first meeting of directors to be held following the election of directors at an annual or special meeting of the shareholders or for a meeting of directors at which a director is appointed to fill a vacancy in the board, no notice of such meeting need be given to the newly elected or appointed director or directors in order for the meeting to be duly constituted, provided a quorum of the directors is present.

18. Waiver of Notice

Notice of any meeting of directors or of any committee of directors or any irregularity in any meeting or in the notice thereof may be waived in any manner by any director, and such waiver may be validly given either before or after the meeting to which such waiver relates. Attendance of a director at a meeting of directors is a waiver of notice of the meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

19. Electronic Participation

Where all the directors of the Corporation consent thereto (either before or after the meeting), a director may participate in a meeting of directors or of any committee of directors by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, and a director participating in a meeting by such means shall be deemed for the purposes of the Act and the by-laws to be present at that meeting.

20. Quorum and Voting

A majority of the number of directors of the Corporation shall constitute a quorum for the transaction of business. Subject to subsections 111(1), 114(4) and 117(1) of the Act, no business shall be transacted by the

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directors except at a meeting of directors at which a quorum is present and at which at least twenty-five per cent of the directors present are resident Canadians or, if the Corporation has less than four directors, at least one of the directors present is a resident Canadian. Questions arising at any meeting of directors shall be decided by a majority of votes. In case of an equality of votes, the chair of the meeting shall not have a second or casting vote in addition to the chair's original vote as a director.

21. Adjournment

Any meeting of directors or of any committee of directors may be adjourned from time to time by the chair of the meeting, with the consent of the meeting, to a fixed time and place. No notice of the time and place for the holding of the adjourned meeting need be given to any director if the time and place of the adjourned meeting is announced at the original meeting. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The directors who form the quorum at the adjourned meeting need not be the same directors who formed the quorum at the original meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment.

22. Resolutions in Writing

A resolution in writing, signed by all the directors entitled to vote on that resolution at a meeting of directors or committee of directors, is as valid as if it had been passed at a meeting of directors or committee of directors.

COMMITTEES OF DIRECTORS

23. General

The directors may from time to time appoint from their number one or more committees of directors and thereafter may dissolve any such committee. The directors may delegate to each such committee any of the powers of the directors, except that no such committee shall have the authority to:

- (a) submit to the shareholders any question or matter requiring the approval of the shareholders;
- (b) fill a vacancy among the directors or in the office of auditor, or appoint additional directors;
- (c) subject to subsection 189(2) of the Act, issue securities except as authorized by the directors;
- (d) issue shares of a series under section 27 of the Act except as authorized by the directors;
- (e) declare dividends;
- (f) purchase, redeem or otherwise acquire shares issued by the Corporation;
- (g) pay any commission referred to in section 41 of the Act, except as authorized by the directors;
- (h) approve a management proxy circular;
- (i) approve a take-over bid circular or directors' circular;
- (j) approve any annual financial statements to be placed before the shareholders of the Corporation; or
- (k) adopt, amend or repeal by-laws of the Corporation.

24. Audit Committee

If the Corporation is a distributing corporation and any of its outstanding securities are held by more than one person, the board of directors shall elect annually from among their number an audit committee to be composed of not fewer than three directors, a majority of whom are not officers or employees of the Corporation or any of its affiliates.

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Each member of the audit committee shall serve during the pleasure of the board of directors and, in any event, only so long as such member shall be a director. The directors may fill vacancies in the audit committee by election from among their number.

The audit committee shall have power to fix its quorum at not less than a majority of its members and to determine its own rules of procedure subject to any regulations imposed by the board of directors from time to time and to the following paragraph.

The auditor of the Corporation is entitled to receive notice of every meeting of the audit committee and, at the expense of the Corporation, to attend and be heard thereat; and, if so requested by a member of the audit committee, shall attend every meeting of the committee held during the term of office of the auditor. The auditor of the Corporation or any member of the audit committee may call a meeting of the committee.

The audit committee shall review the financial statements of the Corporation prior to approval thereof by the board of directors and shall have such other powers and duties as may from time to time by resolution be assigned to it by the board.

OFFICERS

25. Appointment of Officers

The directors may annually or as often as may be required appoint such officers as they shall deem necessary, who shall have such authority and shall perform such functions and duties as may from time to time be prescribed by resolution of the directors, delegated by the directors or by other officers or properly incidental to their offices or other duties, provided that no officer shall be delegated the power to do anything referred to in paragraph 23 above. Such officers may include, without limitation, any of a President, a Chief Executive Officer, a Chair of the Board, one or more Vice-Presidents, a Chief Financial Officer, a Controller, a Secretary, a Treasurer and one or more Assistant Secretaries and/or one or more Assistant Treasurers. None of such officers (except the Chair of the Board) need be a director of the Corporation. A director may be appointed to any office of the Corporation. Two or more of such offices may be held by the same person.

26. Removal of Officers

All officers shall be subject to removal by resolution of the directors at any time, with or without cause. The directors may appoint a person to an office to replace an officer who has been removed or who has ceased to be an officer for any other reason.

27. Duties of Officers may be Delegated

In case of the absence or inability or refusal to act of any officer of the Corporation or for any other reason that the directors may deem sufficient, the directors may delegate all or any of the powers of such officer to any other officer or to any director for the time being.

REMUNERATION OF DIRECTORS, OFFICERS AND EMPLOYEES

28. The remuneration to be paid to the directors of the Corporation shall be such as the directors shall from time to time by resolution determine and such remuneration shall be in addition to the salary paid to any officer or employee of the Corporation who is also a director. The directors may also by resolution award special remuneration to any director in undertaking any special services on the Corporation's behalf other than the normal work ordinarily required of a director of a corporation. The confirmation of any such resolution or resolutions by the shareholders shall not be required. The directors may fix the remuneration of the officers and employees of the Corporation. The directors, officers and employees shall also be entitled to be paid their travelling and other expenses properly incurred by them in connection with the affairs of the Corporation.

LIMITATION OF LIABILITY

29. No director or officer of the Corporation shall be liable for the acts or omissions of any other director, officer, employee or agent of the Corporation, or for any costs, charges or expenses of the Corporation resulting from any deficiency of title to any property acquired for or on behalf of the Corporation, or for the insufficiency of any security in or upon which any of the moneys of the Corporation shall be invested, or for any loss or damage arising from bankruptcy or insolvency, or in respect of any tortious acts of or relating to the Corporation or any other director, officer, employee or agent of the Corporation, or for any loss occasioned by an error of judgment or oversight on the part of any other director, officer, employee or agent of the Corporation, or for any other costs, charges or expenses of the Corporation occurring in connection with the execution of the duties of the director or officer, unless such costs, charges or expenses are incurred as a result of such person's own wilful neglect, default or negligence. Nothing in this by-law, however, shall relieve any director or officer from the duty to act in accordance with the Act or from liability for any breach of the Act.

INDEMNITIES TO DIRECTORS AND OTHERS

30. Subject to the provisions of section 124 of the Act, the Corporation shall indemnify a director or officer of the Corporation, a former director or officer of the Corporation or another individual who acts or acted at the Corporation's request as a director or officer, or an individual acting in a similar capacity, of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with the Corporation or other entity.

The Corporation may advance money to a director, officer or other individual for the costs, charges and expenses of a proceeding referred to above but such individual shall be required to repay the money if the individual does not fulfil the conditions set out below.

The Corporation may not indemnify an individual pursuant hereto unless the individual:

- (a) acted honestly and in good faith with a view to the best interests of the Corporation or, as the case may be, to the best interests of the other entity for which the individual acted as director or officer or in a similar capacity at the Corporation's request; and
- (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful.

The Corporation is hereby authorized to execute agreements evidencing its indemnity in favour of the foregoing persons to the full extent permitted by law.

INSURANCE

31. The Corporation may purchase and maintain insurance for the benefit of an individual referred to in paragraph 31 against any liability incurred by the individual in his or her capacity as a director or officer of the Corporation, or in his or her capacity as a director or officer, or a similar capacity of another entity, if the individual acts or acted in that capacity at the Corporation's request.

SHAREHOLDERS' MEETINGS

32. Annual or Special Meetings

The directors of the Corporation

- (a) shall call an annual meeting of shareholders not later than 18 months after the Corporation comes into existence and subsequently not later than 15 months after holding the last preceding annual meeting but no later than 6 months after the end of the Corporation's preceding financial year; and
- (b) may at any time call a special meeting of shareholders.

33. Place of Meetings

Meetings of shareholders of the Corporation shall be held at such place within Canada as the directors may determine, or at a place outside Canada if the place is specified in the articles or all the shareholders entitled to vote at the meeting agree that the meeting is to be held at that place.

34. Electronic Participation and Voting

Subject to the Act, any person entitled to attend a meeting of shareholders may participate in the meeting by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting, if the Corporation makes available such a communication facility. A person participating in a meeting by such means is deemed for all purposes of the Act and the by-laws to be present at the meeting. Subject to the Act, if the directors or the shareholders of the Corporation call a meeting of shareholders pursuant to the Act, those directors or shareholders, as the case may be, may determine that the meeting shall be held entirely by means of a telephonic, electronic or other communication facility that permits all participants to communicate adequately with each other during the meeting. Subject to the Act, any vote at a meeting of shareholders may be held entirely by means of a telephonic, electronic or other communication facility, if the Corporation makes available such a communication facility, and any person participating in a meeting of shareholders by means of such facility and entitled to vote at that meeting may vote by means of such facility, provided that any such facility made available by the Corporation shall enable the votes to be gathered in a manner that permits their subsequent verification and permit the tallied votes to be presented to the Corporation without it being possible for the Corporation to identify how each shareholder or group of shareholders voted.

35. Shareholder List

The Corporation shall prepare an alphabetical list of the shareholders entitled to receive notice of a meeting and vote at the meeting, showing the number of shares held by each shareholder,

- (a) if a record date for determining the shareholder entitled to receive notice of the meeting and/or entitled to vote at the meeting has been fixed, not later than 10 days after that date; or
- (b) if no record date has been fixed, on the record date established in accordance with paragraph 53 below.

A shareholder whose name appears on such list is entitled to vote the shares shown opposite such shareholder's name at the meeting to which the list relates.

36. Notice

A notice stating the day, hour and place of meeting and, if special business is to be transacted thereat, stating (i) the nature of that business in sufficient detail to permit the shareholder to form a reasoned judgment thereon, and (ii) the text of any special resolution to be submitted to the meeting, shall be sent to each

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shareholder entitled to vote at the meeting, to each director of the Corporation and to the auditor (if any) of the Corporation. Such notice may be sent by prepaid mail or may be personally delivered, in such manner as may be permitted by the Act, if the Corporation is a distributing corporation, not less than 21 days (or, if the Corporation is not a distributing corporation, not less than such number of days as may be fixed by the directors) and not more than 60 days (exclusive of the day of mailing and of the day for which notice is given) before the date of every meeting, and shall be addressed to the latest address of each such person as shown in the records of the Corporation or its transfer agent, or if no address is shown therein, then to the last address of each such person known to the Secretary. Notwithstanding the foregoing, a meeting of shareholders may be held for any purpose at any date and time and, subject to subsection 132(2) of the Act, at any place without notice if all the shareholders and other persons entitled to notice of such meeting are present in person or represented by proxy at the meeting (except where a shareholder or such other person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called) or if all the shareholders and other persons entitled to notice of such meeting and not present in person nor represented by proxy thereat waive notice of the meeting. Notice of any meeting of shareholders or the time for the giving of any such notice or any irregularity in any such meeting or in the notice thereof may be waived in any manner by any shareholder, the duly appointed proxy of any shareholder, any director or the auditor of the Corporation and any other person entitled to attend a meeting of shareholders, and any such waiver may be validly given either before or after the meeting to which such waiver relates.

The auditor (if any) of the Corporation is entitled to receive notice of every meeting of shareholders of the Corporation and, at the expense of the Corporation, to attend and be heard thereat on matters relating to the auditor's duties.

Any previously scheduled annual meeting of shareholders may be postponed, and any shareholders meeting other than an annual meeting may be postponed or cancelled, by the Corporation by public notice given to the shareholders prior to the date previously scheduled for such meeting of shareholders.

37. Omission of Notice

The accidental omission to give notice of any meeting to or the non-receipt of any notice by any person shall not invalidate any resolution passed or any proceeding taken at any meeting of shareholders.

38. Chair

The Chair of the Board (if any) shall when present preside at all meetings of shareholders. In the absence of the Chair of the Board (if any), the President or, if the President is also absent, a Vice-President (if any) shall act as chair. If none of such officers is present at a meeting of shareholders, the shareholders present entitled to vote shall choose a director as chair of the meeting and if no director is present or if all the directors decline to take the chair then the shareholders present shall choose one of their number to be chair.

39. Votes

Votes at meetings of the shareholders may be cast either personally or by proxy. At every meeting at which a shareholder is entitled to vote, such shareholder (if present in person) or the proxyholder for such shareholder shall have one vote on a show of hands. Upon a ballot on which a shareholder is entitled to vote, every shareholder (if present in person or by proxy) shall (subject to the provisions, if any, of the Corporation's articles) have one vote for every share registered in such shareholder's name.

Every question submitted to any meeting of shareholders shall be decided in the first instance on a show of hands unless a ballot is demanded or the Chair determines that the vote should proceed by ballot. In case of an equality of votes the chair of the meeting shall not have a second or casting vote in addition to the vote or votes to which the chair may be entitled as a shareholder or proxy nominee.

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At any meeting, unless a ballot is demanded by a shareholder or proxyholder entitled to vote at the meeting, either before or after any vote by a show of hands, a declaration by the chair of the meeting that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be evidence of the fact without proof of the number or proportion of votes recorded in favour of or against the motion.

If at any meeting a ballot is demanded on the election of a chair or on the question of adjournment or termination, the ballot shall be taken forthwith without adjournment. If a ballot is demanded on any other question or as to the election of directors, the ballot shall be taken in such manner and either at once or later at the meeting or after adjournment as the chair of the meeting directs. The result of a ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded. A demand for a ballot may be made either before or after any vote by show of hands and may be withdrawn.

If the chair of a meeting of shareholders declares to the meeting that, if a ballot is conducted, the total number of votes attached to shares represented at the meeting by proxy required to be voted against what to the knowledge of the chair will be the decision of the meeting in relation to any matter or group of matters is less than 5% of all of the votes that might be cast by shareholders personally or by proxy at the meeting on the ballot, unless a shareholder or proxyholder demands a ballot prior to the vote,

- (a) the chair may conduct the vote in respect of that matter or group of matters by a show of hands; and
- (b) a proxyholder or alternate proxyholder may vote in respect of that matter or group of matters by a show of hands, notwithstanding any directions to the contrary given to such proxyholder or alternate proxyholder from any shareholder who appointed such proxyholder or alternate proxyholder, or any conflicting instructions from more than one such shareholder.

Where a body corporate or association is a shareholder, any individual authorized by a resolution of the directors or governing body of the body corporate or association may represent it at any meeting of shareholders and exercise at such meeting on behalf of the body corporate or association all the powers it could exercise if it were an individual shareholder, provided that the Corporation or the chair of the meeting may require such shareholder or such individual authorized by it to furnish a certified copy of such resolution or other appropriate evidence of the authority of such individual.

Where two or more persons hold the same share or shares jointly, any one of such persons present at a meeting of shareholders has the right, in the absence of the other or others, to vote such share or shares, but if more than one of such persons are present or represented by proxy and vote, they shall vote together as one on the share or shares jointly held by them.

40. Proxies

A shareholder entitled to vote at a meeting of shareholders may by means of a proxy appoint a proxyholder or proxyholders or one or more alternate proxyholders, who are not required to be shareholders, to attend and act at the meeting in the manner and to the extent authorized by the proxy and with the authority conferred by the proxy.

A form of proxy shall be a written or printed form that complies with the regulations under the Act (to the extent applicable). A form of proxy becomes a proxy on completion by or on behalf of a shareholder and execution by the shareholder or such shareholder's attorney authorized in writing. Alternatively, a proxy may be an electronic document that satisfies the requirements of Part XX.1 of the Act. A proxy is valid only at the meeting in respect of which it is given or at any adjournment thereof.

The directors may specify in a notice calling a meeting of shareholders a time not exceeding 48 hours, excluding Saturdays and holidays, preceding the meeting or an adjournment thereof before which time proxies to be used at the meeting must be deposited with the Corporation or its agent (subject to the rights of shareholders to revoke proxies, as provided below).

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A shareholder may revoke a proxy either (i) by depositing an instrument in writing executed by the shareholder or by the shareholder's attorney authorized in writing at the registered office of the Corporation at any time up to and including the last business day preceding the day of the meeting, or an adjournment thereof, at which the proxy is to be used, or with the chair of the meeting on the day of the meeting or an adjournment thereof, or (ii) in any other manner permitted by law.

Notwithstanding the establishment of time limits for the deposit or revocation of proxies by shareholders pursuant to the foregoing, the chairman of any meeting or the Chairman of the Board may, but need not, at his, her or their sole discretion, waive the time limits for the deposit or revocation of proxies by shareholders, including any deadline set out in the notice calling the meeting of shareholders, or in any proxy circular. Any such waiver made in good faith shall be final and conclusive.

41. Adjournment

The chair of the meeting may adjourn any meeting of shareholders from time to time to a fixed time and place. If the meeting is adjourned for less than 30 days, no notice of the time and place for the holding of the adjourned meeting need be given to any shareholder, other than by announcement at the earliest meeting that is adjourned. If a meeting of shareholders is adjourned by one or more adjournments for an aggregate of 30 days or more, notice of the adjourned meeting shall be given as for an original meeting but, unless the meeting is adjourned by one or more adjournments for an aggregate of more than 90 days, subsection 149(1) of the Act does not apply. Any adjourned meeting shall be duly constituted if held in accordance with the terms of the adjournment and a quorum is present thereat. The persons who form the quorum at the adjourned meeting need not be the same persons who formed the quorum at the original meeting. If there is no quorum present at the adjourned meeting, the original meeting shall be deemed to have terminated forthwith after its adjournment. Any business may be brought before or dealt with at any adjourned meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same.

42. Quorum

Two persons present and each holding or representing by proxy at least one issued share of the Corporation shall be a quorum of any meeting of shareholders for the choice of a chair of the meeting and for the adjournment of the meeting to a fixed time and place but may not transact any other business; for all other purposes a quorum for any meeting shall be persons present not being less than two in number and holding or representing by proxy shares to which are attached a majority of the votes attached to all the issued shares of the Corporation enjoying voting rights at such meeting. If a quorum is present at the opening of a meeting of shareholders, the shareholders present may proceed with the business of the meeting, notwithstanding that a quorum is not present throughout the meeting.

Notwithstanding the foregoing, if the Corporation has only one shareholder, or only one shareholder of any class or series of shares, the shareholder present in person or by proxy constitutes a meeting and a quorum for such meeting.

43. Rules and Regulations

The directors shall be entitled to make such rules or regulations for the conduct of meetings of shareholders of the Corporation as it shall deem necessary, appropriate or convenient from time to time. Subject to such rules and regulations, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all acts as, in the judgment of such chairman, are necessary, appropriate or convenient (and not inconsistent with the articles of the Corporation or these bylaws) for the proper conduct of the meeting, including, without limitation, establishing an agenda of business of the meeting, recognizing shareholders entitled to speak, calling for the necessary reports, stating questions and putting them to a vote, calling for nominations, announcing the results of voting, establishing rules or regulations to maintain order, imposing restrictions on entry to the meeting after the time fixed for commencement thereof.

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44. Resolutions in Writing

Subject to subsection 142(1) of the Act,

- (a) a resolution in writing signed by all the shareholders entitled to vote on that resolution at a meeting of shareholders is as valid as if it had been passed at a meeting of the shareholders; and
- (b) a resolution in writing dealing with all matters required by the Act to be dealt with at a meeting of shareholders, and signed by all the shareholders entitled to vote at that meeting, satisfies all the requirements of the Act relating to meetings of shareholders.

SHARES AND TRANSFERS

45. Issuance

Subject to the articles of the Corporation, shares in the Corporation may be issued at such time and issued to such persons and for such consideration as the directors may determine.

46. Security Certificates

Shares in the Corporation shall be represented by certificates, provided that the directors may determine by resolution that shares of some or all classes or series of shares shall be uncertificated. Security certificates (and the form of transfer power on the reverse side thereof) shall (subject to compliance with section 49 of the Act) be in such form as the directors may from time to time by resolution approve and such certificates shall be signed by a director or officer of the Corporation, or by a registrar, transfer agent or branch transfer agent of the Corporation, or an individual on their behalf, or by a trustee who certifies it in accordance with a trust indenture, or the signature shall be printed or otherwise mechanically reproduced on the certificate. If a security certificate contains a printed or mechanically reproduced signature of a person, the Corporation may issue the security certificate, notwithstanding that the person has ceased to be a director or an officer of the Corporation, and the security certificate is as valid as if the person were a director or an officer at the date of its issue.

47. Agent

The directors may from time to time by resolution appoint or remove an agent to maintain a central securities register and branch securities registers for the Corporation.

48. Surrender of Security Certificates

Subject to the Act, no transfer of a security issued by the Corporation shall be recorded or registered unless and until either (i) the security certificate representing the security to be transferred has been surrendered and cancelled, or (ii) if no security certificate has been issued by the Corporation in respect of such share, a duly executed security transfer power in respect thereof has been presented for registration.

49. Defaced, Destroyed, Stolen or Lost Security Certificates

In case of the defacement, destruction, theft or loss of a security certificate, the fact of such defacement, destruction, theft or loss shall be reported by the owner to the Corporation or to a trustee, registrar, transfer agent or other agent of the Corporation (if any) acting on behalf of the Corporation, with a statement verified by oath or statutory declaration as to the defacement, destruction, theft or loss and the circumstances concerning the same and with a request for the issuance of a new security certificate to replace the one so defaced, destroyed, stolen or lost. Upon the giving to the Corporation (or, if there is such an agent, then to the Corporation and to such agent) of an indemnity bond of a surety company in such form as is approved by any

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authorized officer of the Corporation, indemnifying the Corporation (and such agent, if any) against all loss, damage and expense, which the Corporation and/or such agent may suffer or be liable for by reason of the issuance of a new security certificate to such shareholder, and provided the Corporation or such agent does not have notice that the security has been acquired by a *bona fide* purchaser, a new security certificate may be issued in replacement of the one defaced, destroyed, stolen or lost, if such issuance is ordered and authorized by any authorized officer of the Corporation or by resolution of the directors.

DIVIDENDS

50. Declaration and Payment of Dividends

The directors may from time to time by resolution declare and the Corporation may pay dividends on its issued shares, subject to the provisions (if any) of the Corporation's articles.

The directors shall not declare and the Corporation shall not pay a dividend if there are reasonable grounds for believing that:

- (a) the Corporation is, or would after the payment be, unable to pay its liabilities as they become due; or
- (b) the realizable value of the Corporation's assets would thereby be less than the aggregate of its liabilities and stated capital of all classes.

The Corporation may pay a dividend by issuing fully paid shares of the Corporation and, subject to section 42 of the Act, the Corporation may pay a dividend in money or property.

51. Joint Securityholders

In case several persons are registered as the joint holders of any securities of the Corporation, any one of such persons may give effectual receipts for all dividends and payments on account of dividends, principal, interest and/or redemption payments on redemption of securities (if any) subject to redemption in respect of such securities.

RECORD DATES

52. Shareholders' Meetings

Subject to section 134 of the Act, the directors may fix in advance a date as the record date for the purpose of determining shareholders entitled to receive notice of a meeting of shareholders and/or entitled to vote at a meeting of shareholders, but such record date shall not precede by more than 60 days or by less than 21 days the date on which the meeting is to be held. Such shareholders shall be determined as at the close of business on the date fixed by the directors, unless otherwise specified by the directors.

If no record date is fixed, the record date for the determination of the shareholders entitled to receive notice of a meeting of the shareholders and to vote shall be:

- (a) at the close of business on the day immediately preceding the day on which the notice is given; or
- (b) if no notice is given, the day on which the meeting is held.

53. Dividends, Distributions or Other Purposes

Subject to section 134 of the Act, the directors may fix in advance a date as the record date for the determination of shareholders (i) entitled to receive payment of a dividend, (ii) entitled to participate in a

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liquidation or distribution, (iii) for any other purpose (other than to establish a shareholder's right to receive notice of a meeting or to vote), but such record date shall not precede by more than 60 days the particular action to be taken. Such shareholders shall be determined as at the close of business on the date fixed by the directors, unless otherwise specified by the directors.

If no record date is fixed, the record date for the determination of shareholders for any purpose other than to establish a shareholder's right to receive notice of a meeting or to vote shall be at the close of business on the day on which the directors pass the resolution relating thereto.

54. Notice of Record Date

If a record date is fixed, unless notice of the record date is waived in writing by every holder of a share of the class or series affected whose name is set out in the securities register at the close of business on the day the directors fix the record date, notice thereof shall be given, not less than seven days before the date so fixed,

- (a) by advertisement in a newspaper published or distributed in the place where the Corporation has its registered office and in each place in Canada where it has a transfer agent or where a transfer of its shares may be recorded; and
- (b) by written notice to each stock exchange in Canada on which the shares of the Corporation are listed for trading.

EXERCISE OF STATUTORY RIGHTS

55. Statutory Rights

Wherever and to the extent that the Act confers a Statutory Right, the Corporation acknowledges and agrees that each Unitholder is entitled to the benefit of such Statutory Right directly, as if it was the registered holders of the shares of the Corporation receivable upon the exchange of the Exchangeable Units owned of record by the Unitholder pursuant to the LPA.

56. Entitlement to Direct Exercise of Statutory Right

If a Unitholder wishes to exercise a Statutory Right directly, it shall give written notice to this effect to the Corporation, accompanied by evidence that the Unitholder is a registered owner of Exchangeable Units. Provided that such evidence is satisfactory to the Corporation, acting reasonably, the Corporation will permit the Unitholder to exercise such Statutory Right directly, to the maximum extent possible, as if the Unitholder was the registered owner of the shares of the Corporation receivable upon the exchange of the Exchangeable Units owned of record by such Unitholder pursuant to the LPA.

57. Termination of Statutory Rights

All of the rights of a Unitholder with respect to the Statutory Rights shall be deemed to be surrendered by the Unitholder to the Corporation and such Statutory Rights shall cease immediately upon the Unitholder no longer holding Exchangeable Units.

SECURITIES OF OTHER ISSUERS HELD BY CORPORATION

58. Voting Securities of Other Issuers

All securities of any other body corporate or issuer of securities carrying voting rights held from time to time by the Corporation may be voted at all meetings of shareholders, bondholders, debenture holders or

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holders of such securities, as the case may be, of such other body corporate or issuer and in such manner and by such person or persons as the directors of the Corporation shall from time to time determine and authorize by resolution. The duly authorized signing officers of the Corporation may also from time to time execute and deliver for and on behalf of the Corporation proxies and/or arrange for the issuance of voting certificates and/or other evidence of the right to vote in such names as they may determine without the necessity of a resolution or other action by the directors.

59. Transfer of Securities

Any officer is authorized to sell, assign, transfer, exchange, convert or convey all securities owned by or registered in the name of the Corporation and to sign and execute (under the seal of the Corporation or otherwise) all assignments, transfers, conveyances, powers of attorney and other instruments that may be necessary for the purpose of selling, assigning, transferring, exchanging, converting or conveying any such securities.

NOTICES, ETC.

60. Service

(a) Notice to Directors, Officers and Auditors. Whenever under the Act, the regulations, the Articles or these by-laws any notice, document or other information is required to be sent to a director, officer, auditor or member of a committee of the Board, such notice may be sent either (i) by hand delivery, through the mail, or by a nationally recognized overnight delivery service for next day delivery, or (ii) by means of fax, e-mail or other form of electronic transmission, or (iii) by any other method permitted by applicable law. A notice to a director, officer, auditor or member of a committee of the Board will be deemed to be received as follows: (A) if given by hand delivery, when actually received by the director, officer, auditor or member of a committee of the Board; (B) if sent through the mail addressed to the director, officer, auditor or member of a committee of the Board at such individual's address appearing on the records of the Corporation, at the time it would be delivery in the ordinary course of mail; (C) if sent for next day delivery by a nationally recognized overnight delivery service addressed to the director, officer, auditor or member of a committee of the Board at such individual's address appearing on the records of the Corporation, when delivery to such service; (D) if sent by fax, when sent to the fax number for such director, officer, auditor or member of the committee of the Board appearing on the records of the Corporation and evidence of delivery confirmation is received by sender's fax device; (E) if sent by e-mail, when sent to the e-mail address for such director, officer, auditor or member of a committee of the Board appearing on the records of the Corporation; or (F) if sent by any other form of electronic transmission, when sent to the address, location or number (as applicable) for such director, officer, auditor or member of a committee of the Board appearing on the records of the Corporation.

(b) Notice to Shareholders. Unless the Act or these by-laws provide otherwise, any notice, document or other information required or permitted by the Act, the regulations, the Articles or these by-laws to be sent to a shareholder, may be sent by any one of the following methods: (i) by hand delivery, through the mail, or by a nationally recognized overnight delivery service for next day delivery, (ii) by means of fax, e-mail, or other form of electronic transmission, (iii) by providing or posting the notice, document or other information on or making it available through a generally accessible electronic source and providing notice of the availability and location of the notice, document or other information to the shareholder via any of the methods specified in (i) and (ii) above, including mail, delivery, fax, e-mail or other form of electronic transmission, or (iv) by any other method permitted by applicable law. A notice to a shareholder shall be deemed to be received as follows: (A) if given by hand delivery, when actually received by the shareholder; (B) if sent through the mail addressed to the shareholder at the shareholder's address appearing on the share register of the Corporation, at the time it would be delivered in the ordinary course of mail; (C) if sent for next day delivery by a nationally recognized overnight delivery service addressed to the shareholder at the shareholder's address appearing on the share register of the

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Corporation when delivered to such service; (D) if faxed, when sent to a number at which the shareholder has consented to receive notice and evidence of delivery confirmation is received by sender's facsimile device; (E) if by e-mail, when sent to an e-mail address at which the shareholder has consented to receive notice; (F) if sent by any other form of electronic transmission, when sent to the shareholder; (G) if sent by posting it on or making it available through a generally accessible electronic source referred to in Subsection 58(b)(iii), on the day such person is sent notice of the availability and location of such notice, document or other information is deemed to have been sent in accordance with (A) through (F) above; or (H) if sent by any other method permitted by applicable law. If a shareholder has consented to a method for delivery of a notice, document or other information, the shareholder may revoke such shareholder's consent to receiving any notice, document or information by fax or e-mail by given written notice of such revocation to the Corporation.

- (i) "electronic document" means, subject to the Act, any form of representation of information or of concepts fixed in any medium in or by electronic, optical or other similar means and that can be read or perceived by a person or by any means.
- (ii) "information system" means a system used to generate, send, receive, store or otherwise process an electronic document.

61. Shareholders Who Cannot be Found

If the Corporation sends a notice or document to a shareholder and the notice or document is returned on two consecutive occasions because the shareholder cannot be found, the Corporation is not required to send any further notices or documents to the shareholder until the shareholder informs the Corporation in writing of the shareholder's new address.

62. Shares Registered in More than One Name

All notices or other documents shall, with respect to any shares in the capital of the Corporation registered in more than one name, be given to whichever of such persons is named first in the records of the Corporation and any notice or other document so given shall be sufficient notice or delivery of such document to all the holders of such shares.

63. Persons Becoming Entitled by Operation of Law

Every person who by operation of law, transfer or by any other means whatsoever shall become entitled to any shares in the capital of the Corporation shall be bound by every notice or other document in respect of such shares which prior to such person's name and address being entered on the records of the Corporation shall have been duly given to the person or persons from whom such person derives title to such shares.

64. Deceased Shareholder

Any notice or other document delivered or sent by post or left at the address of any shareholder as the same appears in the records of the Corporation shall, notwithstanding that such shareholder be then deceased and whether or not the Corporation has notice of such shareholder's death, be deemed to have been duly served in respect of the shares held by such shareholder (whether held solely or with other persons) until some other person be entered in such shareholder's stead in the records of the Corporation as the holder or one of the holders thereof and such service shall for all purposes be deemed a sufficient service of such notice or other document on such shareholder's heirs, executors or administrators and all persons (if any) interested with such shareholder in such shares.

65. Signatures to Notices

The signature of any director or officer of the Corporation to any notice may be written, printed or otherwise mechanically reproduced.

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66. Computation of Time

Where notice is required to be given under any provisions of the articles or by-laws of the Corporation, or any time period or time limit for the doing of any other act is prescribed by the articles or by-laws, the notice period or such other time period or time limit shall be determined in accordance with sections 26 to 30, inclusive, of the *Interpretation Act* (Canada), R.S.C. 1985, c. I-21, unless otherwise expressly provided in the articles or by-laws.

67. Proof of Service

A certificate of any officer of the Corporation in office at the time of the making of the certificate or of an agent of the Corporation as to facts in relation to the mailing or delivery or service or other communication of any notice or other documents to any shareholder, director, officer or auditor or as to the publication of any notice or other document shall be conclusive evidence thereof and shall be binding on every shareholder, director, officer or auditor of the Corporation, as the case may be.

EXECUTION OF CONTRACTS, ETC.

68. Authorization to Sign Contracts

Contracts, documents or instruments in writing requiring the signature of the Corporation may be signed by such directors or officers or any other person or persons on behalf of the Corporation as shall be authorized from time to time by resolution of the board of directors either to sign contracts, documents or instruments in writing generally or to sign specific contracts, documents or instruments in writing, and all contracts, documents or instruments in writing so signed shall be binding upon the Corporation without any further authorization or formality. The directors are authorized from time to time by resolution to appoint any officer or officers or any other person or persons on behalf of the Corporation either to sign contracts, documents or instruments in writing generally or to sign specific contracts, documents or instruments in writing. The term “contracts, documents or instruments in writing” as used in this by-law shall include deeds, mortgages, hypothecs, charges, conveyances, transfers and assignments of property, real or personal, immovable or movable, powers of attorney, agreements, releases, receipts and discharges for the payment of money or other obligations, conveyances, transfers and assignments of securities and all paper writings.

69. Corporate Seal

The corporate seal, if any, of the Corporation may, when required, be affixed to contracts, documents or instruments in writing signed as aforesaid or by an officer or officers, person or persons appointed as aforesaid by resolution of the board of directors.

70. Reproduction of Signatures

The signature or signatures of any officer or director of the Corporation and/or of any other officer or officers, person or persons appointed as aforesaid by resolution of the directors may, if specifically authorized by resolution of the directors, be printed, engraved, lithographed or otherwise mechanically reproduced upon all contracts, documents or instruments in writing or bonds, debentures or other securities of the Corporation executed or issued by or on behalf of the Corporation and all contracts, documents or instruments in writing or securities of the Corporation on which the signature or signatures of any of the foregoing officers, directors or persons shall be so reproduced, by authorization by resolution of the directors, shall be deemed to have been manually signed by such officers, directors or persons whose signature or signatures is or are so reproduced and shall be as valid to all intents and purposes as if they had been signed manually and notwithstanding that the officers, directors or persons whose signature or signatures is or are so reproduced may have ceased to hold office at the date of delivery or issue of such contracts, documents or instruments in writing or securities of the Corporation.

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71. Signature of Cheques, Notes, e tc.

All cheques, drafts or orders for the payment of money and all notes, acceptances and bills of exchange shall be signed by such officer or officers or other person or persons, whether or not officers of the Corporation, and in such manner as the directors, or such officer or officers as may be delegated authority by the directors to determine such matters, may from time to time designate.

FINANCIAL YEAR

72. The financial year of the Corporation shall end on such day in each year as the board of directors may from time to time by resolution determine.

BORROWING

73. Authority of Directors

The directors may and they are hereby authorized from time to time to, without authorization of the shareholders,

- (a) borrow money upon the credit of the Corporation;
- (b) limit or increase the amount to be borrowed;
- (c) issue, reissue, sell or pledge bonds, debentures, notes or other debt obligations of the Corporation for such sums and at such prices as may be deemed expedient;
- (d) give a guarantee on behalf of the Corporation to secure payment or performance of an obligation of any person; and
- (e) mortgage, hypothecate, charge, pledge or otherwise create a security interest in all or any currently owned or subsequently acquired real and personal, movable and immovable, property of the Corporation and the undertaking and rights of the Corporation, to secure any such bonds, debentures, notes or other debt obligations, or to secure any present or future borrowing, liability or obligation of the Corporation, including any guarantee given pursuant to subparagraph 74(d) above.

74. Delegation by Directors

The directors may from time to time by resolution delegate to any one or more directors or officers, or to any committee of directors, of the Corporation all or any of the powers conferred on the directors by paragraph 74 above to the full extent thereof or such lesser extent as the directors may in any such resolution provide.

75. Other Borrowing Powers

The powers hereby conferred shall be deemed to be in supplement of and not in substitution for any other powers to borrow money for the purposes of the Corporation or to do any other acts or things referred to in paragraph 74 above possessed by its directors or officers pursuant to the articles of the Corporation, any other by-law of the Corporation or applicable law.

PASSED by the directors of the Corporation on _____, 2014.

CONFIRMED by the shareholder of the Corporation on _____, 2014.

•
**LIMITED PARTNERSHIP
AGREEMENT**

[•]

- and -

[•]

- and –

EACH PERSON WHO IS ADMITTED TO
THE PARTNERSHIP AS A LIMITED PARTNER
IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT

•

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LIMITED PARTNERSHIP AGREEMENT

THIS LIMITED PARTNERSHIP AGREEMENT is made as of the day of , • between [Holdings] as General Partner, • , a corporation incorporated under the laws of Canada, as Initial Limited Partner and each person who is admitted to the Partnership as a limited partner in accordance with the provisions of this Agreement.

WHEREAS the Partnership was formed as a general partnership on August 25, 2014 and became registered as a limited partnership by the filing of the Declaration;

AND WHEREAS the Partnership was formed to effect the acquisition indirectly of Tim Hortons Inc. and Burger King Worldwide, Inc. pursuant to a series of transactions to be effective as of the date hereof;

AND WHEREAS this Agreement is being entered into to set out the terms and conditions applicable to the relationship among the Partners and to the conduct of the business of the Partnership;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT IN CONSIDERATION of the respective covenants and agreements contained in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each party), the Partners agree with each other as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement the following words have the following meanings:

“ **3G Capital** ” means (i) 3G Capital Partners Ltd., (ii) [LIST OF EACH 3G CAPITAL FUND OWNING EXCHANGEABLE UNITS OR HOLDINGS SHARES AS OF CLOSING], (iii) any investment funds or other Entities sponsored, managed or owned directly or indirectly by 3G Capital, or otherwise under common Control with the Entities listed in clause (i) or (ii) or their successors (by merger, consolidation, acquisition of substantially all assets or similar transaction or series of transactions) or with any Entity then included in clause (iii), and (iv) any successors (by merger, consolidation, acquisition of substantially all assets or similar transaction or series of transactions) of the foregoing;

“ **Act** ” means the Limited Partnerships Act (Ontario);

“ **Adjusted Capital Account** ” means the Capital Account maintained for each Partner as of the end of each Fiscal Year of the Partnership (or other taxable period), (a) increased by any amounts that such Partner is obligated to restore under the standards set forth in U.S. Treasury Regulations Section 1.704-1(b)(2)(ii)(c) (or is deemed obligated to restore under U.S. Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5)) and (b) decreased by (i) the amount of all losses and deductions that, as of the end of such Fiscal Year (or such taxable period), are reasonably expected to be allocated to such Partner in subsequent years under Sections 704(e)(2) and 706(d) of the Code and U.S. Treasury Regulations Section 1.751-1(b)(2)(ii), and (ii) the amount of all distributions that, as of the end of such Fiscal Year (or such taxable period), are reasonably expected to be made to such Partner in subsequent years in accordance with the terms of this Agreement or otherwise to the extent they exceed offsetting increases to such Partner’s Capital Account that are reasonably expected to occur during (or prior to) the year in which such distributions are reasonably expected to be made (other than increases as a result of a minimum gain chargeback pursuant to Section 5.2(b)(i) or Section 5.2(b)(ii)). The foregoing definition of Adjusted Capital Account is intended to comply with the provisions of U.S. Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith. The “ **Adjusted Capital Account** ” of a Partner in respect of a Unit shall

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be the amount that such Adjusted Capital Account would be if such Unit were the only interest in the Partnership held by such Partner from and after the date on which such Unit was first issued;

“ **Affiliate** ” has the meaning set out in Section 1.2(a);

“ **Agreement** ” means this Limited Partnership Agreement (including the Schedules attached hereto) dated as of the day of and made between Holdings as General Partner of the Partnership, • as Initial Limited Partner and those parties referred to as Limited Partners in this Agreement, as from time to time amended, supplemented or restated in accordance with the terms hereof;

“ **Arrangement** ” means the arrangement of **Tim Hortons Inc.** under section 192 of the CBCA in accordance with the Arrangement Agreement;

“ **Arrangement Agreement** ” means the Arrangement Agreement and Plan of Merger dated as of August 26, 2014, among Burger King Worldwide, Inc. (Delaware), Holdings, Partnership, Blue Merger Sub, Inc., 8997900 Canada Inc. and Tim Hortons Inc. (including the Schedules attached thereto) as may be amended, supplemented, restated or otherwise modified from time to time in accordance with its terms;

“ **Associate** ” where used to indicate a relationship with any Person has the same meaning as in the *Securities Act* (Ontario);

“ **Auditor** ” means • , or any other member in good standing of CPA Canada who is appointed as auditor of the Partnership by the General Partner;

“ **Business Day** ” means any day other than a Saturday, a Sunday or any other day on which major commercial banking institutions in Toronto, Ontario or New York, New York are authorized by Law to be closed;

“ **CBCA** ” means the Canadian Business Corporation Act;

“ **Capital Account** ” has the meaning set out in Section 4.4;

“ **Capital Contribution** ” of a Partner means the total amount of cash and the Carrying Value of any property contributed, including any property deemed to be contributed, to the Partnership by that Partner (or such Partner’s predecessor in interest) in respect of Units held, purchased or issued to such Partner; provided, that, in the case of the Units to be issued pursuant to the Arrangement and the Merger, the amount of the contribution to the Partnership in respect of the issuance of such Unit shall be the amount determined in accordance with Section 4.3;

“ **Carrying Value** ” means with respect to any Property of the Partnership (other than money), such Property’s adjusted basis for United States federal income tax purposes, except as follows:

- (i) The initial Carrying Value of any Property contributed by a Partner to the Partnership shall be the gross fair market value of such Property, as reasonably determined by the General Partner;
- (ii) The Carrying Values of all such Properties shall be adjusted to equal their respective gross fair market values (in accordance with the rules set forth in U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(f) and taking Section 7701(g) of the Code into account), as reasonably determined by the General Partner, at the time of any Revaluation pursuant to Section 4.4(c);
- (iii) The Carrying Value of any Property distributed to any Partner shall be adjusted immediately prior to such distribution to equal the gross fair market value (without regard to Section 7701(g) of the Code) of such Property on the date of distribution as reasonably determined by the General Partner;
- (iv) The Carrying Values of any such Property shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such Property pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(m) and

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subparagraph (vi) of the definition of “Net Income” and “Net Loss” or Section 5.2(b)(viii); provided, however, that Carrying Values shall not be adjusted pursuant to this subparagraph (iv) to the extent that an adjustment pursuant to subparagraph (ii) is required in connection with a transaction that would otherwise result in an adjustment pursuant to this subparagraph (iv); and

- (v) If the Carrying Value of any such Property has been determined or adjusted pursuant to subparagraph (i), (ii) or (iv), such Carrying Value shall thereafter be adjusted by the Depreciation taken into account with respect to such Property for purposes of computing Net Income and Net Loss;

“ **Certificate** ” means a certificate issued by the Partnership evidencing ownership of one or more Units or any other Partnership Interests, or of options, rights, warrants or appreciation rights relating to Partnership Interests, in such form as may be adopted by the General Partner from time to time;

“ **Combination** ” means any combination of shares or units, as the case may be, by reverse split, reclassification, recapitalization or otherwise;

“ **Common Units** ” has the meaning set out in Section 3.1;

“ **Conflicts Committee** ” means a committee of the Board of Directors of the General Partner composed entirely of one or more Independent Directors;

“ **Controlled by** ” has the meaning set out in Section 1.2(b) and “ **Control** ”, “ **Controlling** ” and similar words have corresponding meanings;

“ **Code** ” means the United States Internal Revenue Code of 1986;

“ **CPOA** ” has the meaning set out in Section 2.7(f);

“ **Current Market Value** ” has the meaning set out in Schedule A;

“ **Declaration** ” means the declaration of limited partnership for the Partnership filed under the Act on _____, 2014 and all amendments to the declaration and renewals or replacements of the declaration;

“ **Departing Partner** ” means any former General Partner;

“ **Depreciation** ” means, for each Fiscal Year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for U.S. federal income tax purposes for such Fiscal Year or other period, except that if the Carrying Value of an asset differs from its adjusted basis for U.S. federal income tax purposes at the beginning of such Fiscal Year or other period, Depreciation shall be an amount that bears the same ratio to such beginning Carrying Value as the U.S. federal income tax depreciation, amortization, or other cost recovery deduction for such Fiscal Year or other period bears to such beginning adjusted tax basis; provided, however, that if the adjusted basis for U.S. federal income tax purposes of an asset at the beginning of such Fiscal Year or other Period is zero, Depreciation shall be determined with reference to such beginning Carrying Value using any reasonable method selected by the General Partner;

“ **Economic Risk of Loss** ” has the meaning set forth in U.S. Treasury Regulations Section 1.752-2(a);

“ **Effective Date** ” means the date on which the Arrangement becomes effective in accordance with the CBCA;

“ **Entity** ” means any of a partnership, limited partnership, joint venture, company or corporation with share capital, unincorporated association, or trust;

“ **Exchangeable Units** ” has the meaning set out in Section 3.1;

“ **Exchange Notice** ” has the meaning set out in Schedule A;

“ **Exchange Right** ” has the meaning set out in Schedule A;

“ **Exchanged Shares** ” has the meaning set out in Schedule A;

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“ **Fiscal Year** ” has the meaning set out in Section 2.4;

“ **General Partner** ” means the general partner of the Partnership, currently Holdings, and any Person who is admitted to the Partnership as a successor to or permitted assign of the General Partner in accordance with this Agreement;

“ **Governmental Authority** ” means any (i) international, multinational, national, federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau, agency or instrumentality, domestic or foreign, (ii) self-regulatory organization or stock exchange, (iii) subdivision, agent, commission, board, or authority of any of the foregoing, or (iv) quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing;

“ **Group Member** ” means a member of the Partnership Group;

“ **holder** ” means, when used with reference to Units, a holder of Units as shown from time to time in the Record;

“ **Holdings** ” means • ;

“ **Holdings Offer** ” has the meaning set out in Section 3.25(i)(i);

“ **Holdings Shares** ” means the common shares in the capital of Holdings;

“ **Holdings Successor** ” has the meaning set out in Section 11.1(a);

“ **Indemnitee** ” has the meaning set out in Section 7.7(a);

“ **Independent Directors** ” means those members of the Board of Directors of the General Partner who are not employees, officers, managers, partners or Affiliates of the General Partner or any of its Affiliates (for the avoidance of doubt, it is acknowledged that 3G Capital is an Affiliate as of the date hereof), and who have been determined to be independent directors of the General Partner by the Board of Directors of the General Partner, including without limitation pursuant to the listing rules of any National Securities Exchange on which any shares, units or other interests of either the General Partner or the Partnership are then listed, the Securities Exchange Act and applicable Canadian securities Laws;

“ **Information Statement** ” means the information statement of Burger King Worldwide, Inc., filed with the Securities and Exchange Commission on [, 2014] , describing the Arrangement and the Merger;

“ **Initial Agreements** ” means this Agreement, the Support Agreement, the Voting Trust Agreement and the agreements and transactions entered into in connection with the transactions contemplated by the Arrangement Agreement;

“ **Initial Limited Partner** ” means • , a wholly owned Subsidiary of Holdings;

“ **Laws** ” means any and all applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, principles of common and civil law and equity, rules, regulations and municipal by-laws, whether domestic, foreign or international, (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgements, orders, writs, injunctions, decisions, and awards of any Governmental Authority, and (iii) policies, practices and guidelines of any Governmental Authority which, although not actually having the force of law, are considered by such Governmental Authority as requiring compliance as if having the force of law, and the term “applicable”, with respect to such Laws and in the context that refers to one or more Persons, means such Laws that apply to such Person or Persons or its or their business, undertaking, property or securities at the relevant time and that emanate from a Governmental Authority having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities;

“ **Limited Partner** ” means any person who is or will become a limited partner of the Partnership and includes the Initial Limited Partner;

“ **Liquidation Preference** ” means with respect to the Preferred Units, at any relevant time, an amount sufficient to fund Holdings’ payment obligations with respect to all of the outstanding Preferred Shares;

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“ **LP Units** ” means, collectively the Exchangeable Units and such other Units representing limited partnership interests as may be created and issued by the Partnership in accordance with this Agreement;

“ **Merger** ” has the meaning set out in the Arrangement Agreement;

“ **National Securities Exchange** ” means (i) an exchange registered with the U.S. Securities and Exchange Commission under Section 6(a) of the Securities Exchange Act, the Toronto Stock Exchange, or the Canadian Stock Exchange, or any successor thereto, and (ii) any other securities exchange (whether or not registered with the U.S. Securities and Exchange Commission under Section 6(a) of the Securities Exchange Act) that the General Partner in its sole discretion shall designate as a National Securities Exchange for purposes of this Agreement;

“ **Net Income** ” and “ **Net Loss** ” mean, for U.S. federal income tax purposes, for each Fiscal Year or other period, an amount equal to the Partnership’s taxable income or loss for such Fiscal Year or period, determined in accordance with Section 703(a) of the Code (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to Section 703(a)(1) of the Code shall be included in taxable income or loss), with the following adjustments (without duplication):

- (i) Any income of the Partnership that is exempt from U.S. federal income tax and not otherwise taken into account in computing Net Income or Net Loss pursuant to this definition of “ **Net Income** ” and “ **Net Loss** ” shall be added to such taxable income or loss;
- (ii) Any expenditures of the Partnership described in Section 705(a)(2)(B) of the Code or treated as Section 705(a)(2)(B) of the Code expenditures pursuant to U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income and Net Loss pursuant to this definition of “Net Income” and “Net Loss,” shall be subtracted from such taxable income or loss;
- (iii) In the event the Carrying Value of any Property of the Partnership is adjusted pursuant to subparagraphs (ii) or (iii) of the definition of “Carrying Value,” the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the Carrying Value of the asset) or an item of loss (if the adjustment decreases the Carrying Value of the asset) from the disposition of such asset and shall be taken into account, immediately prior to the event giving rise to such adjustment, for purposes of computing Net Income and/or Net Loss;
- (iv) Gain or loss resulting from any disposition of any Property of the Partnership with respect to which gain or loss is recognized for U.S. federal income tax purposes shall be computed by reference to the Carrying Value of the Property disposed of, notwithstanding that the adjusted tax basis of such Property differs from its Carrying Value;
- (v) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other period, computed in accordance with the definition of Depreciation;
- (vi) To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Section 734(b) of the Code is required, pursuant to U.S. Treasury Regulations Section 1.704-(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner’s interest in the Partnership, the amount of such adjustment shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis) from the disposition of such asset and shall be taken into account, immediately prior to the event giving rise to such adjustment, for purposes of computing Net Income or Net Loss; and
- (vii) Notwithstanding any other provision of this definition, any items that are specially allocated pursuant to Section 5.2(b) shall not be taken into account in computing Net Income and Net Loss;

The amounts of the items of Partnership income, gain, loss, or deduction available to be specially allocated pursuant to Section 5.2(b) shall be determined by applying rules analogous to those set forth in subparagraphs (i) through (vi) above;

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“ **New Shares** ” has the meaning ascribed to such term in Section 3.4(b)(iii);

“ **New Units** ” has the meaning ascribed to such term in Section 3.4(b)(iii);

“ **Nonrecourse Deductions** ” has the meaning set forth in U.S. Treasury Regulations Section 1.704-2(b)(1) and 1.704-2(c).

“ **Nonrecourse Liability** ” has the meaning set forth in U.S. Treasury Regulations Section 1.752-1(a)(2) and 1.704-2(b)(3);

“ **Ordinary Resolution** ” means

- (a) a resolution approved by more than 50% of the votes cast in person or by proxy at a duly constituted meeting of Partners holding Units entitled to vote on that resolution or at any adjournment of that meeting, called in accordance with this Agreement; or
- (b) a written resolution in one or more counterparts signed by Partners holding in the aggregate more than 50% of the aggregate number of Units held by those Partners who are entitled to vote on that resolution at a meeting;

“ **Outstanding** ” means, with respect to Units or Partnership Interests, all Units or Partnership Interests that are issued by the Partnership and reflected as outstanding on the Partnership’s books and records as of the date of determination;

“ **Partner Nonrecourse Debt** ” has the meaning set forth in U.S. Treasury Regulations Section 1.704-2(b)(4);

“ **Partner Nonrecourse Debt Minimum Gain** ” has the meaning set forth in U.S. Treasury Regulations Section 1.704-2(i)(2);

“ **Partner Nonrecourse Deductions** ” has the meaning set forth in U.S. Treasury Regulations Sections 1.704-2(i)(1) and 1.704-2(i)(2).

“ **Partners** ” means the General Partner and the Limited Partners and “ **Partner** ” means any one of them;

“ **Partnership** ” means [New Red Canada Limited Partnership] formed under the laws of the Province of Ontario as a general partnership on August 25, 2014 and registered as a limited partnership by the filing of the Declaration under the Act on , 2014;

“ **Partnership Group** ” means the Partnership and its Subsidiaries treated as a single consolidated entity;

“ **Partnership Interest** ” means any equity interest in the Partnership, including any Unit;

“ **Partnership Minimum Gain** ” has the meaning set forth in U.S. Treasury Regulations Section 1.704-2(b)(2) and 1.704-2(d). A Partner’s share of Partnership Minimum Gain shall be computed in accordance with the provisions of U.S. Treasury Regulations Section 1.704-2(g);

“ **Percentage Interest** ” means, as of any date of determination, (i) as to any Exchangeable Units held by a Partner, the product obtained by multiplying (a) 100% by (b) the quotient obtained by dividing the (x) the number of such Exchangeable Units by (y) the Total Common Base, and (ii) as to the Common Units held by the General Partner, the product obtained by multiplying (a) 100% by (b) the quotient obtained by dividing the number of outstanding Holdings Shares by the Total Common Base;

“ **Person** ” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation or other Entity with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

“ **Preferred Return** ” means, with respect to the Preferred Units for a Fiscal Year, the aggregate of: (i) the distributions made for the Fiscal Year in respect of the Preferred Units pursuant to Section 5.4(a); and (ii) any distributions made for the Fiscal Year in respect of the Preferred Units pursuant to Section 3.4(d) to

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the extent that such distributions made to fund the redemption, repurchase or acquisition of Preferred Shares exceeded the amount for which such Preferred Shares were issued by Holdings;

“ **Preferred Shares** ” means the shares designated as Class A 9.00% Cumulative Compounding Perpetual Preferred Shares in the capital of Holdings;

“ **Preferred Units** ” has the meaning ascribed to such term in Section 3.1;

“ **Property** ” means an interest of any kind in any real, personal or intellectual (or mixed) property, including cash, and any improvements thereto, and shall include both tangible and intangible property;

“ **Record** ” means the current record of the Partners required by the Act and this Agreement to be kept by the General Partner;

“ **Record Holder** ” means, as of any particular Business Day, the Person in whose name a Unit is registered on the books of the Registrar and Transfer Agent as of the opening of business on such Business Day, or with respect to other Partnership Interests, the Person in whose name any such other Partnership Interest is registered on the books which the General Partner has caused to be kept as of the opening of business on such Business Day;

“ **Registrar and Transfer Agent** ” means the registrar and transfer agent of the Units appointed from time to time by the General Partner, which will initially be • , or, if no registrar and transfer agent is appointed, the General Partner;

“ **Required Allocations** ” means any allocation of an item of income, gain, loss or deduction pursuant to Sections 5.2(a), (b)(ii), (b)(iii), (b)(vi) or (b)(viii);

“ **Requisitioning Partners** ” has the meaning set out in Section 10.1;

“ **Revaluation** ” has the meaning set out in Section 4.4(c);

“ **Securities** ” has the same meaning as in the *Securities Act* (Ontario);

“ **Securities Act** ” means the U.S. Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder;

“ **Securities Exchange Act** ” means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder;

“ **Special Approval** ” means either (a) approval by the sole member or by a majority of the members of the Conflicts Committee, as applicable or (b) approval by the vote of the Record Holders of a majority of the voting power of the Units (excluding Units owned by the General Partner and its Affiliates (for the avoidance of doubt, including 3G Capital and its Affiliates so long as 3G Capital is an Affiliate of the General Partner));

“ **Subdivision** ” means any subdivision of shares or units, as the case may be, by any split, dividend, distribution, reclassification, recapitalization or otherwise;

“ **Subscribed Units** ” has the meaning set out in Section 3.4;

“ **Subsidiary** ” has the meaning set out in Section 1.2(c);

“ **Tax Act** ” means the *Income Tax Act* (Canada) and regulations under that act;

“ **Tax Matters Partner** ” means the “tax matters partner” within the meaning of Section 6231(a)(7) of the Code;

“ **Total Common Base** ” at any time means the total of the Outstanding Exchangeable Units plus the number of Holdings Shares outstanding as at that time;

“ **TSX** ” means the Toronto Stock Exchange;

“ **Uncertificated** ” means, in respect of any Unit, a Unit title to which is recorded on the relevant register of interests as being held in uncertificated form, and title to which may be transferred by means of any clearing system established for the Partnership or by any means accepted or approved by the General Partner;

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“ **Unit** ” means the interest of a Partner in the Partnership represented by units as provided in Section 3.1, including Exchangeable Units, Common Units and Preferred Units;

“ **Unitholder** ” or “ **holder** ” means a holder of one or more Units; and

“ **Voting Trust Agreement** ” means the Voting Trust Agreement dated _____ between Holdings, the Partnership and [Trustee].

1.2 Determination of Affiliate, Control and Subsidiary Status

- (a) **Affiliate.** In determining the “ **Affiliate** ” status of two entities, an Entity will be deemed to be an affiliate of another Entity if:
 - (i) one of them is the direct or indirect Subsidiary of, or is directly or indirectly Controlled by, or directly indirectly Controls, the other; or
 - (ii) both are directly or indirectly under common Control; or
- (b) **Control.** An Entity will be deemed to be “ **Controlled by** ” one or more Persons if:
 - (i) in the case of an Entity which is governed by trustees, a board of directors, or similar governing body composed of individuals:
 - (A) voting securities or other interests of the Entity carrying more than 50% of the votes for the governing body of the Entity are held, otherwise than by way of security only, by or for the benefit of the Person or Persons; and
 - (B) the votes carried by those securities or other interests are entitled, if exercised, to elect a majority of the individuals of the governing body of the Entity;
 - (ii) in the case of an Entity (other than a limited partnership) which does not have trustees, a board of directors, or similar governing body composed of individuals, securities or other interests of the Entity, representing more than 50% of the outstanding securities or other interests, are held, otherwise than by way of security only, by or for the benefit of the Person or Persons, in circumstances where it can reasonably be expected that the Person or Persons directs the affairs of the Entity; or
 - (iii) in the case of an Entity which is a limited partnership, each general partner of the limited partnership either is the Person or is Controlled by the Person.

Notwithstanding the foregoing, “ **Control** ” (including, with its correlative meanings, “Controlled by” and “under common Control with”) shall also mean the possession, directly or indirectly, through one or more intermediaries, of the power to direct or cause the direction of management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

- (c) **Subsidiary.** An Entity will be deemed to be a “ **Subsidiary** ” of another Entity if:
 - (i) it is Controlled by:
 - (A) that other,
 - (B) that other and one or more Entities each of which is Controlled by that other, or
 - (C) two or more Entities, each of which is Controlled by that other; or
 - (ii) it is a Subsidiary of an Entity that is that other’s Subsidiary.
- (b) **Beneficial Ownership.**
 - (i) A Person will be deemed to own beneficially securities beneficially owned by a Person Controlled by such first Person or by an Affiliate of either Person.
 - (ii) A Person will be deemed to own beneficially securities beneficially owned by the Person’s Affiliates.

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1.3 Headings

In this Agreement, the headings are for convenience of reference only, do not form a part of this Agreement and are not to be considered in the interpretation of this Agreement.

1.4 Interpretation

In this Agreement,

- (a) words importing the masculine gender include the feminine and neuter genders, corporations, partnerships and other Persons, and words in the singular include the plural, and vice versa, wherever the context requires;
- (b) the words “include”, “includes”, “including”, or any variations thereof, when following any general term or statement, are not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar items or matters, but rather as referring to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement;
- (c) all references to designated Articles, Sections and other subdivisions are to the designated Articles, Sections and other subdivisions of this Agreement;
- (d) all accounting terms not otherwise defined will have the meanings assigned to them by, and all computations to be made will be made in accordance with, generally accepted accounting principles in the United States from time to time;
- (e) any reference to a statute will include and will be deemed to be a reference to the regulations and rules made pursuant to it, and to all amendments made to the statute, the regulations and the rules in force from time to time, and to any statute, regulation or rule that may be passed which has the effect of supplementing or superseding the statute referred to or the relevant regulation;
- (f) any reference to a Person will include and will be deemed to be a reference to any Person that is a successor to that Person; and
- (g) “hereof”, hereto”, herein”, and “hereunder” mean and refer to this Agreement and not to any particular Article, Section or other subdivision.

1.5 Acting Jointly or in Concert

For the purposes of this Agreement, it is a question of fact as to whether a Person is acting jointly or in concert with another Person and, without limiting the generality of the foregoing, a Person will be deemed to be acting jointly or in concert with another Person if that Person has any agreement, arrangement or understanding (whether formal or informal and whether or not in writing) with that other Person for the purpose of acquiring, or offering to acquire any Units of the Partnership (other than customary agreements with and between underwriters and banking group or selling group members with respect to a public offering of securities or pursuant to a pledge of securities in the ordinary course of business).

1.6 Currency

All references to currency in this Agreement are references to lawful money of **[the United States]** , unless otherwise indicated.

1.7 Schedules

The following are the schedules to this Agreement:

Schedule A – Rights and Preferences of Exchangeable Units of the Partnership

ARTICLE 2
RELATIONSHIP BETWEEN PARTNERS

2.1 Formation and Name of the Partnership

The General Partner and the Initial Limited Partner acknowledge and represent to the Limited Partners that the Partnership was initially formed as a general partnership on August 25, 2014 and was subsequently registered as a limited partnership on _____, 2014 by the filing of the Declaration in accordance with the laws of the Province of Ontario and the provisions of this Agreement to carry on business in common with a view to profit under the firm name and style of _____ or the French form of that name or any other name or names as the General Partner may determine from time to time. The General Partner has the right to file an amendment to the Declaration changing the name of the Partnership or the French form of that name.

2.2 Purpose of the Partnership

The purpose of the Partnership shall be to: (i) acquire and hold interests in the shares of the corporations acquired pursuant to the transactions contemplated in the Arrangement Agreement and, subject to the approval of the General Partner, interests in any other Persons; (ii) engage in any activity related to the capitalization and financing of the Partnership's interests in such corporations and such other Persons; and (iii) engage in any activity that is incidental to or in furtherance of the foregoing and that is approved by the General Partner and that lawfully may be conducted by a limited partnership organized under the Act and this Agreement; provided, however, that, except pursuant to Section 9.4, the Partnership shall not engage, directly or indirectly, in any business activity that the General Partner determines would cause the Partnership to be treated as an association taxable as a corporation under Treas. Reg. Section 301.7701-3 or Section 7704 of the Code. To the fullest extent permitted by Law and except as required by this Agreement, the General Partner shall have no duty or obligation to propose or approve, and may decline to propose or approve, the conduct by the Partnership of any activity, in each case free of any duty (including any fiduciary duty) or obligation whatsoever to the Partnership or any Limited Partner or Record Holder and, in declining to so propose or approve, shall not be deemed to have breached this Agreement, any other agreement contemplated hereby, the Act or any other provision of Law.

2.3 Office of the Partnership

The principal place of business of the Partnership will be _____ or any other address in Ontario as the General Partner may designate in writing from time to time to the Limited Partners.

2.4 Fiscal Year

Subject to the General Partner determining otherwise or as otherwise may be required under the Code or applicable U.S. Treasury Regulation, the first fiscal period of the Partnership will end on December 31, 2014. The second fiscal period of the Partnership will commence on January 1, 2015 and will end on December 31, 2015. Thereafter, each fiscal period commences on January 1 in each year and ends on the earlier of December 31 in that year or on the date of dissolution or other termination of the Partnership. Each fiscal period is referred to in this Agreement as a "Fiscal Year".

2.5 Status of Partners

- (a) The General Partner represents, warrants, covenants and agrees with each Limited Partner that it:
 - (i) is a corporation incorporated under the laws of Canada and is validly subsisting under those laws;
 - (ii) has the capacity and corporate authority to act as a general partner and to perform its obligations under this Agreement, and those obligations do not conflict with nor do they result in a breach of any of its constating documents, by-laws or any agreement by which it is bound;
 - (iii) will act in good faith toward the Limited Partners in carrying out its obligations under this Agreement;

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- (iv) holds and will maintain the registrations necessary for the conduct of its business and has and will continue to have all licences and permits necessary to carry on its business as the General Partner of the Partnership in all jurisdictions where the activities of the Partnership require that licensing or other form of registration of the General Partner; and
- (v) will devote as much time as is reasonably necessary for the conduct and prudent management of the business and affairs of the Partnership.

2.6 Limitation on Authority of Limited Partners

No Limited Partner will:

- (a) take part in the administration, control, management or operation of the business of the Partnership or exercise any power in connection with that control or management or transact business on behalf of the Partnership;
- (b) execute any document which binds or purports to bind any other Partner or the Partnership;
- (c) hold that Limited Partner out as having the power or authority to bind any other Partner or the Partnership;
- (d) have any authority or power to act for or undertake any obligation or responsibility on behalf of any other Partner or the Partnership;
- (e) bring any action for partition or sale or otherwise in connection with the Partnership, or any interest in any property of the Partnership, whether real or personal, tangible or intangible, or file or register or permit to be filed, registered or remain undischarged any lien or charge in respect of any property of the Partnership; or
- (f) compel or seek a partition, judicial or otherwise, of any of the assets of the Partnership distributed or to be distributed to the Partners in kind in accordance with this Agreement.

2.7 Power of Attorney

- (a) Each Limited Partner hereby irrevocably nominates, constitutes and appoints the General Partner, with full power of substitution, as that Limited Partner's agent and true and lawful attorney to act on the Limited Partner's behalf with full power and authority in the Limited Partner's name, place and stead to execute and record or file as and where required:
 - (i) this Agreement, any amendment to this Agreement and any other instruments or documents required to continue and keep in good standing the Partnership as a limited partnership under the Act, or otherwise to comply with the laws of any jurisdiction in which the Partnership may carry on business or own or lease property in order to maintain the limited liability of the Limited Partners and to comply with the applicable laws of that jurisdiction (including any amendments to the Declaration or the Record as may be necessary to reflect the admission to the Partnership of subscribers for or transferees of Units as contemplated by this Agreement);
 - (ii) all instruments and any amendments to the Declaration necessary to reflect any amendment to this Agreement;
 - (iii) any instrument required in connection with the dissolution, liquidation and termination of the Partnership in accordance with the provisions of this Agreement, including any elections under the Tax Act, the Code and under any similar legislation;
 - (iv) the documents necessary to be filed with the appropriate governmental body or authority in connection with the business, property, assets and undertaking of the Partnership;
 - (v) any documents as may be necessary to give effect to the business of the Partnership as described in Section 2.2;

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- (vi) the documents on the Limited Partner's behalf and in the Limited Partner's name as may be necessary to give effect to the sale or assignment of a Unit or to give effect to the admission of a subscriber for or transferee of Units to the Partnership;
 - (vii) any election, determination, designation, information return or similar document or instrument as may be required or desirable at any time under the Tax Act, the Code or under any other taxation legislation or laws of like import of Canada, the United States or of any province, state or jurisdiction which relates to the affairs of the Partnership or its Subsidiaries or the interest of any Person in the Partnership;
 - (viii) documents required to transfer Units of a Unitholder who is a Dissenting Unitholder, as provided for in Section 3.25(g); and
 - (ix) all other instruments and documents on the Limited Partner's behalf and in the Limited Partner's name or in the name of the Partnership as may be deemed necessary or appropriate by the General Partner to carry out fully this Agreement in accordance with its terms.
- (b) The General Partner may require any Person subscribing for Units to execute such documents or instruments containing a power of attorney incorporating by reference, ratifying and confirming some or all of the powers described above.
- (c) The power of attorney granted in this Agreement is irrevocable, is a power coupled with an interest, will survive the death or disability of a Limited Partner and will survive the transfer or assignment by the Limited Partner, to the extent of the obligations of a Limited Partner under this Agreement, of the whole or any part of the interest of the Limited Partner in the Partnership, extends to the heirs, executors, administrators, other legal representatives and successors, transferees and assigns of the Limited Partner, and may be exercised by the General Partner on behalf of each Limited Partner in executing any instrument by a facsimile signature or by listing all the Limited Partners and executing that instrument with a single signature as attorney and agent for all of them.
- (d) Each Limited Partner agrees to be bound by any representations or actions made or taken by the General Partner pursuant to the power of attorney granted in this Agreement and hereby waives any and all defences which may be available to contest, negate or disaffirm the action of the General Partner taken in good faith under such power of attorney.
- (e) In accordance with the *Power of Attorney Act* (British Columbia), the *Powers of Attorney Act* (Alberta), the *Powers of Attorney Act*, 2002 (Saskatchewan), the *Powers of Attorney Act* (Manitoba), the *Substitute Decisions Act*, 1992 (Ontario), the *Property Act* (New Brunswick), the *Powers of Attorney Act* (Prince Edward Island), the *Powers of Attorney Act* (Nova Scotia), the *Enduring Powers of Attorney Act* (Newfoundland), the *Enduring Power of Attorney Act* (Yukon), *Powers of Attorney Act* (Nunavut), and the *Powers of Attorney Act* (Northwest Territories), and any similar legislation governing a power of attorney, each Limited Partner declares that these powers of attorney may be exercised during any legal incapacity, mental incapacity or infirmity, or mental incompetence on the Limited Partner's part.
- (f) The power of attorney granted in this Agreement is not intended to be a continuing power of attorney within the meaning of the *Substitute Decisions Act*, 1992 (Ontario), exercisable during a Limited Partner's incapacity to manage property, or any similar power of attorney under equivalent legislation in any of the provinces or territories of Canada (a "CPOA"). The execution of this power of attorney will not terminate any CPOA granted by the Limited Partner previously and will not be terminated by the execution by the Limited Partner in the future of a CPOA, and the Limited Partner hereby agrees not to take any action in future which results in the termination of the power of attorney granted in this Agreement.
- (g) The General Partner may require, in connection with the subscription for, or any transfer of, Units, that the documents executed by the subscribing Limited Partner or transferee, if any, be accompanied by the

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explanatory notes set out in the *Powers of Attorney Act* (Alberta) and the *Enduring Power of Attorney Act* (Yukon) and a certificate of legal advice signed by a lawyer who is not the attorney or the attorney's spouse.

- (h) The power of attorney granted in this Agreement will continue in respect of the General Partner so long as it is the general partner of the Partnership, and will terminate thereafter, but will continue in respect of a new General Partner as if the new General Partner were the original attorney.
- (i) A purchaser or transferee of a Unit will, upon becoming a Limited Partner, be conclusively deemed to have acknowledged and agreed to be bound by the provisions of this Agreement as a Limited Partner and will be conclusively deemed to have provided the General Partner with the power of attorney described in this Section 2.7.

2.8 Limited Liability of Limited Partners

Subject to the provisions of the Act and of similar legislation in other jurisdictions of Canada, the liability of each Limited Partner for the debts, liabilities and obligations of the Partnership will be limited to the Limited Partner's Capital Contribution, plus the Limited Partner's share of any undistributed income of the Partnership. Following payment of a Limited Partner's Capital Contribution, the Limited Partner will not be liable for any further claims or assessments or be required to make further contributions to the Partnership, except that, where a Limited Partner has received the return of all or part of that Limited Partner's Capital Contribution, the Limited Partner is nevertheless liable to the Partnership or, where the Partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the Partnership to all creditors who extended credit or whose claims otherwise arose before the return of the Capital Contribution.

2.9 Indemnity of Limited Partners

The General Partner will indemnify and hold harmless each Limited Partner (including former Limited Partners) for all costs, expenses, damages or liabilities suffered or incurred by the Limited Partner if the limited liability of that Limited Partner is lost for or by reason of the negligence of the General Partner in performing its duties and obligations under this Agreement.

2.10 Compliance with Laws

Each Limited Partner will, on the request of the General Partner from time to time, immediately execute any documents considered by the General Partner to be necessary to comply with any applicable Law for the continuation, operation or good standing of the Partnership.

2.11 Other Activities of Partners

Limited Partners and their Affiliates and Associates and, subject to Section 7.20, Affiliates and Associates of the General Partner may engage in businesses, ventures, investments and activities which may be similar to or competitive with those in which the Partnership is or might be engaged and those persons will not be required to offer or make available to the Partnership any other business or investment opportunity which any of those Persons may acquire or be engaged in for its own account.

ARTICLE 3 **PARTNERSHIP UNITS**

3.1 Authorized Units

The interests in the Partnership of the Partners other than the limited partnership interest of the Initial Limited Partner will be divided into and represented, as of the date hereof, by an unlimited number of only each

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of three classes of Units as follows: (i) interests of the General Partner will be represented by Class A common partnership units (“ **Common Units** ”) and preferred partnership units (“ **Preferred Units** ”); and (ii) interests of Limited Partners other than the limited partnership interest of the Initial Limited Partner will be represented by Class B exchangeable limited partnership units (“ **Exchangeable Units** ”). Except in accordance with this Agreement, no other Partnership Interests, Units or other interests in the Partnership shall be issued other than as specified by the preceding sentence. Each of the Units will represent an interest in the Partnership having the preferences, rights, restrictions, conditions and limitations provided in this Agreement including:

- (a) the holders of Units will have the right to receive allocations of net income, net loss, taxable income and tax loss as provided in this Agreement;
- (b) the holders of the Units will have the right to share in returns of capital and to share in cash and any other distributions to Partners and to receive the remaining assets of the Partnership on dissolution or winding up in accordance with the terms of this Agreement; and
- (c) the holders of Units will have the right to receive notice of and to attend any meetings of Partners of the Partnership.

Except as otherwise specified in this Agreement, no Partner will have any preference, priority or right in any circumstance over any other Partner in respect of the Units held by each. For greater certainty, the General Partner’s interest in the Partnership is a single interest defined by reference to the Common Units and Preferred Units held by it and any other units that it might acquire in accordance with this Agreement.

3.2 Rights, Privileges, Restrictions and Conditions of Exchangeable Units

In addition to the preferences, rights, restrictions, conditions and limitations set out in Section 3.1, each Exchangeable Unit will have the rights and preferences set out in Schedule A hereto.

3.3 Issuance of Additional Units; Preemptive Rights

- (a) Subject to Sections 3.1 and 3.4, the General Partner may, in its discretion, cause the Partnership to issue additional Units on any terms and conditions of offering and sale of Units as the General Partner, in its discretion, may determine, from time to time hereafter and may do all things in that regard, including preparing and filing prospectuses, offering memoranda and other documents, paying the expenses of issue and entering into agreements with any Person providing for a commission or fee. Except for issuances of Units to Holdings pursuant to Section 3.4, the Partnership shall not issue any Units to Holdings.
- (b) Without limiting the generality of Section 3.3(a), the General Partner may, in its discretion, cause the Partnership to issue additional Exchangeable Units. The General Partner may, in its discretion, either retain the net proceeds from such issuance for use by the Partnership, or may cause the Partnership to distribute the net proceeds from such issuance to Holdings for the purposes of funding redemption, repurchase or acquisition of Holdings Shares or Preferred Shares in accordance with Section 3.4(d).
- (c) Unless otherwise determined by the General Partner, in its sole discretion with the prior approval of the Conflicts Committee, no Person shall have any preemptive, preferential or other similar right with respect to the issuance of any Partnership Interests, whether unissued, held in the treasury or hereafter created.
- (d) All Partnership Interests issued by the Partnership shall be fully paid and non-assessable Partnership Interests.

3.4 Capital Structure of the Partnership and Holdings

So long as any Exchangeable Units are outstanding:

- (a) The General Partner shall, and shall cause the Partnership to, take all actions necessary so that, at all times for as long as this Agreement is in effect, the economic rights of the holders of the Exchangeable

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Units and the economic rights of the General Partner as holder of the Common Units shall be proportionate to their respective Percentage Interests (for the avoidance of doubt, not taking into account Section 5.4(b), and excluding distributions that are made to Holdings on the Common Units pursuant to Section 3.4(d) or Section 5.4(f)).

- (b) Without limiting the generality of Section 3.4(a):
 - (i) upon the issuance by the General Partner of any Holdings Shares (other than pursuant to the exercise of an Exchange Right or an issuance described in Section 3.5), including any issuance in connection with a business acquisition by Holdings, an equity incentive program or upon the conversion, exercise or exchange of any security or other instrument convertible into or exercisable or exchangeable for shares Holdings Shares, and including any Holdings Shares issued upon exercise of the Warrants, which, in each case, will result in a corresponding change in the Percentage Interests of the Partners in accordance with the definition of “Percentage Interests”, the General Partner shall contribute the proceeds of such issuance (net of any selling or underwriting discounts or commissions or other expenses, which for the avoidance of doubt, shall be deemed to be reimbursed by the Partnership in accordance with Section 5.4(f) and such reimbursement proceeds shall be deemed to be contributed by the General Partner to the Partnership) to the Partnership as a capital contribution on account of its Common Units;
 - (ii) upon the issuance by the General Partner of any Preferred Shares (including any issuance in connection with a business acquisition by Holdings, an equity incentive program or upon the conversion, exercise or exchange of any security or other instrument convertible into or exercisable or exchangeable for Preferred Shares), the General Partner shall contribute the proceeds of such issuance (net of any selling or underwriting discounts or commissions or other expenses, which for the avoidance of doubt, shall be deemed to be reimbursed by the Partnership in accordance with Section 5.4(f) and such reimbursement proceeds shall be deemed to be contributed by the General Partner to the Partnership) to the Partnership as a capital contribution on account of its Preferred Units;
 - (iii) if a new class of shares in the capital of Holdings is created and issued by Holdings (“**New Shares**”), the General Partner shall (either immediately before or after such issuance) (A) cause the Partnership to create a corresponding new class of Units (“**New Units**”) that has corresponding distribution rights to such New Shares, (B) cause the Partnership to issue one or more New Units in exchange for the contribution by Holdings of the proceeds from the issuance of such New Shares (net of any selling or underwriting discounts or commissions or other expenses, which for the avoidance of doubt, shall be deemed to be reimbursed by the Partnership in accordance with Section 5.4(f) and such reimbursement proceeds shall be deemed to be contributed by the General Partner to the Partnership) to the Partnership, and (C) effect such amendments to this Agreement as are necessary in order to provide that the distributions and allocations on the New Units to Holdings pursuant to this Agreement are made on terms that allow Holdings to fund distributions on such New Shares in accordance with their terms and such other amendments as are necessary such that the capital of Holdings in the Partnership continues to correspond with the outstanding capital of Holdings; and
 - (iv) where Holdings issues any Holdings Shares as a Make Whole Dividend in accordance with the terms of the Preferred Shares, the amount recorded by Holdings as having been received in consideration for the issuance of such Holdings Shares shall be the amount of the Make Whole Dividend satisfied by issuance of such Holdings Shares and such amount will be deemed to have been contributed to the Partnership as a capital contribution on account of the General Partner’s Common Units; and
- (c) Upon the exchange of any Exchangeable Units for Exchanged Shares pursuant to the exercise of an Exchange Right, as of the effective date of such exchange, each Exchanged Share issued in exchange for an Exchangeable Unit shall be deemed (i) to have been first contributed by Holdings to the Partnership as a capital contribution in respect of its Common Units and (ii) then immediately

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thereafter to have been delivered by the Partnership to the holder exercising the Exchange Right and the Exchangeable Unit shall be cancelled and shall cease to exist. Upon the exchange of any Exchangeable Units for the Cash Amount (as defined in Schedule A) pursuant to the exercise of an Exchange Right, as of the effective date of such exchange, each such Exchangeable Unit automatically shall be deemed cancelled concurrently with such payment, without any action on the part of any Person, including Holdings or the Partnership.

- (d) If Holdings proposes to redeem, repurchase or otherwise acquire any Holdings Shares for cash, the Partnership shall, immediately prior to such redemption, repurchase or acquisition, make a distribution to Holdings on its Common Units in an amount sufficient for Holdings to fund such redemption, repurchase or acquisition, as the case may be. If Holdings redeems, repurchases or otherwise acquires any Preferred Shares for cash, the Partnership shall, immediately prior to such redemption, repurchase or acquisition, make a distribution to Holdings on its Preferred Units in an amount sufficient for Holdings to fund such redemption, repurchase or acquisition, as the case may be. Holdings may, in order to fund the redemption of Preferred Shares, issue Holdings Shares in which case the net proceeds of such issuance would be contributed to the Partnership pursuant to Section 3.4(b)(i) and then distributed pursuant to this Section 3.4(d) to the extent required to fund such redemption.

3.5 Reciprocal Changes

So long as any Exchangeable Units not owned by Holdings or its subsidiaries are outstanding:

- (a) Holdings will not:

- (i) issue or distribute Holdings Shares (or securities exchangeable for or convertible into or carrying rights to acquire Holdings Shares) to the holders of all or substantially all of the then outstanding Holdings Shares by way of stock dividend or other distribution, other than an issue of Holdings Shares (or securities exchangeable for or convertible into or carrying rights to acquire Holdings Shares) to holders of Holdings Shares who exercise an option to receive dividends in Holdings Shares (or securities exchangeable for or convertible into or carrying rights to acquire Holdings Shares) in lieu of receiving cash dividends; or
- (ii) issue or distribute rights, options or warrants to the holders of all or substantially all of the then outstanding Holdings Shares entitling them to subscribe for or to purchase Holdings Shares (or securities exchangeable for or convertible into or carrying rights to acquire Holdings Shares); or
- (iii) issue or distribute to the holders of all or substantially all of the then outstanding Holdings Shares (A) shares or securities of Holdings other than Holdings Shares (other than shares convertible into or exchangeable for or carrying rights to acquire Holdings Shares), (B) rights, options or warrants other than those referred to in Section 3.5(a)(ii) hereof, (C) evidences of indebtedness of Holdings or (D) assets of Holdings,

unless, in each case, the equitably equivalent on a per Exchangeable Unit basis of such Holdings Shares, rights, options, securities, warrants, shares, evidences of indebtedness or other assets is issued or distributed simultaneously to holders of the Exchangeable Units; provided that, for greater certainty, the above restrictions shall not apply (A) to dividends or distributions on Holdings Shares where an equal distribution is made on each Exchangeable Unit in accordance with Section 5.4(a)(ii) or (B) to any securities issued or distributed by Holdings in order to give effect to and to consummate the transactions contemplated by, and in accordance with, the Arrangement Agreement.

- (b) Holdings will not:

- (i) subdivide, redivide or change the then outstanding Holdings Shares into a greater number of Holdings Shares; or
- (ii) reduce, combine, consolidate or change the then outstanding Holdings Shares into a lesser number of Holdings Shares; or

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- (iii) reclassify or otherwise change Holdings Shares or effect an amalgamation, merger, reorganization or other transaction affecting Holdings Shares (other than an amalgamation, merger, reorganization or other transaction affecting Holdings Shares where such Holdings Shares are used as consideration in an acquisition by the Partnership or any subsidiary of the Partnership),

unless, in each case, the same or an equitably equivalent change shall simultaneously be made to, or in the rights of the holders of, the Exchangeable Units.

- (c) Holdings will ensure that the record date for any event referred to in Section 3.5(a) or 3.5(b) hereof or (if no record date is applicable for such event) the effective date for any such event, will be the same with respect to both the Exchangeable Units and the Holdings Shares, and that such record date or effective date is not less than five Business Days after the date on which such event is declared or announced by Holdings (with contemporaneous notification thereof by Holdings to the Partnership).
- (d) The General Partner, with the prior approval of the Conflicts Committee, shall determine, in good faith with assistance of such reputable and qualified independent financial advisors and/or other experts as the General Partner of the Partnership may require, equitable equivalence for the purposes of any event referred to in Section 3.5(a) or 3.5(b) hereof and each such determination shall be conclusive and binding on Holdings. In making each such determination, the following factors shall, without excluding other factors determined by the General Partner of the Partnership to be relevant, be considered by the General Partner of the Partnership:
 - (i) in the case of any stock dividend or other distribution payable in Holdings Shares, the number of such shares issued in proportion to the number of Holdings Shares previously outstanding;
 - (ii) in the case of the issuance or distribution of any rights, options or warrants to subscribe for or purchase Holdings Shares (or securities exchangeable for or convertible into or carrying rights to acquire Holdings Shares), the relationship between the exercise price of each such right, option or warrant and the Current Market Price of a Holdings Share;
 - (iii) in the case of the issuance or distribution of any other form of property (including without limitation any shares or securities of Holdings other than Holdings Shares, any rights, options or warrants other than those referred to in Section 3.5(d)(ii) hereof, any evidences of indebtedness of Holdings or any assets of Holdings), the relationship between the fair market value (as determined by the General Partner of the Partnership in the manner above contemplated) of such property to be issued or distributed with respect to each outstanding Holdings Share and the Current Market Price of a Holdings Share; and
 - (iv) in the case of any subdivision, redivision or change of the then outstanding Holdings Shares into a greater number of Holdings Shares or the reduction, combination, consolidation or change of the then outstanding Holdings Shares into a lesser number of Holdings Shares or any amalgamation, merger, reorganization or other transaction affecting Holdings Shares, the effect thereof upon the then outstanding Holdings Shares (other than an amalgamation, merger, reorganization or other transaction affecting Holdings Shares where such Holdings Shares are used as consideration in an acquisition by the Partnership or any subsidiary of the Partnership).
- (e) The Partnership agrees that, to the extent required, upon due notice from Holdings, the Partnership will use its best efforts to take or cause to be taken such steps as may be necessary for the purposes of ensuring that appropriate distributions are paid or other distributions are made by the Partnership, or subdivisions, redivisions or changes are made to the Exchangeable Units, in order to implement the required equitable equivalence with respect to distributions on the Holdings Shares and Exchangeable Units as provided for in this Section 3.5.
- (f) The Partnership shall not effect any Subdivision or Combination of Exchangeable Units other than in accordance with this Section 3.5.

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3.6 Segregation of Funds

Holdings will cause the Partnership to deposit a sufficient amount of funds in a separate account of the Partnership and segregate a sufficient amount of such other assets and property as is necessary to enable the Partnership to pay distributions and other amounts when due under Section 5.4(a) and to pay or otherwise satisfy its obligations under Article 2 of Schedule A hereto, as applicable.

3.7 Reservation of Holdings Shares

Holdings hereby represents, warrants and covenants in favour of the Partnership that Holdings has reserved for issuance and will, at all times while any Exchangeable Units (other than Exchangeable Units held by Holdings or its subsidiaries) are outstanding, keep available, free from pre-emptive and other rights, out of its authorized and unissued share capital at least such number of Holdings Shares (or other shares or securities into which Holdings Shares may be reclassified or changed as contemplated by Section 3.4) without duplication (a) as is equal to the sum of (i) the number of Exchangeable Units issued and outstanding from time to time and (ii) the number of Exchangeable Units issuable upon the exercise of all rights to acquire Exchangeable Units outstanding from time to time and (b) as are now and may hereafter be required to enable and permit Holdings to meet its obligations under any other security or commitment pursuant to which Holdings may now or hereafter be required to issue Holdings Shares, and to enable and permit the Partnership to meet its obligations hereunder.

3.8 Notification of Certain Events

In order to assist Holdings to comply with its obligations hereunder, the Partnership will notify Holdings of each of the following events at the time set forth below:

- (a) immediately, upon receipt by the Partnership of an Exchange Notice;
- (b) on the same date on which the Partnership gives written notice to holders of Exchangeable Units of a mandatory exchange in accordance with Article 2 of Schedule A hereto; and
- (c) as soon as practicable upon the issuance by the Partnership of any Exchangeable Units or rights to acquire Exchangeable Units.

3.9 Delivery of Holdings Shares to The Partnership

Upon notice from the Partnership of any event that requires the Partnership to cause Holdings Shares to be delivered to any holder of Exchangeable Units, Holdings shall forthwith issue and deliver or cause to be delivered, for and on behalf of the Partnership, the requisite number of Holdings Shares to be received by, and issued to or to the order of, the former holder of the surrendered Exchangeable Units. All such Holdings Shares shall be duly authorized and validly issued as fully paid and non-assessable and shall be free and clear of any lien, claim or encumbrance. In consideration of the issuance and delivery of each such Holdings Share, Holdings shall be deemed to have made a capital contribution to the Partnership as provided in Section 3.4(c).

3.10 Qualification of Holdings Shares

If any Holdings Shares (or other shares or securities into which Holdings Shares may be reclassified or changed as contemplated by Section 3.4) to be issued and delivered hereunder require registration or qualification with or approval of or the filing of any document, including any prospectus or similar document or the taking of any proceeding with or the obtaining of any order, ruling or consent from any governmental or regulatory authority under any Canadian or United States federal, provincial or state securities or other law or regulation or pursuant to the rules and regulations of any securities or other regulatory authority or the fulfillment of any other United States or Canadian legal requirement before such shares (or such other shares or securities) may be issued and delivered by Holdings to the holder of surrendered Exchangeable Units or in order that such shares (or such other shares or securities) may be freely traded thereafter (other than any restrictions of general

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application on transfer by reason of a holder being a “control person” for purposes of Canadian provincial securities law or an “affiliate” of Holdings for purposes of United States federal or state securities law), Holdings will in good faith expeditiously take all such actions and do all such things as are necessary or desirable to cause such Holdings Shares (or such other shares or securities) to be and remain duly registered, qualified or approved under United States and/or Canadian law, as the case may be. Holdings will in good faith expeditiously take all such actions and do all such things as are reasonably necessary or desirable to cause all Holdings Shares (or such other shares or securities) to be delivered hereunder to be listed, quoted or posted for trading on all stock exchanges and quotation systems on which outstanding Holdings Shares (or such other shares or securities) have been listed by Holdings and remain listed and are quoted or posted for trading at such time.

3.11 Subscription for Units

No subscription may be made or will be accepted for a fraction of a Unit. In connection with any offering, each subscribing Person will complete and execute a subscription form in a form prescribed by the General Partner setting out, among other things, the total subscription price for the Units subscribed for, which subscription price will be that Person’s agreed upon Capital Contribution.

3.12 Admittance as Limited Partner

Upon the issuance of Units to any new Limited Partner, all Partners will be deemed to consent to the admission of such Limited Partner, the General Partner will be deemed to have executed this Agreement on behalf of the new Limited Partner and to have caused the Record to be amended, and any other documents as may be required by the Act or under legislation similar to the Act in other provinces or the territories to be filed or amended, specifying the prescribed information and causing the foregoing information in respect of the new Limited Partner to be included in other Partnership books and records.

3.13 Payment of Expenses

The Partnership will pay, to the extent contemplated by any agreement, indenture, prospectus or other offering document, all costs, disbursements and other fees and expenses incurred, by the Partnership or on its behalf, in connection with:

- (a) the organization of the Partnership;
- (b) the Arrangement and the Merger;
- (c) the registration of the Partnership under the Act and under similar legislation of other jurisdictions;
- (d) the issuance and sale of any additional Units; and
- (e) the listing of the Exchangeable Units on a National Securities Exchange.

3.14 Record of Limited Partners

The General Partner shall keep or cause to be kept at its principal place of business in Ontario a current Record stating for each Limited Partner that information required under the Act, including the Limited Partner’s name, address, Ontario corporation number, if any, the amount of money and/or the value of other property contributed or to be contributed by the Limited Partner to the Limited Partnership and the number of Units held by each Limited Partner. Registration of interests in, and as provided in Section 3.15 transfers of, Units will be made only in the Record.

3.15 Transfers of Units and Changes in Membership of Partnership

- (a) The term “ **transfer** ,” when used in this Agreement with respect to a Partnership Interest, shall be deemed to refer to a transaction by which the Record Holder of a Partnership Interest assigns such

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Partnership Interest to another Person who is or becomes a Partner, and includes a sale, assignment, gift, exchange or any other disposition by law or otherwise, including any transfer upon foreclosure of any pledge, encumbrance, hypothecation or mortgage.

- (b) The Registrar and Transfer Agent is hereby appointed registrar and transfer agent for the purpose of registering Units and transfers of Units as herein provided. Upon surrender of a Certificate for registration of transfer of any Units evidenced by a Certificate, the General Partner shall execute and deliver, and the Transfer Agent shall countersign and deliver, in the name of the holder or the designated transferee or transferees, as required pursuant to the Record Holder's instructions, one or more new Certificates evidencing the same aggregate number and type of Units as were evidenced by the Certificate so surrendered, provided that a transferor shall provide the address and facsimile number for each such transferee as required for inclusion in the Record.
- (c) The Partnership shall not recognize any transfer of Units until the Certificates evidencing such Units are surrendered for registration of transfer. No charge shall be imposed by the Partnership for any transfer of Units.
- (d) By acceptance of the transfer of any Unit, each transferee of a Unit (including any nominee holder or an agent or representative acquiring such Units for the account of another Person) (i) shall be admitted to the Partnership as a Partner with respect to the Units so transferred to such transferee when any such transfer or admission is reflected in the Record, (ii) shall be deemed to agree to be bound by the terms of this Agreement, (iii) shall become the Record Holder of the Units so transferred, (iv) grants powers of attorney to the General Partner, as specified herein, and (v) makes the consents and waivers contained in this Agreement. The transfer of any Units and the admission of any new Partner shall not constitute an amendment to this Agreement.
- (e) Nothing contained in this Agreement shall preclude the settlement of any transactions involving Units entered into through the facilities of any National Securities Exchange on which such Units are listed for trading.
- (f) No change of name or address of a Limited Partner, no transfer of a Unit and no admission of a substituted Limited Partner in the Partnership will be effective for the purposes of this Agreement until the requirements set out in this Article 3 have been satisfied, and until that change, transfer, substitution or addition is duly reflected in an amendment to the Record as may be required by the Act. The names and addresses of the Limited Partners as reflected from time to time in the Record, as from time to time amended, will be conclusive as to those facts for all purposes of the Partnership.
- (g) Where the transferee complies with all applicable provisions and is entitled to become a Limited Partner pursuant to the provisions of this Agreement, subject to Section 3.15(f), the General Partner shall admit the transferee to the Partnership as a substituted Limited Partner and the Limited Partners hereby consent to the admission of, and will admit, the transferee to the Partnership as a Limited Partner, without further act of the Limited Partners (other than as may be required by law).
- (h) No transfer of Units will be accepted by the General Partner more than 15 days after the sending of a notice of dissolution under Section 13.3(d).

3.16 Notice of Change to General Partner

No name or address of a Limited Partner will be changed and no transfer of a Unit or substitution or addition of a Limited Partner in the Partnership will be recorded on the Record except pursuant to a notice in writing received by the General Partner.

3.17 Inspection of Record

A Limited Partner, or an agent of a Limited Partner duly authorized in writing, has the right to inspect and make copies from the Record during normal business hours.

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3.18 Amendment of Declaration or Record

The General Partner, on behalf of the Partnership, may effect such filings, recordings, registrations and amendments to the Record and the Declaration and to any other documents and at any places as in the opinion of counsel to the Partnership are necessary or advisable to reflect changes in the membership of the Partnership, transfers of Units and dissolution of the Partnership as provided in this Agreement and to constitute a transferee as a Limited Partner.

3.19 Non-Recognition of Trusts or Beneficial Interests

Units may be held by nominees on behalf of the beneficial owners of the Units. Notwithstanding the foregoing, except as provided in this Agreement, as required by Law or as recognized by the General Partner in its sole discretion, no Person will be recognized (including in any case in which the nominee has furnished the identity of such owner to the Partnership in accordance with Section 6031(c) of the Code) by the Partnership or any Limited Partner as holding any Unit in trust, or on behalf of another Person with the beneficial interest in that other Person, and the Partnership and Limited Partners will not be bound or compelled in any way to recognize (even when having actual notice) any equitable, contingent, future or partial interest in any Unit or in any fractional part of a Unit or any other rights in respect of any Unit except an absolute right to the entirety of the Unit in the Limited Partner shown on the Record as holder of that Unit.

3.20 Incapacity, Death, Insolvency or Bankruptcy

Where a Person becomes entitled to Units on the incapacity, death, insolvency, or bankruptcy of a Limited Partner, or otherwise by operation of law, in addition to the requirements of Section 3.15, that entitlement will not be recognized or entered into the Record until that Person:

- (a) has produced evidence satisfactory to the Registrar and Transfer Agent of that Person's entitlement; and
- (b) has delivered any other evidence, approvals and consents in respect to that entitlement as the Registrar and Transfer Agent may require and as may be required by Law or by this Agreement.

3.21 No Transfer upon Dissolution

No transfer of Units may be made or will be accepted or entered into the Record after the occurrence of any of the events set out in Section 13.1.

3.22 Certificates

- (a) Upon the Partnership's issuance of Units of all or any classes to any Person, the Partnership shall issue one or more Certificates in the name of such Person evidencing the number of such Units being so issued. Certificates shall be executed on behalf of the Partnership by the General Partner. No Certificate evidencing the issuance of Units shall be valid for any purpose until it has been countersigned by the Registrar and Transfer Agent, provided that if the General Partner elects to issue Units in global form, the Certificates of such Units shall be valid upon receipt of a certificate from the Registrar and Transfer Agent certifying that the Units have been duly registered in accordance with the directions of the Partnership.
- (b) Notwithstanding Section 3.22(a), LP Units of any class may be traded through an electronic settlement system and held in Uncertificated form in accordance with such arrangements as may from time to time be permitted by any statute, regulation, order, instrument or rule in force affecting the Partnership. Amendments to any provisions of this Agreement which may be necessary or expedient for this purpose may be made by the General Partner in its sole discretion but will not be deemed to vary the rights of any class of Partnership Interests (including Units).
- (c) Certificates may bear any legends required by applicable Law or otherwise determined to be appropriate by the General Partner.

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3.23 Mutilated, Destroyed, Lost or Stolen Certificates

- (a) If any mutilated Certificate is surrendered to the Registrar and Transfer Agent, the General Partner on behalf of the Partnership shall execute, and upon its request the Registrar and Transfer Agent shall countersign and deliver in exchange therefor, a new Certificate evidencing the same number of Units as the Certificate so surrendered.
- (b) The General Partner on behalf of the Partnership shall execute, and upon its request the Registrar and Transfer Agent shall countersign and deliver a new Certificate in place of any Certificate previously issued if the Record Holder of the Certificate:
 - (i) makes proof by affidavit, in form and substance satisfactory to the General Partner, that a previously issued Certificate has been lost, destroyed or stolen;
 - (ii) requests the issuance of a new Certificate before the Partnership has notice that the Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim;
 - (iii) if requested by the General Partner, delivers to the Partnership a bond, in form and substance satisfactory to the General Partner, with surety or sureties and with fixed or open penalty as the General Partner may reasonably direct, in its sole discretion, to indemnify the Partnership, the General Partner and the Registrar and Transfer Agent against any claim that may be made on account of the alleged loss, destruction or theft of the Certificate; and
 - (iv) satisfies any other reasonable requirements imposed by the General Partner.
- (c) If a Record Holder fails to notify the Partnership within a reasonable time after the holder has notice of the loss, destruction or theft of a Certificate, and a transfer of the Partnership Interests represented by the Certificate is registered before the Partnership, the General Partner or the Transfer Agent receives such notification, the Record Holder shall be precluded from making any claim against the Partnership, the General Partner or the Registrar and Transfer Agent for such transfer or for a new Certificate.
- (d) As a condition to the issuance of any new Certificate under this Section 3.23, the General Partner may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Registrar and Transfer Agent) reasonably connected therewith.

3.24 Record Holders

In accordance with Section 3.15, the Partnership shall be entitled to recognize the Record Holder as the Limited Partner with respect to any Units and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such Units on the part of any other Person, whether or not the Partnership shall have actual or other notice thereof, except as otherwise provided by applicable Law. Without limiting the foregoing, when a Person (such as a broker, dealer, bank, trust company or clearing corporation or an agent of any of the foregoing) is acting as nominee, agent or in some other representative capacity for another Person in acquiring and/or holding Units, as between the Partnership on the one hand and such other Person on the other hand, such representative Person shall be the Record Holder of such Units. A Person may become a Record Holder without the consent or approval of any Partner.

3.25 Offers for Units

- (a) In this Section:
 - (i) “**Dissenting Unitholder**” means a Unitholder of the applicable class who does not accept an Offer referred to in Section 3.25(b);
 - (ii) “**Offer**” means an offer to acquire outstanding LP Units of one or more classes, where, as of the date of the offer to acquire, the LP Units that are subject to the offer to acquire, together with the Offeror’s Units, constitute in the aggregate 20% or more of all outstanding Units of such class;

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- (iii) “ **Offeror** ” means a Person, or two or more Persons acting jointly or in concert, who make an offer to acquire Units;
- (iv) “ **Offeror’s Notice** ” means the notice described in Section 3.25(c); and
- (v) “ **Offeror’s Units** ” means LP Units beneficially owned, or over which control or direction is exercised, on the date of the Offer by the Offeror, any Affiliate or Associate of the Offeror or any Person acting jointly or in concert with the Offeror.
- (b) If an offer for all of the outstanding LP Units of a class (other than LP Units held by or on behalf of the Offeror or an Affiliate or Associate of the Offeror) is made and:
 - (i) within the time provided in the Offer for its acceptance, the Offer is accepted by Unitholders representing at least 90% of the outstanding LP Units of the class subject to the Offer, other than the Offeror’s Units;
 - (ii) the Offeror is bound to take up and pay for, or has taken up and paid for the LP Units of the applicable class of the Unitholders who accepted the Offer; and
 - (iii) the Offeror complies with Sections 3.25(c) and 3.25(e),

the Offeror is entitled to acquire, and the Dissenting Unitholders are required to sell to the Offeror, the LP Units that were subject to the Offer of the applicable class held by the Dissenting Unitholders for the same consideration per Unit payable or paid, as the case may be, under the Offer.

- (c) Where an Offeror is entitled to acquire LP Units held by Dissenting Unitholders pursuant to Section 3.25(b), and the Offeror wishes to exercise that right, the Offeror will send by registered mail within 30 days after the date of expiry of the Offer a notice (the “ **Offeror’s Notice** ”) to each Dissenting Unitholder stating that:
 - (i) Unitholders holding at least 90% of the LP Units of the class subject to the Offer, other than the Offeror’s Units, have accepted the Offer;
 - (ii) the Offeror is bound to take up and pay for, or has taken up and paid for, the Units of the applicable class of the Unitholders who accepted the Offer; and
 - (iii) Dissenting Unitholders must, within 21 days after the date of the sending of the Offeror’s Notice, transfer their respective LP Units of the applicable class that were subject to the Offer to the Offeror on the terms on which the Offeror acquired the LP Units of the Unitholders who accepted the Offer.
- (d) A Dissenting Unitholder to whom an Offeror’s Notice is sent pursuant to Section 3.25(c) will, within 21 days after the sending of the Offeror’s Notice, transfer to the Offeror that Dissenting Unitholder’s Units of the applicable class that were subject to the Offer.
- (e) Within 21 days after the Offeror sends an Offeror’s Notice pursuant to Section 3.25(c), the Offeror will pay or transfer to the General Partner, or to any other Person or Persons as the General Partner may direct, the cash or other consideration that is payable to Dissenting Unitholders pursuant to Section 3.25(b).
- (f) The General Partner, or any Person(s) directed by the General Partner, will hold in trust for the Dissenting Unitholders the cash or other consideration it receives under Section 3.25(e). The General Partner, or that other Person, will deposit the cash in a separate account in a Canadian chartered bank and will place other consideration in the custody of a Canadian chartered bank or similar institution for safekeeping.
- (g) Within 30 days after the date of the sending of an Offeror’s Notice pursuant to Section 3.25(c), the General Partner, if the Offeror has complied with Section 3.25(e), will:

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- (i) do all acts and things and execute and cause to be executed all instruments as in the General Partner's opinion may be necessary or desirable to cause the transfer of the Units of the Dissenting Unitholders of the applicable class that were subject to the Offer to the Offeror;
- (ii) send to each Dissenting Unitholder who has complied with Section 3.25(d) the consideration to which that Dissenting Unitholder is entitled under this Section 3.25;
- (iii) send to each Dissenting Unitholder who has not complied with Section 3.25(d) a notice stating that:
 - (A) the Dissenting Unitholder's LP Units of the applicable class that were subject to the Offer have been transferred to the Offeror;
 - (B) the General Partner or some other Person designated in that notice is holding in trust the consideration for the transfer of those LP Units to the Offeror; and
 - (C) the General Partner, or that other Person, will send the consideration to the Dissenting Unitholder as soon as practicable after receiving ratification of the transfer of the Dissenting Unitholder's Units of the applicable class to the Offeror from that Dissenting Unitholder or any other documents as the General Partner, or that other Person may require;

and the General Partner is hereby appointed the agent and attorney of the Dissenting Unitholders for the purposes of giving effect to the foregoing provisions.

- (h) An Offeror will not be entitled to rely on the provisions of this Section 3.25 unless, concurrent with the communications of the Offer to any Unitholder, a copy of such communications is provided to the General Partner.
- (i) For so long as Exchangeable Units remain outstanding (not including Exchangeable Units held by Holdings and its subsidiaries):
 - (i) no tender offer, share exchange offer, formal issuer bid, formal take-over bid or similar transaction with respect to Holdings Shares (a "**Holdings Offer**") will be proposed or recommended by Holdings or the Holdings Board of Directors or otherwise effected with the consent or approval of the Holdings Board of Directors unless the holders of Exchangeable Units (other than Holdings and its subsidiaries) are entitled to participate in such Holdings Offer to the same extent and on an equitably equivalent basis as the holders of Holdings Shares, without discrimination. Without limiting the generality of the foregoing, except in order to permit the Holdings Board of Directors to fulfill its fiduciary duties under applicable law, neither Holdings nor the Holdings Board of Directors will approve or recommend any Holdings Offer or take any action in furtherance of a Holdings Offer unless, and Holdings will use its commercially reasonable efforts expeditiously and in good faith to put in place procedures or to cause the Transfer Agent to put in place procedures to ensure that, the holders of Exchangeable Units may participate in such Holdings Offer without being required to exchange Exchangeable Units as against the Partnership (or, if so required, to ensure that any such exchange shall be conditional upon and shall only be effective if the Holdings Shares tendered or deposited under such Holdings Offer are taken up); and
 - (ii) no tender offer, share exchange offer, formal issuer bid, formal take-over bid or similar transaction with respect to Exchangeable Units (a "**Units Offer**") will be proposed or recommended by Holdings or the Holdings Board of Directors or otherwise effected with the consent or approval of the Holdings Board of Directors unless the holders of Holdings Shares (other than Holdings and its subsidiaries) are entitled to participate in such Units Offer to the same extent and on an equitably equivalent basis as the holders of Exchangeable Units, without discrimination.

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3.26 Holdings and Subsidiaries Not to Vote Exchangeable Units

Holdings covenants and agrees in favour of the Partnership that it will appoint and cause to be appointed proxyholders with respect to all Exchangeable Units held by it and its subsidiaries for the sole purpose of attending each meeting of holders of Exchangeable Units in order to be counted as part of the quorum for each such meeting. Holdings further covenants and agrees that it will not, and will cause its subsidiaries not to, exercise any voting rights which may be exercisable by holders of Exchangeable Units from time to time pursuant to this Agreement or pursuant to the provisions of the Voting Trust Agreement (or any successor or other corporate statute by which the Partnership may in the future be governed) with respect to any Exchangeable Units held by it or by its subsidiaries in respect of any matter considered at any meeting of holders of Exchangeable Units.

3.27 Ordinary Market Purchases

For greater certainty, nothing contained in this Agreement, including the obligations of Holdings contained in Section 3.25(i), shall limit the ability of Holdings to make a “Rule 10b-18 Purchase” of Holdings Shares pursuant to Rule 10b-18 of the United States *Securities Exchange Act of 1934*, as amended, or normal course purchases pursuant to Section 101.2 of the *Securities Act* (Ontario), as amended.

3.28 Stock Exchange Listing

Holdings covenants and agrees in favour of the Partnership that, subject to Section 2.6 of Schedule A, as long as any outstanding Exchangeable Units are owned by any Person other than Holdings or any of its subsidiaries, Holdings will use its commercially reasonable efforts to maintain a listing for such Exchangeable Units on a National Securities Exchange.

ARTICLE 4 **CAPITAL CONTRIBUTIONS AND ACCOUNTS**

4.1 General Partner Contribution

The General Partner has made an initial contribution of \$ • to the capital of the Partnership.

4.2 Initial Limited Partner Contribution

The Initial Limited Partner has contributed the sum of \$ • to the capital of the Partnership in full satisfaction of its Capital Contribution.

4.3 Limited Partner and General Partner Contributions

- (a) In respect of the Exchangeable Units issued in connection with the Merger, it is acknowledged that the Capital Contribution of each transferor will be \$ • per Exchangeable Unit. In respect of the Common Units issued to the General Partner pursuant to the Merger and the Arrangement, it is acknowledged that the aggregate Capital Contribution in respect of the Common Units will be \$ • , and in respect of the Preferred Units issued to the General Partner upon issuance by Holdings of the Preferred Shares on the Effective Date, it is acknowledged that the aggregate Capital Contribution in respect of the Preferred Units will be \$ • .

4.4 Maintenance of Capital Accounts

- (a) There shall be established for each Partner on the books of the Partnership as of the date such Partner becomes a Partner a capital account (each being a “ **Capital Account** ”). Each Capital Contribution by any Partner, if any, shall be credited to the Capital Account of such Partner on the date such Capital Contribution is made to the Partnership. In addition, each Partner’s Capital Account shall be

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- (a) credited with (i) such Partner's allocable share of any Net Income of the Partnership and any items in the nature of income or gain that are specially allocated to such Partner pursuant to Section 5.2(b), and (ii) the amount of any Partnership liabilities that are assumed by the Partner or secured by any Partnership property distributed to the Partner, (b) debited with (i) the amount of distributions (and deemed distributions) to such Partner of cash or the Carrying Value of other property so distributed, (ii) such Partner's allocable share of Net Loss of the Partnership and any items in the nature of deduction or loss that are specially allocated to such Partner pursuant to Section 5.2(b), and (iii) the amount of any liabilities of the Partner assumed by the Partnership or which are secured by any property contributed by the Partner to the Partnership and (c) otherwise maintained in accordance with the provisions of the Code and the U.S. Treasury Regulations promulgated thereunder. Any other item which is required to be reflected in a Partner's Capital Account under Section 704(b) of the Code and the U.S. Treasury Regulations promulgated thereunder or otherwise under this Agreement shall be so reflected. The General Partner shall make such adjustments to Capital Accounts as it determines in its sole discretion to be appropriate to ensure allocations are made in accordance with a Partner's interest in the Partnership. Interest shall not be payable on Capital Account balances. Notwithstanding anything to the contrary contained in this Agreement, the General Partner shall maintain the Capital Accounts of the Partners in accordance with the principles and requirements set forth in Section 704(b) of the Code and the U.S. Treasury Regulations promulgated thereunder.
- (b) A transferee of Units shall succeed to a pro rata portion of the Capital Account of the transferor based on the number of Units so transferred.
- (c) The Partnership shall revalue the Capital Accounts of the Partners in accordance with U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(f) (a " **Revaluation** ") at the following times: (i) immediately prior to the contribution of more than a de minimis amount of money or other property to the Partnership by a new or existing Partner as consideration for one or more Units; (ii) the distribution by the Partnership to a Partner of more than a de minimis amount of property in respect of one or more Units; (iii) the issuance by the Partnership of more than a de minimis amount of Units as consideration for the provision of services to or for the benefit of the Partnership (as described in U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(f)(5)(iii)); and (iv) the liquidation of the Partnership within the meaning of U.S. Treasury Regulations Section 1.704-1(b)(2)(ii)(g); provided, however, that adjustments pursuant to clauses (i), (ii) and (iii) above shall be made only if the General Partner reasonably determines that such adjustments are necessary or appropriate to reflect the relative economic interests of the Partners.
- (d) Notwithstanding anything expressed or implied to the contrary in this Agreement, in the event the General Partner, with the prior approval of the Conflicts Committee, shall determine, in its sole and absolute discretion, that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to give economic effect to the manner in which distributions are made to the Partners pursuant to the provisions of Sections 5.4 and 13.3, the General Partner may make such modification.

ARTICLE 5

PARTICIPATION IN PROFITS AND LOSSES

5.1 Allocation of Net Income or Losses

Net income or loss of the Partnership for accounting purposes will be allocated to each Partner in the same proportion as income or loss is allocated to the Capital Accounts of the Partners as provided in Section 5.2.

5.2 Allocation for Capital Account Purposes

- (a) After giving effect to the special allocations set forth in Section 5.2(b), Net Income (Net Loss) of the Partnership for each Fiscal Year or other taxable period shall be allocated among the Capital Accounts of the Partners as follows and in the following order of priority:
- (i) First, to the General Partner, with respect to the Preferred Units, an amount of Net Income up to the amount that would be treated as a dividend paid or accrued on the Preferred Shares for U.S. federal income tax purposes for such Fiscal Year or other taxable period (including pursuant to Section 305 of the Code and the Regulations thereunder) if the General Partner had earnings and profits of such taxable year (within the meaning of Section 316(a)(2) of the Code) at least equal to the maximum amount that could be so treated. Notwithstanding the foregoing, if for any taxable year, (x) the General Partner does not have earnings and profits for such year at least equal to the amount described in the preceding sentence and (y) there is nevertheless an amount in excess of the actual earnings and profits of the General Partner for such year that is treated as a dividend paid or accrued on the Preferred Shares based on earnings and profits of the General Partner accumulated in prior years (within the meaning of Section 316(a)(2) of the Code), the amount to be allocated under the preceding sentence for the succeeding year (and each year after that, to the extent necessary), shall be increased by the excess amount described in this sentence; and
 - (ii) Thereafter, in a manner that as closely as possible gives economic effect to the manner in which distributions are made to the Partners pursuant to the provisions of Sections 5.4(a)(ii).
- (b) Special Allocations. Notwithstanding any other provision of this Section 5.2, the following special allocations shall be made for each Fiscal Year or other taxable period:
- (i) Partnership Minimum Gain Chargeback. Notwithstanding any other provision of this Section 5.2, if there is a net decrease in Partnership Minimum Gain during any Partnership taxable period, each Partner shall be allocated items of Partnership income and gain for such period (and, if necessary, subsequent periods) in the manner and amounts provided in U.S. Treasury Regulations Sections 1.704-2(f)(6), 1.704-2(g)(2) and 1.704-2(j)(2)(i), or any successor provision. For purposes of this Section 5.2(b)(i), each Partner's Adjusted Capital Account balance shall be determined, and the allocation of income and gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 5.2(b) with respect to such taxable period (other than an allocation pursuant to Sections 5.2(b)(iii) and (iv)). This Section 5.2(b)(i) is intended to comply with the Partnership Minimum Gain chargeback requirement in U.S. Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.
 - (ii) Chargeback of Partner Nonrecourse Debt Minimum Gain. Notwithstanding the other provisions of this Section 5.2 (other than Section 5.2(b)(i)), except as provided in U.S. Treasury Regulations Section 1.704-2(i)(4), if there is a net decrease in Partner Nonrecourse Debt Minimum Gain during any Partnership taxable period, any Partner with a share of Partner Nonrecourse Debt Minimum Gain at the beginning of such taxable period shall be allocated items of Partnership income and gain for such period (and, if necessary, subsequent periods) in the manner and amounts provided in U.S. Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii), or any successor provisions. For purposes of this Section 5.2(b)(ii), each Partner's Adjusted Capital Account balance shall be determined, and the allocation of income and gain required hereunder shall be effected, prior to the application of any other allocations pursuant to this Section 5.2(b), other than Section 5.2(b)(i) and other than an allocation pursuant to Sections 5.2(b)(v) and (vi), with respect to such taxable period. This Section 5.2(b)(ii) is intended to comply with the chargeback of items of income and gain requirement in U.S. Treasury Regulations Section 1.704-2(i) (4) and shall be interpreted consistently therewith.
 - (iii) Qualified Income Offset. In the event any Partner unexpectedly receives any adjustments, allocations or distributions described in U.S. Treasury Regulations Sections 1.704-1(b)(2)(ii)(d)(4), (5), or (6), items of Partnership income and gain shall be specially allocated to

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such Partner in an amount and manner sufficient to eliminate, to the extent required by the U.S. Treasury Regulations promulgated under Section 704(b) of the Code, the deficit balance, if any, in its Adjusted Capital Account created by such adjustments, allocations or distributions as quickly as possible unless such deficit balance is otherwise eliminated pursuant to Sections 5.2(b)(i) or (ii). This Section 5.2(b)(iii) is intended to qualify and be construed as a “qualified income offset” within the meaning of U.S. Treasury Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

- (iv) Gross Income Allocations. In the event any Partner has a deficit balance in its Capital Account at the end of any Partnership taxable period in excess of the sum of (A) the amount such Partner is required to restore pursuant to the provisions of this Agreement and (B) the amount such Partner is deemed obligated to restore pursuant to U.S. Treasury Regulations Sections 1.704-2(g) and 1.704-2(i)(5), such Partner shall be specially allocated items of Partnership gross income and gain in the amount of such excess as quickly as possible; provided, that an allocation pursuant to this Section 5.2(b)(iv) shall be made only if and to the extent that such Partner would have a deficit balance in its Capital Account as adjusted after all other allocations provided for in this Section 5.2 have been tentatively made as if this Section 5.2(b)(iv) were not in this Agreement.
- (v) Nonrecourse Deductions. Nonrecourse Deductions for any taxable period shall be allocated to the holders of the Common Units and the Exchangeable Units in accordance with their respective Percentage Interests. If the General Partner determines that the Partnership’s Nonrecourse Deductions should be allocated in a different ratio to satisfy the safe harbor requirements of the U.S. Treasury Regulations promulgated under Section 704(b) of the Code, the General Partner is authorized to revise the prescribed ratio to the numerically closest ratio that does satisfy such requirements.
- (vi) Partner Nonrecourse Deductions. Partner Nonrecourse Deductions for any taxable period shall be allocated 100% to the Partner that bears the Economic Risk of Loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable in accordance with U.S. Treasury Regulations Section 1.704-2(i). If more than one Partner bears the Economic Risk of Loss with respect to a Partner Nonrecourse Debt, such Partner Nonrecourse Deductions attributable thereto shall be allocated between or among such Partners in accordance with the ratios in which they share such Economic Risk of Loss.
- (vii) Nonrecourse Liabilities. Nonrecourse Liabilities of the Partnership described in U.S. Treasury Regulations Section 1.752-3(a)(3) shall be allocated among the Partners in a manner chosen by the General Partner and consistent with such Treasury Regulation.
- (viii) Code Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Partnership asset pursuant to Section 734(b) or 743(b) of the Code is required, pursuant to U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(m), to be taken into account in determining Capital Accounts, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such item of gain or loss shall be specially allocated to the Partners in a manner consistent with the manner in which their Capital Accounts are required to be adjusted pursuant to such Section of the U.S. Treasury Regulations.
- (ix) Curative Allocation.
 - (A) The Required Allocations are intended to comply with certain requirements of the U.S. Treasury Regulations. It is the intent of the Partners that, to the extent possible, all Required Allocations shall be offset either with other Required Allocations or with special allocations of other items of Partnership income, gain, loss or deduction pursuant to this Section 5.2(b)(ix). Therefore, notwithstanding any other provision of this Article 5 (other than the Required Allocations), the General Partner shall make such offsetting special allocations of Partnership income, gain, loss or deduction in whatever manner it determines

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appropriate so that, after such offsetting allocations are made, each Partner's Capital Account balance is, to the extent possible, equal to the Capital Account balance such Partner would have had if the Required Allocations were not part of this Agreement and all Partnership items were allocated pursuant to the economic agreement among the Partners.

- (B) The General Partner shall, with respect to each taxable period, (1) apply the provisions of Section 5.2(b)(ix)(A) in whatever order is most likely to minimize the economic distortions that might otherwise result from the Required Allocations, and (2) divide all allocations pursuant to Section 5.2(b)(ix)(A) among the Partners in a manner that is likely to minimize such economic distortions.
- (x) Partnership Recourse Liabilities. Any guarantee of Partnership debt by the General Partner shall not be taken into account for purposes of Section 752 of the Code and the U.S. Treasury Regulations promulgated thereunder.

5.3 Allocation of Net Income and Losses for Tax Purposes

- (a) Except as otherwise provided herein, each item of income, gain, loss and deduction shall be allocated, for U.S. federal income tax purposes, among the Partners in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Section 5.2(a).
- (b) In accordance with Section 704(c) of the Code and the U.S. Treasury Regulations thereunder, income, gain, loss, and deduction with respect to any Property contributed to the capital of the Partnership and with respect to reverse Code Section 704(c) allocations described in U.S. Treasury Regulations 1.704-3(a)(6) shall, solely for tax purposes, be allocated among the Partners so as to take account of any variation between the adjusted basis of such Property to the Partnership for U.S. federal income tax purposes and its initial Carrying Value or its Carrying Value determined pursuant to U.S. Treasury Regulations Section 1.704-1(b)(2)(iv)(f) (computed in accordance with the definition of Carrying Value) using any allocation method under U.S. Treasury Regulations Section 1.704-3 as the General Partner may decide. Any elections or other decisions relating to such allocations shall be made by the General Partner in any manner that reasonably reflects the purpose and intention of this Agreement. Allocations pursuant to this Section 5.3, Section 704(c) of the Code (and the principles thereof), and U.S. Treasury Regulations Section 1.704-1(b)(4)(i) are solely for purposes of federal, state, and local taxes and shall not affect, or in any way be taken into account in computing, any Partner's Capital Account or share of Net Income, Net Loss, other items, or distributions pursuant to any provision of this Agreement.
- (c) The income for Canadian tax purposes of the Partnership for a given Fiscal Year (or other taxable period) of the Partnership will be allocated in the following order and proportions:
 - (i) to the holder of the Preferred Units in an amount equal to the aggregate of: (A) the Preferred Return for all prior Fiscal Years (or other taxable periods) except to the extent income for Canadian tax purposes has been allocated in respect of the Preferred Return for the prior Fiscal Years (or other taxable periods); and (B) the Preferred Return for the given Fiscal Year (or other taxable period) provided that for purposes of this paragraph the determinations in (i) and (ii) of the definition of Preferred Return will be done using Canadian dollars;
 - (ii) to each Partner in an amount calculated by multiplying
 - (A) the aggregate income allocated to the Partners (net of the income allocated to the holder of the Preferred Units in Section 5.3(c)(i)) by
 - (B) a fraction, (1) the numerator of which is the sum of the fair market value of all distributions received by that Partner with respect to that Fiscal Year or other taxable period (other than distributions on account of the Preferred Return) pursuant to Section 5.4, and (2) the denominator of which is the aggregate fair market value of all distributions made to all Partners by the Partnership with respect to that Fiscal Year or other taxable period (other than distributions on account of the Preferred Return) pursuant to Section 5.4.

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If, with respect to a given Fiscal Year or other taxable period, income of the Partnership for Canadian tax purposes exceeds the amount allocated to the holders of the Preferred Units in Section 5.3(c)(i) and no distribution is made by the Partnership to its Partners (other than on account of the Preferred Return), or the Partnership has a loss for Canadian tax purposes, the General Partner shall allocate the income or loss of the Partnership in the manner it considers appropriate in the circumstances. In so allocating the net income or loss, the General Partner shall act reasonably and fairly, taking into account the amount and timing of actual and anticipated distributions to each of the Partners (including the General Partner), with a view to ensuring that each Partner is allocated a portion of the Partnership's net income that substantially corresponds to the income that is distributed to that Partner, subject to the priority allocation of the income of the Partnership to the holders of the Preferred Units.

- (d) For Canadian Tax purposes, net income and loss of the Partnership will be determined in accordance with the Tax Act.
- (e) The General Partner shall determine all matters concerning allocations for tax purposes not expressly provided for herein in its sole discretion. For the proper administration of the Partnership and for the preservation of uniformity of Units (or any portion or class or classes thereof), the General Partner may (i) amend the provisions of this Agreement as appropriate (x) to reflect the proposal or promulgation of U.S. Treasury Regulations under Section 704(b) or Section 704(c) of the Code or (y) otherwise to preserve or achieve uniformity of Units (or any portion or class or classes thereof), and (ii) adopt and employ or modify such conventions and methods as the General Partner determines in its sole discretion to be appropriate for (A) the determination for U.S. federal income tax purposes of items of income, gain, loss, deduction and credit and the allocation of such items among Partners and between transferors and transferees under this Agreement and pursuant to the Code and the U.S. Treasury Regulations promulgated thereunder, (B) the determination of the identities and tax classification of Partners, (C) the valuation of Partnership assets and the determination of tax basis, (D) the allocation of asset values and tax basis, and (E) the adoption and maintenance of accounting methods.
- (f) For purposes of determining the items of Partnership income, gain, loss, deduction, or credit allocable to any Partner for U.S. federal income tax purposes with respect to any period, such items shall be determined on a daily, monthly, quarterly or other basis, as determined by the General Partner in its sole discretion, using any permissible method under Section 706 of the Code and the U.S. Treasury Regulations promulgated thereunder.
- (g) Allocations that would otherwise be made to a Partner under the provisions of this Article 5 shall instead be made to the beneficial owner of Partnership Interests held by a nominee in any case in which the nominee has furnished the identity of such owner to the Partnership in accordance with Section 6031(c) of the Code or any other method determined by the General Partner in its sole discretion.

5.4 Distributions

- (a) Subject to Sections 5.4(c) and 5.4(f), the General Partner shall cause distributions to be made by the Partnership to the Partners as follows:
 - (i) (A) if a dividend or distribution shall have been declared and be payable on the Preferred Shares (other than a Make Whole Dividend on the Preferred Shares satisfied with Holdings Shares in accordance with Section 3.4(b)(iv)), the Partnership shall make a distribution in respect of the Outstanding Preferred Units in an amount equal to the aggregate amount of the dividends or distributions payable in respect of the Preferred Shares and (B) if no Preferred Shares are outstanding in a Fiscal Year, the Partnership shall make a distribution of \$100 in respect of the Preferred Units for the Fiscal Year;
 - (ii) if a dividend or distribution shall have been declared and be payable in respect of a Holdings Share (excluding where a dividend or distribution is effected in accordance with Section 3.5), the Partnership shall:
 - (A) make a distribution in respect of each Exchangeable Unit in an amount equal to the dividend or distribution payable in respect of a Holdings Share; and

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- (B) make a distribution in respect of the Outstanding Common Units in an amount equal to the aggregate amount of the dividends or distributions payable in respect of the Holdings Shares;
- (b) Notwithstanding any other provision of this Agreement, the General Partner is authorized to take any action that may be required to cause the Partnership or any of its Affiliates to comply with any withholding requirements established under the Code (including pursuant to Sections 1441, 1442, 1445, 1446 and 3406), the Tax Act, or any other federal, state, provincial, local or foreign law. To the extent that the Partnership is required to or elects to withhold and pay over to any taxing authority any amount resulting from the allocation or distribution of income to any Partner (including by reason of Section 1446 of the Code) or to the extent that any payments made to the Partnership are subject to withholding as a result of such payments being attributable to any particular Partner, the General Partner may treat the amount withheld as a distribution of cash to such Partner pursuant to Sections 5.4 and 13.3 in the amount of such withholding from or in respect of such Partner. The General Partner may treat taxes paid by the Partnership on behalf of, or amounts previously withheld with respect to, all or less than all of the Partners, as a distribution of cash to such Partners. In any such case, unless such amount was withheld from amounts otherwise distributable to such Partner hereunder, it shall be treated as an advance to such Partner which shall be repayable on demand and if not repaid may be set off against subsequent distributions to such Partner.
- (c) Notwithstanding Section 5.4(a), in the event of the dissolution of the Partnership, all receipts received during or after the Fiscal Year quarter in which the Liquidation Date occurs shall be applied and distributed solely in accordance with, and subject to the terms and conditions of, Section 13.3.
- (d) Each distribution in respect of a Partnership Interest shall be paid by the Partnership, directly or through the Registrar and Transfer Agent or through any other Person or agent, only to the Record Holder of such Partnership Interest as of the Record Date set for such distribution. Such payment shall constitute full payment and satisfaction of the Partnership's liability in respect of such payment, regardless of any claim of any Person who may have an interest in such payment by reason of an assignment or otherwise.
- (e) Notwithstanding any provision to the contrary contained in this Agreement, the Partnership, and the General Partner on behalf of the Partnership, shall not be required to make a distribution to a Partner or a Record Holder if such distribution would violate the Act or other applicable Law.
- (f) Notwithstanding the provisions of Section 5.4(a), the General Partner, in its sole discretion, may authorize that to the extent that the General Partner determines that expenses or other obligations of Holdings are related to its role as the General Partner or the business and affairs of Holdings that are conducted through the Partnership or any of the Partnership's direct or indirect Subsidiaries, cash (and, for the avoidance of doubt, only cash) distributions may be made to Holdings (which distributions shall be made without pro rata distributions to the other Partners) in amounts required for Holdings to pay: (i) any tax liabilities of Holdings, (ii) any operating, administrative and other similar costs incurred by Holdings (including (w) payments in respect of indebtedness and equity securities of Holdings to the extent the proceeds are used or will be used by Holdings to pay expenses or other obligations described in this Section 5.4(f) (in either case only to the extent economically equivalent indebtedness or equity securities of the Partnership were not issued to Holdings), (x) customary indemnification obligations of Holdings owing to directors, officers, employees or other persons under Holdings' articles, charter, by-laws or other constating documents or pursuant to written agreements with any such person, (y) obligations of Holdings in respect of director and officer insurance (including premiums therefor) and (z) payments pursuant to any legal, tax, accounting and other professional fees and expenses); (iii) any judgments, settlements, penalties, fines or other costs and expenses in respect of any claims against, or any litigation or proceedings involving, Holdings; (iv) fees and expenses (including any underwriters discounts and commissions) related to any securities offering, investment or acquisition transaction (whether or not successful) authorized by the board of directors of Holdings; and (v) other fees and expenses in connection with the maintenance of the existence of Holdings (including any costs

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or expenses associated with being a public company listed on a national securities exchange and compliance with applicable Laws or the requirements of a Governmental Authority). For the avoidance of doubt, distributions made under this Section 5.4(f) may not be used to pay or facilitate dividends or distributions on the Holdings Shares and must be used solely for one of the express purposes set forth pursuant to the immediately preceding sentence. All distributions under this Section 5.4(f) shall be treated as “guaranteed payments” within the meaning of Section 707(c) of the Code.

5.5 Repayments

If, as determined by the General Partner, it appears that any Partner has received an amount under this Article 5 which is in excess of that Partner’s entitlement, the Partner will, promptly upon notice from the General Partner, reimburse the Partnership to the extent of the excess, and failing immediate reimbursement, the General Partner may withhold the amount of the excess (with interest at the rate of • % from time to time calculated and compounded monthly) from further distributions otherwise due to the Partner.

ARTICLE 6 **WITHDRAWAL OF CAPITAL CONTRIBUTIONS**

6.1 Withdrawal

No Limited Partner has the right to withdraw any of the Limited Partner’s Capital Contribution or other amount or to receive any cash or other distribution from the Partnership except as provided for in this Agreement and except as permitted by law.

ARTICLE 7 **POWERS, DUTIES AND OBLIGATIONS OF GENERAL PARTNER**

7.1 Duties and Obligations

- (a) The General Partner has:
 - (i) unlimited liability for the debts, liabilities and obligations of the Partnership;
 - (ii) subject to the terms of this Agreement and to any applicable limitations set out in the Act and applicable similar legislation in Canada, the full and exclusive right, power and authority to manage, control, administer and operate the business and affairs and to make decisions regarding the undertaking and business of the Partnership; and
 - (iii) the full and exclusive right, power and authority to do any act, take any proceeding, make any decision and execute and deliver any instrument, deed, agreement or document necessary for or incidental to carrying out the business of the Partnership for and on behalf of and in the name of the Partnership.
- (b) An action taken by the General Partner on behalf of the Partnership is deemed to be the act of the Partnership and binds the Partnership.
- (c) In exercising its authority under this Agreement, the General Partner may, but shall be under no obligation to, take into account the tax consequences to any Partner (including the General Partner) of any action taken (or not taken) by it. The General Partner and the Partnership shall not have any liability to a Limited Partner for monetary damages or otherwise for losses sustained, liabilities incurred or benefits not derived by such Limited Partner in connection with such decisions so long as the General Partner has acted pursuant to its authority under this Agreement.

7.2 Specific Powers and Duties

- (a) Without limiting the generality of Section 7.1 but subject to the terms of this Agreement, the General Partner will have full power and authority for and on behalf of and in the name of the Partnership to do all things and on such terms as it determines, in its sole discretion, to be necessary or appropriate to conduct the business of the Partnership, including without limitation the following:
 - (i) negotiate, execute and perform all agreements, conveyances or other instruments which require execution by or on behalf of the Partnership involving matters or transactions with respect to the Partnership's business (and those agreements may limit the liability of the Partnership to the assets of the Partnership, with the other party to have no recourse to the assets of the General Partner, even if the same results in the terms of the agreement being less favourable to the Partnership);
 - (ii) open and manage bank accounts in the name of the Partnership and spend the capital of the Partnership in the exercise of any right or power exercisable by the General Partner under this Agreement;
 - (iii) mortgage, charge, assign, hypothecate, pledge or otherwise create a security interest in all or any property of the Partnership and its Subsidiaries now owned or later acquired, to secure any present and future borrowings and related expenses of the Partnership and its Subsidiaries and to sell all or any of that property pursuant to a foreclosure or other realization upon the foregoing encumbrances;
 - (iv) manage, control and develop all the activities of the Partnership and take all measures necessary or appropriate for the business of the Partnership or ancillary to the business and may, from time to time, in its sole discretion propose combinations with other partnerships or other entities, which proposal(s) will be subject to requisite approval by the Partners;
 - (v) incur all costs and expenses in connection with the Partnership;
 - (vi) employ, retain, engage or dismiss from employment, personnel, agents, representatives or professionals or other investment participants with the powers and duties upon the terms and for the compensation as in the discretion of the General Partner may be necessary or advisable in the carrying on of the business of the Partnership;
 - (vii) engage agents, including any Affiliate or Associate of the General Partner, to assist it to carry out its management obligations to the Partnership or subcontract administrative functions to the General Partner or any Affiliate or Associate of the General Partner, including, without limitation, the Registrar and Transfer Agent;
 - (viii) invest cash assets of the Partnership that are not immediately required for the business of the Partnership in short term investments;
 - (ix) act as attorney in fact or agent of the Partnership in disbursing and collecting moneys for the Partnership, paying debts and fulfilling the obligations of the Partnership and handling and settling any claims of the Partnership;
 - (x) commence or defend any action or proceeding in connection with the Partnership and otherwise engage in the conduct of litigation, arbitration or mediation and incur legal expense and the settlement of claims and litigation;
 - (xi) the making of any expenditures, the lending or borrowing of money, the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness, including indebtedness that is convertible or exchangeable into Partnership Interests or options, rights, warrants or appreciation rights relating to Partnership Interests, and the incurring of any other obligations;
 - (xii) the making of tax, regulatory and other filings, or rendering of periodic or other reports to any Governmental Authority or other agencies having jurisdiction over the business or assets of the Partnership;

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- (xiii) the acquisition, disposition, mortgage, pledge, encumbrance, hypothecation or exchange of any or all of the assets of the Partnership or the merger or other combination of the Partnership with or into another Person;
 - (xiv) the use of the assets of the Partnership (including cash on hand) for any purpose consistent with the terms of this Agreement, including the lending of funds to other Persons; the repayment or guarantee of obligations of any Group Member and the making of capital contributions to any Group Member;
 - (xv) the formation of, or acquisition of an interest in, and the contribution of property and the making of loans to, any further limited or general partnerships, joint ventures, limited liability companies, corporations or other relationships (including the acquisition of interests in, and the contributions of property to, the Partnership's Subsidiaries from time to time);
 - (xvi) retain legal counsel, experts, advisors or consultants as the General Partner consider appropriate and rely upon the advice of those Persons;
 - (xvii) appoint the Registrar and Transfer Agent;
 - (xviii) do anything that is in furtherance of or incidental to the business of the Partnership or that is provided for in this Agreement;
 - (xix) obtain any insurance coverage for the benefit of the Partnership, the Partners and Indemnitees;
 - (xx) the indemnification of any Person against liabilities and contingencies to the extent permitted by Law;
 - (xxi) the entering into of listing agreements with any securities exchange and the delisting of some or all of the LP Units from, or requesting that trading be suspended on, any such exchange;
 - (xxii) the purchase, sale or other acquisition or disposition of Partnership Interests or options, rights, warrants or appreciation rights relating to Partnership Interests;
 - (xxiii) the undertaking of any action in connection with the Partnership's participation in the management of the Partnership Group through its directors, officers or employees or the Partnership's direct or indirect ownership of the Group Members;
 - (xxiv) cause to be registered for resale under securities Laws, any securities of, or any securities convertible or exchangeable into securities of, the Partnership held by any Person, including the General Partner or any Affiliate of the General Partner;
 - (xxv) carry out the objects, purposes and business of the Partnership; and
 - (xxvi) execute, acknowledge and deliver the documents necessary to effectuate any or all of the foregoing or otherwise in connection with the business of the Partnership.
- (b) No Persons dealing with the Partnership will be required to enquire into the authority of the General Partner to do any act, take any proceeding, make any decision or execute and deliver any instrument, deed, agreement or document for or on behalf of or in the name of the Partnership. The General Partner will insert, and cause agents of the Partnership to insert, the following clause in any contracts or agreements to which the Partnership is a party or by which it is bound:

“ [] is a limited partnership formed under the *Limited Partnerships Act* (Ontario), a limited partner of which is only liable for any of its liabilities or any of its losses to the extent of the amount that the limited partner has contributed or agreed to contribute to its capital and the limited partner's share of any undistributed income.”

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7.3 Loans from the General Partner; Loans or Contributions from the Partnership; Contracts with Affiliates; Certain Restrictions on the General Partner.

- (a) The General Partner or any of its Affiliates may, but shall be under no obligation to, lend to any Group Member, and any Group Member may borrow from the General Partner or any of its Affiliates, funds needed or desired by the Group Member for such periods of time and in such amounts as the General Partner may (with the prior approval of the Conflicts Committee) determine, in its discretion.
- (b) Any Group Member (including the Partnership) may lend or contribute to any other Group Member, and any Group Member may borrow from any other Group Member (including the Partnership), funds on terms and conditions determined by the General Partner. The foregoing authority shall be exercised by the General Partner in its sole discretion and shall not create any right or benefit in favour of any Group Member or any other Person.
- (c) The General Partner may itself, or may enter into an agreement with any of its Affiliates (with respect to any such Affiliate who is not the General Partner or any Subsidiary of the General Partner, with prior approval of the Conflicts Committee) to, render services to a Group Member or to the Partnership in the discharge of its duties as general partner of the Partnership. The provisions of Section 5.4(f) shall apply to the rendering of services described in this Section 7.3(c).
- (d) The Partnership may transfer assets to joint ventures, other partnerships, corporations, limited liability companies or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions as are consistent with this Agreement and applicable Law.
- (e) The General Partner or any of its Affiliates (notwithstanding the proviso in this sentence, with respect to any such Affiliate who is not the General Partner or any Subsidiary of the General Partner, with prior approval of the Conflicts Committee) may sell, transfer or convey any property to, or purchase any property from, the Partnership, directly or indirectly, pursuant to transactions that are fair and reasonable to the Partnership; provided however that the requirements of this Section 7.3(e) conclusively shall be deemed to be satisfied and not a breach of any duty hereunder or existing at law, in equity or otherwise as to (i) any transaction approved by Special Approval, (ii) any transaction, the terms of which are no less favorable to the Partnership than those generally being provided to or available from unrelated third parties, or (iii) any transaction that is fair and reasonable to the Partnership, taking into account the totality of the relationships between the parties involved (including other transactions that may be or have been particularly favorable or advantageous to the Partnership). With respect to any contribution of assets to the Partnership in exchange for Partnership Interests or options, rights, warrants or appreciation rights relating to Partnership Interests, the Conflicts Committee, in determining whether the appropriate Partnership Interest or options, rights, warrants or appreciation rights relating to Partnership Interests are being issued, may take into account, among other things, the fair market value of the assets, the liquidated and contingent liabilities assumed, the tax basis in the assets, the extent to which tax-only allocations to the transferor will protect the existing partners of the Partnership against a low tax basis, and such other factors as the Conflicts Committee deems relevant under the circumstances.

7.4 Title to Property

The General Partner may hold legal title to any of the assets or property of the Partnership in its name as bare trustee for the benefit of the Partnership.

7.5 Exercise of Duties

The General Partner covenants that it will exercise its powers and discharge its duties under this Agreement honestly, in good faith, and in the best interests of the Partnership, and that it will exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances. Furthermore,

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subject to applicable Law or the listing rules of any applicable securities exchange, the General Partner covenants that it will maintain the confidentiality of financial and other information and data which it may obtain through or on behalf of the Partnership, the disclosure of which may adversely affect the interests of the Partnership or a Limited Partner.

7.6 Limitation of Liability

The General Partner is not personally liable for the return of any Capital Contribution made by a Limited Partner to the Partnership. Moreover, notwithstanding anything else contained in this Agreement, but subject to Section 2.9, neither the General Partner nor its officers, directors, shareholders, employees or agents are liable, responsible for or accountable in damages or otherwise to the Partnership or a Limited Partner for an action taken or failure to act on behalf of the Partnership within the scope of the authority conferred on the General Partner by this Agreement or by Law unless the act or omission was performed or omitted fraudulently or in bad faith or constituted wilful or reckless disregard of the General Partner's obligations under this Agreement.

7.7 Indemnity of General Partner

(a) To the fullest extent permitted by Law but subject to the limitations expressly provided in this Agreement, the General Partner, the Tax Matters Partner, a Departing Partner, any Person who is or was an Affiliate of the General Partner or any Departing Partner, any Person who is or was an officer, director, employee, partner, agent or trustee of the General Partner or any Departing Partner or any Affiliate, or any Person who is or was serving at the request of the General Partner or any Departing Partner or any Affiliate as a director, officer, employee, partner, agent or trustee of another Person (collectively, an “**Indemnitee**”) will be indemnified and held harmless by the Partnership from and against any and all losses, claims, damages, liabilities joint or several expenses (including, without limitation, legal fees and expenses on a solicitor/client basis), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, in which any Indemnitee may be involved, or is threatened to be involved, as a party or otherwise, by reason of its status as:

- (i) the General Partner, the Tax Matters Partner, a Departing Partner or any of their Affiliates; or
- (ii) an officer, director, employee, partner, agent or trustee of the General Partner, any Departing Partner or any of their Affiliates as a director, office, employee, agent or trustee of another Person;

provided, that

- (iii) in each case the Indemnitee acted honestly and in good faith with a view to the best interest of the Partnership;
- (iv) in the case of a criminal or administrative action or proceeding that is enforced by monetary penalty, the Indemnitee had reasonable grounds for believing its conduct was lawful; and
- (v) no indemnification pursuant to this Section 7.7 will be available to an Indemnitee where the Indemnitee has been adjudged by a final decision of a court of competent jurisdiction in Ontario that is no longer appealable to have been in breach of, or negligent in the performance of, its obligations under this Agreement. The termination of any action, suit or proceeding by judgment, order, settlement or conviction will not create a presumption that the Indemnitee acted in a manner contrary to that specified above.

Any indemnification pursuant to this Section 7.7(a) will be made only out of the assets of the Partnership.

- (b) To the fullest extent permitted by law, expenses (including, without limitation, legal fees and expenses) incurred by an Indemnitee in defending any claim, demand, action, suit or proceeding will, from time to time, be advanced by the Partnership prior to the final disposition of any claim, demand, action, suit

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or proceeding upon receipt by the Partnership of an undertaking by or on behalf of the Indemnatee to repay that amount if it is determined that the Indemnatee is not entitled to be indemnified as authorized in this Section 7.7.

- (c) The indemnification provided by this Section 7.7 will be in addition to any other rights to which an Indemnatee may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of Law or otherwise, as to actions in the Indemnatee's capacity as:
 - (i) the General Partner, a Departing Partner or any of their Affiliates;
 - (ii) an officer, director, employee, partner, agent or trustee of the General Partner, any Departing Partner or any of their Affiliates; or
 - (iii) a Person serving at the request of the General Partner, any Departing Partner or any of their Affiliates as a director, officer, employee, agent or trustee of another Person,

and will continue as to an Indemnatee who has ceased to serve in that capacity and as to action in any other capacity.

- (d) The Partnership may purchase and maintain (or reimburse the General Partner or its Affiliates for the cost of) insurance, on behalf of those Persons (other than the General Partner itself) as the General Partner determines, against any liability that may be asserted against or expense that may be incurred by that Person in connection with the Partnership's activities, whether or not the Partnership would have the power to indemnify those Persons against those liabilities under the provisions of this Agreement.

7.8 Other Matters Concerning the General Partner

- (a) The General Partner may rely and will be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.
- (b) The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers and other consultants and advisors selected by it, and any act taken or omitted in reliance upon the opinion (including, without limitation, an opinion of counsel) of any of those Persons as to matters that the General Partner reasonably believes to be within that Person's professional or expert competence will be conclusively presumed to have been done or omitted in good faith and in accordance with that opinion.
- (c) The General Partner has the right, in respect of any of its power, authority or obligations under this Agreement, to act through any of its duly authorized officers.
- (d) Any standard of care or duty imposed under the Act or any applicable Law will be modified, waived or limited as required to permit the General Partner to act under this Agreement or any other agreement contemplated by this Agreement and to make any decision pursuant to the power or authority prescribed in this Agreement, so long as that action is reasonably believed by the General Partner to be in, or not opposed to, the best interests of the Partnership.
- (e) Notwithstanding anything to the contrary in this Agreement, (i) it shall be deemed not to be a breach of the General Partner's or any other Indemnatee's duties or any other obligation of any type whatsoever of the General Partner or any other Indemnatee for the Indemnatee (other than the General Partner) to engage in such business interests and activities in preference to or to the exclusion of any Group Member, (iii) the General Partner and the Indemnitees shall have no obligation hereunder or as a result of any duty otherwise existing at Law or otherwise to present business opportunities to any Group Member and (iv) the doctrine of "corporate opportunity" or other analogous doctrine shall not apply to any such Indemnatee.

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7.9 Indemnity of Partnership

The General Partner hereby indemnifies and holds harmless the Partnership and each Limited Partner from and against all costs, expenses, damages or liabilities suffered or incurred by the Partnership or any Limited Partner by reason of an act of wilful misconduct or gross negligence by the General Partner or of any act or omission not believed by the General Partner in good faith to be within the scope of the authority conferred on the General Partner by this Agreement.

7.10 Restrictions upon the General Partner

The General Partner will not:

- (a) dissolve the affairs of the Partnership except in accordance with the provisions of Article 13; or
- (b) do any act prohibited by the Act.

7.11 Employment of an Affiliate or Associate

The General Partner may itself, or may enter into an agreement with any of its Affiliates (notwithstanding the proviso in this sentence, with respect to any such Affiliate who is not the General Partner or any Subsidiary of the General Partner, with prior approval of the Conflicts Committee) to, render services to a Group Member or to the General Partner in the discharge of its duties as general partner of the Partnership. Any services rendered to a Group Member by the General Partner or any of its Affiliates shall be on terms that are fair and reasonable to the Partnership; provided however that the requirements of this Section 7.11 conclusively shall be deemed satisfied and not a breach of any duty hereunder or existing at Law or otherwise as to any transaction (i) approved by Special Approval, (ii) the terms of which are no less favorable to the Partnership than those generally being provided to or available from unrelated third parties or (iii) that is fair and reasonable to the Partnership, taking into account the totality of the relationships between the parties involved (including other transactions that may be or have been particularly favorable or advantageous to the Partnership). The provisions of Section 7.11 shall apply to the rendering of services described in this Section 7.11.

7.12 Removal of the General Partner

- (a) The General Partner is deemed to have been elected as general partner of the Partnership as of the filing of the Declaration and such election shall be deemed to have been ratified upon the effectiveness of the Arrangement. Except as provided for in this Section 7.12, the General Partner may not be removed as general partner of the Partnership.
- (b) Upon the passing of any resolution of the directors or shareholders of the General Partner requiring or relating to the bankruptcy, dissolution, liquidation or winding-up or the making of any assignment for the benefit of creditors of the General Partner, or upon the appointment of a receiver of the assets and undertaking of the General Partner, or upon the General Partner failing to maintain its status under Section 2.5(a), the General Partner will cease to be qualified to act as the general partner under this Agreement and will be deemed to have been removed as a general partner of the Partnership and a new general partner will, in these instances, be appointed by the Partners by an Ordinary Resolution of the holders of the Common Units (any such action by the holders of the Common Units to be taken with the prior approval of the Conflicts Committee) within 180 days of receipt of written notice of that event (which written notice will be provided by the General Partner promptly upon the occurrence of that event) provided that the General Partner will not cease to be the General Partner until the earlier of the appointment of a new general partner and the expiry of the 180 day period.
- (c) The General Partner may be removed by an Ordinary Resolution of the holders of the Common Units (any such action by the holders of the Common Units to be taken with the prior approval of the Conflicts Committee). The General Partner may not under any circumstance be removed by the holders

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of the Exchangeable Units. Any removal of the General Partner under this Section 7.12(c) must also provide for the election and succession of a new general partner pursuant to an Ordinary Resolution of the holders of the Common Units. Any removal under this Section 7.12(c) will be effective immediately before the election of the successor general partner to the Partnership.

7.13 Voluntary Withdrawal of the General Partner

Without the prior approval of the Conflicts Committee, the Partnership and the holders of the Exchangeable Units by Ordinary Resolution, Holdings covenants and agrees in favour of the Partnership that, as long as any outstanding Exchangeable Units are owned by any Person other than Holdings or any of its subsidiaries, Holdings will not voluntarily cease to be the sole general partner of the Partnership.

7.14 Condition Precedent

As a condition precedent to the resignation or removal of the General Partner, the Partnership will pay all amounts payable by the Partnership to the General Partner pursuant to this Agreement accrued to the date of resignation or removal subject to any claims or liabilities of the General Partner to the Partnership.

7.15 Transfer to New General Partner

On the admission of a new general partner to the Partnership on the resignation or removal of the General Partner, the resigning or retiring General Partner will do all things and take all steps to transfer the administration, management, control and operation of the business of the Partnership and the books, records and accounts of the Partnership to the new general partner and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect that transfer in a timely fashion.

7.16 Transfer of Title to New General Partner

On the resignation, removal or withdrawal of the General Partner and the admission of a new general partner, the resigning or retiring General Partner will, at the cost of the Partnership, transfer title to the Partnership's property to the new general partner and will execute and deliver all deeds, certificates, declarations and other documents necessary or desirable to effect that transfer in a timely fashion.

7.17 Release By Partnership

On the resignation or removal of the General Partner, the Partnership will release and hold harmless the General Partner resigning or being removed, from any costs, expenses, damages or liabilities suffered or incurred by the General Partner as a result of or arising out of events which occur in relation to the Partnership after that resignation or removal.

7.18 New General Partner

A new general partner will become a party to this Agreement by signing a counterpart of this Agreement and will agree to be bound by all of the provisions of this Agreement and to assume the obligations, duties and liabilities of the General Partner under this Agreement as from the date the new general partner becomes a party to this Agreement.

7.19 Transfer of General Partner Interest

Subject to Section 7.18, the General Partner may, without the approval of the Limited Partners (but with the prior approval of the Conflicts Committee) transfer all, but not less than all, of the General Partner's Partnership Interests:

- (a) to a Subsidiary of the General Partner;

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- (b) in connection with the General Partner's merger or amalgamation with or into another entity; or
- (c) to the purchaser of all or substantially all of the General Partner's assets,

provided that, in all cases, the transferee assumes the rights and duties of the General Partner and agrees to be bound by the provisions of this Agreement.

7.20 Resolution of Conflict of Interests

- (a) Unless otherwise expressly provided in this Agreement, whenever a potential conflict of interest exists or arises between the General Partner or any of its Affiliates, on the one hand, and the Partnership, any Group Member or any Partner (other than the General Partner), on the other, any resolution or course of action by the General Partner or its Affiliates in respect of such conflict of interest shall be permitted and deemed approved by all Partners, and shall not constitute a breach of this Agreement, or any agreement contemplated herein or therein, or of any duty hereunder or existing at Law or otherwise, if the resolution or course of action in respect of such conflict of interest is (i) approved by Special Approval, (ii) on terms no less favorable to the Partnership than those generally being provided to or available from unrelated third parties or (iii) fair and reasonable to the Partnership, taking into account the totality of the relationships between the parties involved (including other transactions that may be or have been particularly favorable or advantageous to the Partnership). The General Partner shall be authorized but not required in connection with its resolution of such conflict of interest to seek Special Approval of such resolution, and the General Partner may (if the conflict of interest involves an Affiliate of the General Partner who is not the General Partner or any Subsidiary of the General Partner, with the approval of the Conflicts Committee) also adopt a resolution or course of action that has not received Special Approval. Failure to seek Special Approval shall not be deemed to indicate that a conflict of interest exists or that Special Approval could not have been obtained. If Special Approval is not sought and the Board of Directors of the General Partner (and, if the conflict of interest involves an Affiliate of the General Partner who is not the General Partner or any Subsidiary of the General Partner, the Conflicts Committee) determines that the resolution or course of action taken with respect to a conflict of interest satisfies either of the standards set forth in clauses (ii) or (iii) above, then it shall be presumed that, in making its decision, the Board of Directors (and, if applicable, the Conflicts Committee) acted in good faith, and in any proceeding brought by or on behalf of any Limited Partner, the Partnership or any other Person bound by this Agreement challenging such approval, the Person bringing or prosecuting such proceeding shall have the burden of overcoming such presumption. Notwithstanding anything to the contrary in this Agreement or any duty otherwise existing at Law, and without limitation of Section 7.3, the existence of the conflicts of interest described in or contemplated by the Information Statement are hereby approved, and all such conflicts of interest are waived, by all Partners and shall not constitute a breach of this Agreement.
- (b) Notwithstanding any other provision of this Agreement or otherwise applicable provision of Law, but subject to Conflicts Committee approval where so provided, whenever in this Agreement or any other agreement contemplated hereby or otherwise the General Partner, in its capacity as the general partner of the Partnership, is permitted to or required to make a decision in its "sole discretion" or "discretion" or that it deems "necessary or appropriate" or "necessary or advisable" or under a grant of similar authority or latitude, then the General Partner, or such Affiliates causing it to do so, shall, to the fullest extent permitted by law, make such decision in its sole discretion (regardless of whether there is a reference to "sole discretion" or "discretion"), and shall be entitled to consider only such interests and factors as it desires, including its own interests, and shall have no duty or obligation (fiduciary or otherwise) to give any consideration to any interest of or factors affecting the Partnership or the Partners, and shall not be subject to any other or different standards imposed by this Agreement, any other agreement contemplated hereby, under the Act or under any other Law. Whenever in this Agreement or any other agreement contemplated hereby or otherwise the General Partner is permitted to or required to make a decision in its "good faith" then for purposes of this Agreement, the General

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Partner, or any of its Affiliates that cause it to make any such decision, shall be conclusively presumed to be acting in good faith if such Person or Persons subjectively believe(s) that the decision made or not made is in the best interests of the Partnership.

- (c) Whenever the General Partner makes a determination or takes or declines to take any other action, or any of its Affiliates causes it to do so, in its individual capacity as opposed to in its capacity as a general partner of the Partnership, whether under this Agreement or any other agreement contemplated hereby or otherwise, then the General Partner, or such Affiliates causing it to do so, are entitled, to the fullest extent permitted by Law, to make such determination or to take or decline to take such other action free of any duty (including any fiduciary duty) or obligation whatsoever to the Partnership, any Limited Partner, any Record Holder or any other Person bound by this Agreement, and the General Partner, or such Affiliates causing it to do so, shall not, to the fullest extent permitted by law, be required to act pursuant to any other standard imposed by this Agreement, any other agreement contemplated hereby or under the Act or any other Law.
- (d) Notwithstanding anything to the contrary in this Agreement, the General Partner and its Affiliates shall have no duty or obligation, express or implied, to (i) sell or otherwise dispose of any asset of the Partnership Group other than in the ordinary course of business or (ii) permit any Group Member to use any facilities or assets of the General Partner and its Affiliates, except as may be provided in contracts entered into from time to time specifically dealing with such use. Any determination by the General Partner or any of its Affiliates to enter into such contracts shall be in its sole discretion.
- (e) Except as expressly set forth in this Agreement, to the fullest extent permitted by law, neither the General Partner nor any other Indemnitee shall have any duties or liabilities, including fiduciary duties, to the Partnership, any Limited Partner or any other Person bound by this Agreement, and the provisions of this Agreement, to the extent that they restrict or otherwise modify or eliminate the duties and liabilities, including fiduciary duties, of the General Partner or any other Indemnitee otherwise existing at Law, are agreed by the Partners to replace such other duties and liabilities of the General Partner or such other Indemnitee.
- (f) The Limited Partners hereby authorize the General Partner, on behalf of the Partnership as a partner or member of a Group Member, to approve of actions by the general partner or managing member of such Group Member similar to those actions permitted to be taken by the General Partner pursuant to this Section 7.20.
- (g) The Limited Partners expressly acknowledge that the General Partner is under no obligation to consider the separate interests of the Limited Partners (including, without limitation, the tax consequences to Limited Partners) in deciding whether to cause the Partnership to take (or decline to take) any actions, and that the General Partner shall not be liable for monetary damages for losses sustained, liabilities incurred or benefits not derived by Limited Partners in connection with such decisions.

ARTICLE 8

FINANCIAL INFORMATION

8.1 Books and Records

The General Partner will keep or cause to be kept at the principal office of the Partnership appropriate books and records with respect to the Partnership's business including the Record. Any books and records maintained by or on behalf of the Partnership in the regular course of its business, including, without limitation, books of account and records of Partnership proceedings, may be kept on, or be in the form of, computer disks, hard disks, magnetic tape, or any other information storage device, provided, that the books and records so maintained are convertible into clearly legible written form within a reasonable period of time.

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8.2 Reports

The General Partner will forward to the Limited Partners all reports and financial statements which may be required under applicable securities legislation or by the rules of any stock exchange on which any of the Units are listed for trading, or as the General Partner determines to be necessary or appropriate and, after the end of each Fiscal Year, an annual report containing audited financial statements of the Partnership together with the auditors' report on those financial statements.

8.3 Right to Inspect Partnership Books and Records

- (a) In addition to other rights provided by this Agreement or by applicable Law, and except as limited by Section 8.3(b), each Limited Partner has the right, for a purpose reasonably related to that Limited Partner's own interest as a limited partner in the Partnership, upon reasonable demand and at that Limited Partner's own expense, to receive:
 - (i) a current list of the name and last known address of each Limited Partner;
 - (ii) copies of this Agreement, the Declaration, the Record and amendments to those documents;
 - (iii) copies of all documents filed by the Partnership with a securities regulatory authority in Canada or a stock exchange upon which the Units are listed for trading;
 - (iv) copies of minutes of meetings of the Partners; and
 - (v) any other information regarding the affairs of the Partnership as is just and reasonable.
- (b) Notwithstanding Section 8.3(a), the General Partner may keep confidential from the Limited Partners for any period of time as the General Partner deems reasonable, any information of the Partnership (other than information referred to in Section 8.3(a)(ii)) which, in the reasonable opinion of the General Partner, should be kept confidential in the interests of the Partnership or that the Partnership is required by Law or by agreements with third parties to keep confidential.

8.4 Accounting Policies

The General Partner is authorized to establish from time to time accounting policies with respect to the financial statements of the Partnership and to change from time to time any policy that has been so established so long as those policies are consistent with the provisions of this Agreement and with generally accepted accounting principles in the United States.

8.5 Appointment of Auditor

The General Partner will, on behalf of the Partnership, select the Auditor on behalf of the Partnership to review and report to the Partners upon the financial statements of the Partnership for, and as at the end of each Fiscal Year, and to advise upon and make determinations with regard to financial questions relating to the Partnership or required by this Agreement to be determined by the Auditor.

ARTICLE 9 TAX MATTERS

9.1 Tax Returns and Information

The General Partner shall use commercially reasonable efforts to timely file all tax returns of the Partnership that are required to be filed under applicable law (including any U.S. or Canadian federal, provincial, state, or local tax returns). The General Partner shall use commercially reasonable efforts to furnish to all Partners necessary tax information as promptly as possible after the end of the Fiscal Year of the Partnership; provided, however, that delivery of such tax information may be subject to delay as a result of the late receipt of any necessary tax information from an entity in which the Partnership or any of its Subsidiaries holds an interest.

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Each Partner agrees to file all U.S. or Canadian federal, provincial, state and local tax returns required to be filed by it in a manner consistent with the information provided to it by the Partnership.

9.2 Tax Elections

The General Partner shall determine whether to make or refrain from making the election provided for in Section 754 of the Code (a “**754 Election**”), and any and all other elections permitted by the Code, the Tax Act, or under the tax laws of any other relevant jurisdiction. Notwithstanding any other provision herein contained, for the purposes of computing the adjustments under Section 743(b) of the Code (if a 754 Election is made), the General Partner shall be authorized (but not required) to adopt a convention whereby the price paid by the transferee of a Unit will be deemed to be the lowest quoted closing price of the Units on any National Securities Exchange on which such Units are traded (if any) during the calendar month in which such transfer is deemed to occur without regard to the actual price paid by such transferee.

9.3 Tax Controversies

Subject to the provisions hereof, the General Partner is designated as the Tax Matters Partner and is authorized to represent the Partnership (at the Partnership’s expense) in connection with all examinations of the Partnership’s affairs by tax authorities, including resulting administrative and judicial proceedings, and to expend Partnership funds for professional services and costs associated therewith. Each Partner agrees to cooperate with the General Partners and to do or refrain from doing any or all things reasonably required by the General Partner to conduct such proceedings.

9.4 Treatment as a Partnership; Election to be Treated as a Corporation

- (a) Notwithstanding anything to the contrary contained herein, the Partnership will undertake all necessary steps to preserve its status as a partnership for U.S. federal tax purposes and will not undertake any activity or make any investment or fail to take any action that will (i) cause the Partnership to earn or to be allocated income other than qualifying income as defined in Section 7704(d) of the Code, except to the extent permitted under Section 7704(c)(2) of the Code or (ii) jeopardize its status as a partnership for U.S. federal income tax purposes, provided, however if the General Partner determines in its sole discretion, for any reason (including the proposal, formally or informally, of legislation that could adversely affect the Partnership or the Partners) that it is no longer in the interests of the Partnership to continue as a partnership for U.S. federal income tax purposes, the General Partner may elect to treat the Partnership as an association or as a publicly traded partnership taxable as a corporation for U.S. federal (and applicable state) income tax purposes or may effect such change by merger or conversion or otherwise under applicable law.
- (b) In the event that the General Partner determines the Partnership should seek relief pursuant to Section 7704(e) of the Code to preserve the status of the Partnership as a partnership for U.S. federal (and applicable state and local) income tax purposes, the Partnership and each Partner shall agree to adjustments required by the tax authorities, and the Partnership shall pay such amounts as required by the tax authorities, to preserve the status of the Partnership as a partnership.

ARTICLE 10 MEETINGS OF THE LIMITED PARTNERS

10.1 Meetings

- (a) The General Partner may call a general meeting of Partners at any time and place as it deems appropriate in its absolute discretion for the purpose of considering any matter set out in the notice of meeting.

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- (b) In addition, where Partners holding not less than 20% of the outstanding Common Units in number (the “**Requisitioning Partners**”) give notice signed by each of them to the General Partner, requesting a meeting of the Partners for the purposes of considering an Ordinary Resolution of the holders of Common Units to remove the General Partner and to elect a new general partner in accordance with Section 7.12(c), the General Partner will, within 60 days of receipt of that notice, convene a meeting, and if it fails to do so, any Requisitioning Partner may convene a meeting for such purpose by giving notice in accordance with this Agreement. Every meeting of Partners, however convened, will be conducted in accordance with this Agreement.

10.2 Place of Meeting

Every meeting of Partners will be in the Municipality of Metropolitan Toronto, Ontario or at any other place within or outside of Canada as the General Partner (or Requisitioning Partners, if the General Partner fails to call the meeting in accordance with Section 10.1) may designate.

10.3 Notice of Meeting

Notice of any meeting of Partners will be given to each Limited Partner not less than 21 days (but not more than 60 days) prior to the meeting, and will state:

- (a) the time, date and place of the meeting; and
- (b) in general terms, the nature of the business to be transacted at the meeting in sufficient detail to permit a Partner to make a reasoned decision on that business.

Notice of an adjourned meeting of Partners need not be given if the adjourned meeting is held within 14 days of the original meeting. Otherwise, but subject to Section 10.13, notice of adjourned meetings will be given not less than 10 days in advance of the adjourned meeting and otherwise in accordance with this section, except that the notice need not specify the nature of the business to be transacted if unchanged from the original meeting.

10.4 Record Dates

- (a) For the purpose of determining the Limited Partners who are entitled to vote or act at any meeting of Partners or any adjournment of a meeting, or for the purpose of any other action, the General Partner may from time to time cause the transfer books to be closed for a period, not exceeding 30 days, as the General Partner may determine or, without causing the transfer books to be closed, the General Partner may fix a date not more than 60 days prior to the date of any meeting of Partners or other action as a record date for the determination of Limited Partners entitled to vote at that meeting or any adjournment of the meeting or to be treated as Limited Partners of record for purposes of any other action, and any Limited Partner who was a Limited Partner at the time so fixed will be entitled to vote at the meeting or any adjournment of the meeting even though that Limited Partner has since that date disposed of the Limited Partner's Units, and no Limited Partner becoming a Limited Partner after that fixed date will be a Limited Partner of record for purposes of that action. A Person will be a Limited Partner of record at the relevant time if the Person's name appears in the Record, as amended and supplemented, at that time.
- (b) The record date for the determination of the holders of Exchangeable Units entitled to receive payment of, and the payment date for, any distribution declared on the Exchangeable Units under Section 5.4(a) shall be the same dates as the record date and payment date, respectively, for the dividend declared on the Holdings Shares.

10.5 Information Circular

If proxies are solicited from Limited Partners in connection with a meeting of Partners, the Person or Persons soliciting those proxies will prepare an information circular which will contain, to the extent that it is

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relevant and applicable, the information prescribed for information circulars by the *Securities Act* (Ontario) and applicable rules and regulations thereunder.

10.6 Proxies

Any Limited Partner entitled to vote at a meeting of Partners may vote by proxy if a form of proxy has been received by the General Partner or the chairperson of the meeting for verification prior to the time fixed by the General Partner, which time will not exceed 48 hours, excluding Saturdays, Sundays and holidays, preceding the meeting, or any adjournment of the meeting.

10.7 Validity of Proxies

A proxy purporting to be executed by or on behalf of a Limited Partner will be considered to be valid unless challenged at the time of or prior to its exercise. The Person challenging the proxy will have the burden of proving to the satisfaction of the chairperson of the meeting that the proxy is invalid and any decision of the chairperson concerning the validity of a proxy will be final. Proxies will be valid only at the meeting with respect to which they were solicited, or any adjournment of the meeting, but in any event will cease to be valid one year from their date. A proxy given on behalf of joint holders must be executed by all of them and may be revoked by any of them, and if more than one of several joint holders is present at a meeting and they do not agree which of them is to exercise any vote to which they are jointly entitled, they will, for the purposes of voting, be deemed not to be present. A proxy holder need not be a holder of a Unit.

10.8 Form of Proxy

Every proxy will be substantially in the form as may be approved by the General Partner or as may be satisfactory to the chairperson of the meeting at which it is sought to be exercised.

10.9 Revocation of Proxy

A vote cast in accordance with the terms of an instrument of proxy will be valid notwithstanding the previous death, incapacity, insolvency or bankruptcy of the Limited Partner giving the proxy or the revocation of the proxy unless written notice of that death, incapacity, insolvency, bankruptcy or revocation has been received by the chairperson of the meeting prior to the commencement of the meeting.

10.10 Corporations

A Limited Partner which is a corporation may appoint an officer, director or other authorized person as its representative to attend, vote and act on its behalf at a meeting of Partners.

10.11 Attendance of Others

Any officer or director of the General Partner, legal counsel for the General Partner and the Partnership and representatives of the Auditor will be entitled to attend any meeting of Partners. The General Partner has the right to authorize the presence of any Person at a meeting regardless of whether the Person is a Partner. With the approval of the General Partner that Person is entitled to address the meeting.

10.12 Chairperson

The General Partner may nominate a Person, including, without limitation, an officer or director of the General Partner, (who need not be a Limited Partner) to be chairperson of a meeting of Partners and the person nominated by the General Partner will be chairperson of that meeting unless the Partners elect another chairperson by Ordinary Resolution of the holders of the Common Units.

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10.13 Quorum

A quorum at any meeting of Partners will consist of one or more Partners present in person or by proxy holding a majority of the voting power which may be exercised at such meeting. If, within half an hour after the time fixed for the holding of the meeting, a quorum for the meeting is not present, the meeting:

- (a) if called by or on the requisition of Partners, will be terminated; and
- (b) if called by the General Partner, will be held at the same time and place on the day which is 14 days later (or if that date is not a business day, the first business day prior to that date). The General Partner will give three days' notice to Limited Partners of the date of the reconvening of the adjourned meeting and at the reconvened meeting the quorum will consist of the Partners then present in person or represented by proxy.

10.14 Voting

- (a) Unless otherwise specifically provided in this Agreement, the Exchangeable Units shall not be given a vote on any matter.
- (b) Every question submitted to a meeting of Partners will be decided by an Ordinary Resolution on a show of hands unless otherwise required by this Agreement or a poll is demanded by a Partner, in which case a poll will be taken. In the case of an equality of votes, the chairperson will not have a casting vote and the resolution will be deemed to be defeated. The chairperson will be entitled to vote in respect of any Units held by the chairperson or for which the chairperson may be a proxyholder. On any vote at a meeting of Partners, a declaration of the chairperson concerning the result of the vote will be conclusive.
- (c) On a poll, each Person present at the meeting will have one vote for each Unit entitled to vote in respect of which the Person is shown on the Record as a Partner at the record date and for each Unit in respect of which the Person is the proxyholder. Each Partner present at the meeting and entitled to vote at the meeting will have one vote on a show of hands. If Units are held jointly by two or more persons and only one of them is present or represented by proxy at a meeting of Unitholders, that Unitholder may, in the absence of the other or others, vote with respect those Units, but if more than one of them is present or represented by proxy, they will vote together on the whole Units held jointly. Where this Agreement or applicable Law only permits certain Units to be voted on a matter, only votes in respect of such Units will be recognized.

10.15 Poll

A poll requested or required will be taken at the meeting of Partners or an adjournment of the meeting in any manner as the chairperson directs.

10.16 Powers of Limited Partners; Resolutions Binding

The Limited Partners will have only the powers set out in this Agreement and any additional powers provided by Law. Subject to the foregoing sentence, any resolution passed in accordance with this Agreement will be binding on each Partner and that Partner's respective heirs, executors, administrators, successors and assigns, whether or not that Partner was present in person or voted against any resolution so passed.

10.17 Conditions to Action by Limited Partners

The right of the Limited Partners to vote to amend this Agreement or to approve or initiate the taking of, or take, any other action at any meeting of Partners will not come into existence or be effective in any manner unless and until, prior to the exercise of any right or the taking of any action, the Partnership has received an opinion of counsel advising the Limited Partners (at the expense of the Partnership) as to the effect that the exercise of those rights or the taking of those actions may have on the limited liability of any Limited Partners

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other than those Limited Partners who have initiated that action, each of whom expressly acknowledges that the exercise of the right or the taking of the action may subject each of those Limited Partners to liability as a general partner under the Act or similar legislation in Canada.

10.18 Minutes

The General Partner will cause minutes to be kept of all proceedings and resolutions at every meeting and will cause all minutes and all resolutions of the Partners consented to in writing to be made and entered in books to be kept for that purpose. Any minutes of a meeting signed by the chairperson of the meeting will be deemed evidence of the matters stated in them and the meeting will be deemed to have been duly convened and held and all resolutions and proceedings shown in them will be deemed to have been duly passed and taken.

10.19 Additional Rules and Procedures

To the extent that the rules and procedures for the conduct of a meeting of the Partners are not prescribed in this Agreement, the rules and procedures will be determined by the General Partner.

ARTICLE 11 HOLDINGS SUCCESSORS

11.1 Certain Requirements in Respect of Combination, etc.

As long as any Exchangeable Units (other than those owned by Holdings or its subsidiaries) are outstanding, Holdings shall not consummate any transaction (whether by way of reconstruction, reorganization, consolidation, merger, transfer, sale, lease or otherwise) whereby all or substantially all of its undertaking, property and assets would become the property of any other Person or, in the case of a merger, of the continuing corporation resulting therefrom, unless:

- (a) such other Person or continuing corporation (such other Person or continuing corporation (or, in the event of a merger, amalgamation or similar transaction pursuant to which holders of shares in the capital of Holdings are entitled to receive shares or other ownership interests in the capital of any corporation or other legal entity other than such other Person or continuing corporation, then such corporation or other legal entity in which holders of shares in the capital of Holdings are entitled to receive an interest) is herein called the “**Holdings Successor**”) by operation of law, becomes, without more, bound by the terms and provisions of this Agreement and the Voting Trust Agreement or, if not so bound, executes, prior to or contemporaneously with the consummation of such transaction, an agreement supplemental hereto and such other instruments (if any) as are reasonably necessary or advisable to evidence the assumption by the Holdings Successor of liability for all moneys payable and property deliverable hereunder and the covenant of such Holdings Successor to pay or cause to be paid and deliver or cause to be delivered the same and its agreement to observe and perform all the covenants and obligations of Holdings under this Agreement; and
- (b) such transaction shall be upon such terms and conditions as substantially to preserve and not to impair in any material respect any of the rights, duties, powers and authorities of the other parties hereunder.

Where the foregoing conditions are satisfied, all references herein to Holdings Shares shall be deemed to be references to the shares of the Holdings Successor which has assumed the obligations of Holdings and all references to Holdings shall be to Holdings Successor, without amendment hereto or any further action whatsoever. For the avoidance of doubt, if a transaction described in this Section 11.1 results in holders of Exchangeable Units being entitled to exchange their Exchangeable Units for shares of a Holdings Successor in a different ratio than that set out herein, then this Agreement shall be deemed to be amended to refer to such different ratio(s).

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11.2 Vesting of Powers in Successor

Whenever the conditions of Section 11.1 have been duly observed and performed, the parties, if required by Section 11.1, shall execute and deliver the supplemental agreement provided for in Section 11.1(a) and thereupon the Holdings Successor shall possess and from time to time may exercise each and every right and power of Holdings under this Agreement in the name of Holdings or otherwise and any act or proceeding by any provision of this Agreement required to be done or performed by the Holdings Board of Directors or any officers of Holdings may be done and performed with like force and effect by the directors or officers of such Holdings Successor.

11.3 Wholly-Owned Subsidiaries

Nothing herein shall be construed as preventing the amalgamation or merger of any wholly-owned direct or indirect subsidiary of Holdings with or into Holdings or the winding-up, liquidation or dissolution of any wholly-owned direct or indirect subsidiary of Holdings (other than the Partnership) provided that all of the assets of such subsidiary are transferred to Holdings or another wholly-owned direct or indirect subsidiary of Holdings or any other distribution of the assets of any wholly-owned direct or indirect subsidiary of Holdings among the shareholders of such subsidiary, and any such transactions are expressly permitted by this Article 11.

ARTICLE 12 **NOTICES**

12.1 Address

Any notice or other written communication which must be given or sent under this Agreement will be given by first-class mail or personal delivery to the address of the General Partner and the Limited Partners as follows:

- (a) in the case of the General Partner, • ; and
- (b) in the case of Limited Partners, to the postal address inscribed in the Record, or any other new address following a change of address in conformity with Section 12.2.

12.2 Change of Address

A Limited Partner may, at any time, change the Limited Partner's address for the purposes of service by written notice to the General Partner which will promptly notify the Registrar and Transfer Agent, if different from the General Partner. The General Partner may change its address for the purpose of service by written notice to all the Limited Partners.

12.3 Accidental Failure

An accidental omission in the giving of, or failure to give, a notice required by this Agreement will not invalidate or affect in any way the legality of any meeting or other proceeding in respect of which that notice was or was intended to be given.

12.4 Disruption in Mail

In case of any disruption, strike or interruption in the Canadian postal service after mailing and before receipt or deemed receipt of a document, it will be deemed to have been received on the sixth business day following full resumption of the Canadian postal service.

12.5 Receipt of Notice

Subject to Section 12.4, notices given by first-class mail will be deemed to have been received on the third business day following the deposit of the notice in the mail and notices given by delivery will be deemed to have been received on the date of their delivery.

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12.6 Undelivered Notices

If the General Partner sends a notice or document to a Limited Partner in accordance with Section 12.1 and the notice or document is returned on three consecutive occasions because the Limited Partner cannot be found, the General Partner is not required to send any further notices or documents to the Limited Partner until the Limited Partner informs the General Partner in writing of the Limited Partner's new address.

ARTICLE 13 **DISSOLUTION AND LIQUIDATION**

13.1 Events of Dissolution

The Partnership will follow the procedure for dissolution established in Section 13.3 upon the occurrence of any of the following events or dates:

- (a) the removal or deemed removal of the sole General Partner unless the General Partner is replaced as provided in Sections 7.12 or 7.13;
- (b) the sale, exchange or other disposition of all or substantially all of the property of the Partnership, if approved in accordance with this Agreement; or
- (c) a decision of the General Partner to dissolve the Partnership.

13.2 No Dissolution

The Partnership will not come to an end by reason of the death, bankruptcy, insolvency, mental incompetency or other disability of any Limited Partner or upon transfer of any Units.

13.3 Procedure on Dissolution

Upon the occurrence of any of the events set out in Section 13.1, the General Partner (or in the event of an occurrence specified in Section 13.1(a), any other Person as may be appointed by Ordinary Resolution of the holders of the Common Units) will act as a receiver and liquidator of the assets of the Partnership and will:

- (a) sell or otherwise dispose of that part of the Partnership's assets as the receiver considers appropriate;
- (b) pay or provide for the payment of the debts and liabilities of the Partnership and liquidation expenses;
- (c) if there are any assets of the Partnership remaining, distribute all property and cash, (i) first, to the holder of the Preferred Units until such holder has received the aggregate Liquidation Preference and (ii) second, to Holdings to the extent permitted under Section 5.4 (f) until sufficient amounts have been provided to Holdings to ensure that any property and cash distributed to Holdings as holder of the Common Units pursuant to Section 13.3(c)(iii) will be available for distribution to holders of Holdings Shares in an amount per share equal to distributions in respect of each Exchangeable Unit pursuant to Section 13.3(c)(iii), and (iii) third, to the holders of the Common Units and Exchangeable Units pro rata in accordance with their respective Percentage Interests; and
- (d) file the declaration of dissolution prescribed by the Act and satisfy all applicable formalities in those circumstances as may be prescribed by the laws of other jurisdictions where the Partnership is registered. In addition, the General Partner will give prior notice of any dissolution of the Partnership by mailing to each Limited Partner and to the Registrar and Transfer Agent a notice at least 21 days prior to the filing of the declaration of dissolution prescribed by the Act.

13.4 Dissolution

The Partnership will be dissolved upon the completion of all matters set out in Section 13.3.

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13.5 No Right to Dissolve

No Limited Partner has the right to ask for the dissolution of the Partnership, for the winding-up of its affairs or for the distribution of its assets.

13.6 Agreement Continues

Notwithstanding the dissolution of the Partnership, this Agreement will not terminate until the provisions of Section 13.3 have been satisfied.

13.7 Capital Account Restoration.

No Partner shall have any obligation to restore any negative balance in its Capital Account upon liquidation of the Partnership or otherwise.

ARTICLE 14 **AMENDMENT**

14.1 Power to Amend

Subject to Section 14.2 and the rights of Exchangeable Units set forth in Schedule A, this Agreement may be amended only in writing and only with the consent of the Partners given by Ordinary Resolution of the holders of the Common Units (together with the approval of the General Partner following approval by the Conflicts Committee) provided that:

- (a) no amendment will be made to this Agreement which would have the effect of changing the Partnership from a limited partnership to a general partnership without the unanimous written consent of the Partners; and
- (b) no amendment will be made to this Agreement without the consent of the General Partner which would have the effect of adversely affecting the rights and obligations of the General Partner (other than an amendment to give effect to the removal of the General Partner in accordance with Section 7.12 or an amendment to effect a dissolution of the Partnership pursuant to Section 13.1(c)); and
- (c) no amendment to this Agreement may give any Person the right to dissolve the Partnership, other than the General Partner's right to dissolve the Partnership pursuant to Section 13.1(c).

14.2 Amendment by General Partner

Each Limited Partner agrees that the General Partner (pursuant to its powers of attorney from the Limited Partners or as expressly provided in this Agreement), without the approval of any Limited Partner, may amend any provision of this Agreement, and execute, swear to, acknowledge, deliver, file and record whatever documents may be required in connection with that amendment, to reflect:

- (a) a change in the name of the Partnership or the location of the principal place of business or the registered office of the Partnership;
- (b) admission, substitution, withdrawal or removal of Limited Partners in accordance with this Agreement;
- (c) a change that, in the sole discretion of the General Partner, is reasonable and necessary or appropriate to qualify or continue the qualification of the Partnership as a limited partnership which the Limited Partners have limited liability under the applicable laws;
- (d) with the prior approval of the Conflicts Committee, a change that, in the sole discretion of the General Partner, is reasonable and necessary or appropriate to enable Partners to take advantage of, or not be

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detrimentally affected by, changes, proposed changes or differing interpretations with respect to any of the Tax Act, the Code, Treasury Regulations promulgated thereunder, administrative pronouncements of the Internal Revenue Service and judicial decisions, or other taxation laws;

- (e) a change to amend or add any provision, or to cure any ambiguity or to correct or supplement any provisions contained in this Agreement which may be defective or inconsistent with any other provision contained in this Agreement or which should be made to make this Agreement consistent with the disclosure set out in the Information Statement;
- (f) a change that, in the sole discretion of the General Partner does not materially adversely affect the Limited Partners;
- (g) a change that the General Partner determines (i) to be necessary or appropriate to (A) satisfy any requirements, conditions or guidelines contained in any opinion, directive, order, ruling or regulation of any Governmental Authority or contained in any Law or (B) with the prior approval of the Conflicts Committee, facilitate the trading of the Limited Partner Interests or comply with any rule, regulation, guideline or requirement of any National Securities Exchange on which the Limited Partner Interests are or will be listed, or (iii) is required to effect the intent expressed in the Information Statement or the intent of the provisions of this Agreement or is otherwise contemplated by this Agreement;
- (h) a change in the Fiscal Year or taxable year of the Partnership and any other changes that the General Partner determines to be necessary or appropriate as a result of a change in the Fiscal Year or taxable year of the Partnership;
- (i) an amendment that is necessary, in the opinion of counsel to the Partnership, to prevent the Partnership, or the General Partner or its directors, officers, trustees or agents from having a material risk of being in any manner subjected to the provisions of the U.S. Investment Company Act of 1940, as amended, the U.S. Investment Advisers Act of 1940, as amended, or “plan asset” regulations adopted under the U.S. Employee Retirement Income Security Act of 1974, as amended, regardless of whether such are substantially similar to plan asset regulations currently applied or proposed by the United States Department of Labor;
- (j) an amendment that the General Partner determines in its sole discretion to be necessary or appropriate in connection with the creation, authorization or issuance of any class or series of Partnership Interests or options, rights, warrants or appreciation rights relating to Partnership Interests pursuant to Section 3.4;
- (k) any amendment expressly permitted in this Agreement to be made by the General Partner acting alone;
- (l) an amendment that the General Partner determines in its sole discretion to be necessary or appropriate to reflect and account for the formation by the Partnership of, or investment by the Partnership in, any corporation, partnership, joint venture, limited liability company or other entity, in connection with the conduct by the Partnership of activities permitted by the terms of Sections 2.2; and
- (m) any other amendments substantially similar to the foregoing.

14.3 Notice of Amendments

The General Partner will notify the Limited Partners in writing of the full details of any amendment to this Agreement, if any, within 60 days of the effective date of the amendment.

ARTICLE 15
MISCELLANEOUS

15.1 Binding Agreement

Subject to the restrictions on assignment and transfer contained in this Agreement, this Agreement will enure to the benefit of and be binding upon the parties to this Agreement and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

15.2 Time

Time will be of the essence of this Agreement.

15.3 Counterparts

This Agreement, or any amendment to it, may be executed in multiple counterparts (including via telecopier), each of which will be deemed an original agreement. This Agreement may also be executed and adopted in any instrument signed by a Limited Partner with the same effect as if the Limited Partner had executed a counterpart of this Agreement. All counterparts and adopting instruments will be construed together and will constitute one and the same agreement.

15.4 Governing Law

This Agreement and the Schedules to this Agreement will be governed and construed exclusively according to the laws of the Province of Ontario and the laws of Canada applicable therein and the parties to this Agreement irrevocably attorn to the non-exclusive jurisdiction of the courts of the Province of Ontario.

15.5 Severability

If any part of this Agreement is declared invalid or unenforceable, then that part will be deemed to be severable from this Agreement and will not affect the remainder of this Agreement.

15.6 Further Acts

The parties will perform and cause to be performed any further and other acts and things and execute and deliver or cause to be executed and delivered any further and other documents as counsel to the Partnership considers necessary or desirable to carry out the terms and intent of this Agreement.

15.7 Entire Agreement

This Agreement constitutes the entire agreement among the parties to this Agreement with respect to the subject matter of this Agreement.

15.8 Limited Partner Not a General Partner

If any provision of this Agreement has the effect of imposing upon any Limited Partner (other than the General Partner) any of the liabilities or obligations of a general partner under the Act, that provision will be of no force and effect.

15.9 Language of Agreement

The parties to this Agreement have expressly agreed that this Agreement be drawn in the English language. Les parties aux présentes ont expressément convenu que le présent contrat soit rédigé en anglais.

IN WITNESS WHEREOF the parties to this Agreement have executed this Agreement as of the date set out above.

[HOLDINGS]

by _____
Name:
Title:

[•]
as Initial Limited Partner

by _____
Name:
Title:

[HOLDINGS]
as General Partner of the Partnership and agent
and attorney for the Limited
Partners

by _____
Name:
Title:

SCHEDULE A

EXCHANGEABLE UNITS OF THE PARTNERSHIP

SCHEDULE A

EXCHANGEABLE UNITS OF THE PARTNERSHIP

ARTICLE 1
DEFINITIONS

For the purposes of this Schedule A, unless the context otherwise requires, each term denoted herein by initial capital letters and not otherwise defined herein shall have the meanings ascribed thereto in Section 1.1 of the Agreement. The following definitions are applicable to the terms of the Exchangeable Units:

“ **Canadian Dollar Equivalent** ” means, in respect of an amount expressed in a currency other than Canadian dollars (the “ **Foreign Currency Amount** ”) at any date, the product obtained by multiplying:

- (a) the Foreign Currency Amount, by
- (b) the noon spot exchange rate on such date for such foreign currency expressed in Canadian dollars as reported by the Bank of Canada or, in the event such spot exchange rate is not available, such spot exchange rate on such date for such foreign currency expressed in Canadian dollars as may be deemed by the General Partner to be appropriate for such purpose;

“ **Cash Amount** ” in respect of an Exchangeable Unit, means a cash amount equal to the Current Market Price of a Holdings Share on the last Business Day prior to the Exchange Date, as applicable;

“ **Current Market Price** ” means, in respect of a Holdings Share on any date, the weighted average trading price of the Holdings Shares on the NYSE during a period of 20 consecutive trading days ending not more than one trading days before such date (and in respect of Canadian dollar determinations, the Canadian Dollar Equivalent thereof), or, if the Holdings Shares are not then listed on the NYSE, on such other stock exchange or automated quotation system on which the Holdings Shares are listed or quoted, as may be selected by the General Partner for such purpose; provided, however, that if, in the opinion of the General Partner (with the prior approval of the Conflicts Committee where the determination is made in the context of a holder of Exchangeable Units who is an Affiliate of the General Partner or the Partnership), the public distribution or trading activity of the Holdings Shares during such period does not create a market which reflects the fair market value of a Holdings Share, then the Current Market Price of a Holdings Share shall be determined by the General Partner (with the prior approval of the Conflicts Committee where the determination is made in the context of a holder of Exchangeable Units who is an Affiliate of the General Partner or the Partnership), in good faith and in its sole discretion, and provided, further, that any such selection, opinion or determination by the General Partner shall be conclusive and binding;

“ **Exchange Date** ” has the meaning set out in Section 2.1(b) of this Schedule A;

“ **Exchange Notice** ” means the notice in the form of Exhibit A hereto or in such other form as may be acceptable to the Partnership;

“ **Exchange Right** ” has the meaning set out in Section 2.1 of this Schedule A;

“ **Exchanged Shares** ” in respect of an Exchangeable Unit, means one Holdings Share;

“ **Exempt Exchangeable Voting Event** ” means any matter in respect of which applicable law provides holders of Exchangeable Units with a vote as holders of Units of the Partnership in order to approve or disapprove, as applicable, any change to, or any change in the rights of the holders of, the Exchangeable Units, where the approval or disapproval, as applicable, of such change would be required to maintain the economic equivalence of the Exchangeable Units and the Holdings Shares;

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“ **Holdings Control Transaction** ” shall be deemed to have occurred if:

- (a) any Person, firm or corporation acquires directly or indirectly any voting security of Holdings and immediately after such acquisition, the acquirer has voting securities representing more than 50 per cent of the total voting power of all the then outstanding voting securities of Holdings on a fully-diluted basis;
- (b) the shareholders of Holdings shall approve a merger, consolidation, recapitalization or reorganization of Holdings, other than any transaction which would result in the holders of outstanding voting securities of Holdings immediately prior to such transaction having at least a majority of the total voting power represented by the voting securities of the surviving entity outstanding immediately after such transaction, with the voting power of each such continuing holder relative to other continuing holders not being altered substantially in the transaction; or
- (c) the shareholders of Holdings shall approve a plan of complete liquidation of Holdings or an agreement for the sale or disposition by Holdings of all or substantially all of Holdings assets;

“ **Holdings Dividend Declaration Date** ” means the date on which the board of directors of Holdings declares any dividend or distribution on the Holdings Shares;

“ **Holdings Shares** ” means the common shares in the capital of Holdings;

“ **Merger Effective Date** ” has the meaning set out in the Arrangement Agreement;

“ **Merger Effective Time** ” has the meaning set out in the Arrangement Agreement;

“ **NYSE** ” means the New York Stock Exchange, Inc.;

“ **Subject Units** ” has the meaning set out in Section 2.1(b) of this Schedule A; and

“ **Trustee** ” means • or such other trustee chosen by Holdings, acting reasonably, to act as trustee under the Voting Trust Agreement.

ARTICLE 2

EXCHANGE OF EXCHANGEABLE UNITS BY HOLDER

2.1 Exchange Right

- (a) From and after the one year anniversary of the date of the Merger Effective Date, a holder of Exchangeable Units shall, from time to time, have the right to require the Partnership to repurchase (the “ **Exchange Right** ”) any or all of the Exchangeable Units held by such holder for either (i) the Exchanged Shares or (ii) the Cash Amount, the form of consideration to be determined by the General Partner for and on behalf of the Partnership (in the case of any holder of Exchangeable Units who is an Affiliate of the General Partner or the Partnership, with the prior approval of the Conflicts Committee) in its sole and absolute discretion. Written notice of the determination of the form of consideration shall be given to the holder of the Exchangeable Units exercising the Exchange Right no later than 10 Business Days prior to the Exchange Date.
- (b) To exercise the Exchange Right, the holder shall present and surrender at the office of the Partnership (or at any office of the Registrar and Transfer Agent as may be specified by the Partnership by notice to the holders of Exchangeable Units) a duly executed Exchange Notice and, where applicable, the Certificate or Certificates representing the Exchangeable Units which the holder desires to have exchanged, together with such additional documents and instruments as the Registrar and Transfer Agent and the Partnership may reasonably require. The Exchange Notice shall (i) specify the number of Exchangeable Units in respect of which the holder is exercising the Exchange Right (the “ **Subject Units** ”) and (ii) state the Business Day on which the holder desires to have the Partnership exchange the Subject Units (the “ **Exchange Date** ”), provided that the Exchange Date shall be not less than 15

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Business Days nor more than 30 Business Days after the date on which the Exchange Notice is received by the Partnership and further provided that, in the event that no such Business Day is specified by the holder in the Exchange Notice, the Exchange Date shall be deemed to be the 15th Business Day after the date on which the Exchange Notice is received by the Partnership.

2.2 Share Settlement Option

If the General Partner elects to repurchase the Subject Units for Holdings Shares, and provided that the Exchange Notice is not revoked by the holder in the manner specified in Section 2.5 of this Schedule A, effective at the close of business on the Exchange Date:

- (a) the Partnership shall have, and shall be deemed to have, repurchased the Subject Units for cancellation in consideration for the transfer to such holder of the applicable number of Exchanged Shares and such holder shall be deemed to have transferred to the Partnership all of such holder's right, title and interest in and to the Subject Units;
- (b) Holdings shall deliver (or cause to be delivered) to such holder, for and on behalf of the Partnership and in the manner provided for in Section 2.4 of this Schedule A, the applicable number of Exchanged Shares; and
- (c) the Partnership shall issue to Holdings a number of Common Units equal to the number of Exchanged Shares delivered to such holder pursuant to Section 3.2(b), in consideration for Holdings delivering such Exchanged Shares to such holder.

2.3 Cash Settlement Option

If the General Partner elects to repurchase the Subject Units for the Cash Amount, and provided that the Exchange Notice is not revoked by the holder in the manner specified in Section 2.5 of this Schedule A, effective at the close of business on the Exchange Date:

- (a) the Partnership shall have, and shall be deemed to have, repurchased the Subject Units for cancellation in consideration for the payment to such holder of the aggregate Cash Amount and such holder shall be deemed to have transferred to the Partnership all of such holder's right, title and interest in and to the Subject Units; and
- (b) the Partnership shall deliver (or cause to be delivered) to such holder the applicable Cash Amount.

2.4 Effect of Exchange

- (a) Subject to compliance by the applicable holder of the Subject Units with the terms of this Schedule A, the Partnership (or Holdings for and on behalf of the Partnership) shall deliver or cause the Registrar and Transfer Agent to deliver to the relevant holder, as applicable (i) the applicable Exchanged Shares (which shares shall be duly issued as fully paid and non-assessable and shall be free and clear of any lien, claim or encumbrance), or (ii) a cheque representing the applicable Cash Amount, in each case, less any amounts withheld on account of tax pursuant to Section 5.4 of the Agreement, and such delivery by or on behalf of the Partnership or by the Registrar and Transfer Agent shall be deemed to be payment of and shall satisfy and discharge all liability for the total consideration payable or issuable.
- (b) On and after the close of business on the Exchange Date, the holders of the Subject Units shall cease to be holders of such Subject Units and shall not be entitled to exercise any of the rights of a holder in respect thereof, other than the right to receive the applicable consideration, unless payment of the consideration is not made in accordance with the provisions of this Article 3. On and after the close of business on the Exchange Date, provided that presentation and surrender of Certificates (if applicable) and payment of the applicable consideration has been made in accordance with the foregoing provisions, the holder of the Subject Units exchanged for Holdings Shares shall thereafter be considered and deemed for all purposes to be a holder of the Holdings Shares delivered to it.

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- (c) As a condition to delivery of the consideration, the Partnership and the Registrar and Transfer Agent may require presentation and surrender at the office of the Partnership (or at any office of the Registrar and Transfer Agent as may be specified by the Partnership) of such documents and instruments as the Transfer Agent and the Partnership may reasonably require.
- (d) Notwithstanding Section 2.4(b) of this Schedule A, where a record date in respect of a distribution occurs prior to the Exchange Date and there is any declared and unpaid distribution on any Exchangeable Unit exchanged hereunder, subject to Section 4.1 of this Schedule A, such distribution shall remain payable and shall be paid in the applicable form on the designated payment date to the former holder of the Exchangeable Unit so exchanged hereunder.
- (e) If only a part of the Exchangeable Units represented by any Certificate is exchanged, a new Certificate for the balance of such Exchangeable Units shall be issued to the holder at the expense of the Partnership.
- (f) All filing fees, transfer taxes, sales taxes, document stamps or other similar charges levied by any Governmental Authority in connection with the repurchase of the Exchangeable Units pursuant to this Agreement shall be paid by the Partnership; provided, however, that the holder of such Exchangeable Units shall pay any such fees, taxes, stamps or similar charges that may be payable as a result of any transfer of the consideration payable in respect of such Exchangeable Units to a Person other than such holder. Except as otherwise provided in this Agreement, each party will bear its own costs in connection with the performance of its obligations under this Agreement.

2.5 **Revocation Right**

A holder of Subject Units may, by notice in writing given by the holder to the Partnership before the close of business on the 5th Business Day immediately preceding the Exchange Date, withdraw its Exchange Notice, in which event such Exchange Notice shall be null and void.

2.6 **Mandatory Exchange**

- (a) In the event that:
 - (i) at any time there remain outstanding fewer than 5% of the number of Exchangeable Units outstanding as of the Merger Effective Time (other than Exchangeable Units held by Holdings and as such number of Units may be adjusted in accordance with the Agreement to give effect to a Combination or Subdivision of, or unit distribution on, the Exchangeable Units, or any issue or distribution of rights to acquire Exchangeable Units or securities exchangeable for or convertible into Exchangeable Units following the Merger Effective Time);
 - (ii) a Holdings Control Transaction occurs with respect to which the General Partner has determined, in good faith and in its sole discretion, that such Holdings Control Transaction involves a *bona fide* third party and is not for the primary purpose of causing the exchange of the Exchangeable Units in connection with such Holdings Control Transaction (such determination by the General Partner to be made at the direction of the Conflicts Committee in circumstances where the third party in the transaction is an Affiliate of the General Partner or the Partnership); or
 - (iii) an Exempt Exchangeable Voting Event is proposed and the holders of the Exchangeable Units fail to take the necessary action at a meeting or other vote of holders of Exchangeable Units to approve or disapprove, as applicable, the Exempt Exchangeable Voting Event in order to maintain economic equivalence of the Exchangeable Units and the Common Units,

then on prior written notice given by the Partnership to the holders of Exchangeable Units at least fifteen days prior to such mandatory exchange, in the case of the foregoing Sections 2.6(a)(i) and 2.6(a)(ii), and on the Business Day following the day on which the holders of the Exchangeable Units failed to take such action in the case of the foregoing Section 2.6(a)(iii), the Partnership may cause a mandatory exchange of all of the

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outstanding Exchangeable Units (which shall be deemed to be the Subject Units), on such date as is specified by the Partnership in such notice (which shall be deemed to be the Exchange Date), pursuant to Section 2.2 of this Schedule A, and for greater certainty the holders of Exchangeable Units shall not have the right to revoke such mandatory exchange pursuant to Section 2.5 of this Schedule A.

2.7 Take-Over Bid

In the event of an Offer (as defined in Section 3.25(i) of the Agreement) the Partnership will use its commercially reasonable efforts, expeditiously and in good faith, to put in place procedures or to cause the Registrar and Transfer Agent to put in place procedures to ensure that, if holders of Exchangeable Units are required to exchange such Exchangeable Units to participate in the Offer, any such exchange shall be conditional upon and shall only be effective if the Holdings Shares tendered or deposited under such Offer are taken up.

ARTICLE 3 **AMENDMENT AND APPROVAL**

3.1 Amendments

- (a) The rights, privileges, restrictions and conditions attaching to the Exchangeable Units may be added to, changed or removed but only with the approval of:
 - (i) in the case of amendments that would increase or decrease the economic rights of an Exchangeable Unit relative to a Holdings Share, such that such securities would cease to have economic equivalence, or that would otherwise enhance or limit the rights, privileges, restrictions or conditions attaching to the Exchangeable Units relative to the rights, privileges, restrictions or conditions attaching to the Holdings Shares, (A) the holders of the Exchangeable Units pursuant to Section 3.1(b) of this Schedule A, (B) the holders of a majority of the outstanding Holdings Shares (excluding any votes pursuant to the Special Voting Share) and (iii) the Conflicts Committee; or
 - (ii) in the case of any amendment (x) not covered by Section 3.1(a)(i) of this Schedule A and (y) that would affect the rights, privileges, restrictions or conditions attaching to the Exchangeable Units in a manner adverse to the holders of the Exchangeable Units, (i) the holders of the Exchangeable Units pursuant to Section 3.1(b) of this Schedule A, and (ii) the Conflicts Committee; or
 - (iii) in the case of any other amendment that would affect the rights, privileges, restrictions or conditions attaching to the Exchangeable Units, the Conflicts Committee.
- (b) Any approval given by the holders of the Exchangeable Units to add to, change or remove any right, privilege, restriction or condition attaching to the Exchangeable Units or any other matter requiring the approval or consent of the holders of the Exchangeable Units, shall be deemed to have been sufficiently given if it shall have been given in accordance with applicable law subject to a minimum requirement that such approval be evidenced by an Ordinary Resolution passed by the holders of Exchangeable Units.

ARTICLE 4 **GENERAL**

4.1 Fractional Shares

A holder of Exchangeable Units shall not be entitled to any fraction of a Holdings Share and no certificates representing any such fractional interest shall be issued, and such holder otherwise entitled to a fractional interest shall only be entitled to receive the nearest whole number of Holdings Shares, rounded down.

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4.2 Tax Treatment

This Schedule A shall be treated as part of the partnership agreement of the Partnership as described in Section 761(c) of the Code and Sections 1.704-1(b)(2)(ii)(h) and 1.761-1(c) of the Treasury Regulations promulgated thereunder.

EXHIBIT A
EXCHANGE NOTICE

To [Partnership] (the “ Partnership ”)

This notice is given pursuant to Section 2.1(a) of Schedule A of the Limited Partnership Agreement, and all capitalized words and expressions used in this notice that are defined in the Limited Partnership Agreement have the meanings ascribed to such words and expressions in such Limited Partnership Agreement.

The undersigned hereby notifies the Partnership that the undersigned desires to have the Partnership exchange in accordance with the terms of the Limited Partnership Agreement:

- ☐ all Exchangeable Unit(s) held by the undersigned; or
- ☐ Exchangeable Unit(s) held by the Undersigned.

The undersigned hereby notifies the Partnership that the Exchange Date shall be

NOTE: The Exchange Date must be a Business Day and must not be less than 15 Business Days nor more than 30 Business Days after the date upon which this notice is received by the Partnership. If no such Business Day is specified above, the Exchange Date shall be deemed to be the 15th Business Day after the date on which this notice is received by the Partnership.

This Exchange Notice may be revoked and withdrawn by the undersigned only by notice in writing given to the Partnership at any time before the close of business on the 5th Business Day preceding the Exchange Date.

The undersigned hereby represents and warrants to the Partnership that the undersigned has good title to, and owns, the Exchangeable Units subject to this notice to be acquired by the Partnership free and clear of all liens, claims and encumbrances.

(Date)	(Signature of Unitholder)	(Guarantee of Signature)

- ☐ Please check box if the securities and any cheque(s) resulting from the exchange of the Exchangeable Units are to be held for pick-up by the holder from the Registrar and Transfer Agent, failing which the securities and any cheque(s) will be mailed to the last address of the holder as it appears on the register.

NOTE: This notice, together with any certificates evidencing the Exchangeable Units and such additional documents as the Registrar and Transfer Agent may require, must be deposited with the Registrar and Transfer Agent. The securities and any cheque(s) resulting from the exchange of the Exchangeable Units will be issued and registered in, and made payable to, respectively, the name of the unitholder as it appears on the register of the Partnership and the securities and any cheque(s) resulting from such exchange will be delivered to such unitholder as indicated above, unless the form appearing immediately below is duly completed.

Date:

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Name of Person in Whose Name Securities or Cheque(s) Are to be Registered, Issued or Delivered (please print): _____

Street Address or P.O. Box: _____

Signature of Holder: _____

City, Province and Postal Code: _____

Signature Guaranteed by: _____

NOTE: If this Exchange Notice is for less than all of the Exchangeable Units held by the unitholder, if certificated a certificate representing the remaining Exchangeable Unit(s) represented by this certificate will be issued and registered in the name of the unitholder as it appears on the register of the Partnership, unless the Transfer Power on the unit certificate is duly completed in respect of such unit(s).

[Letterhead of Citigroup Global Markets Inc.]

August 26, 2014

The Board of Directors
Tim Hortons Inc.
874 Sinclair Road
Oakville, Ontario
L6K 2Y1
CANADA

Members of the Board:

You have requested our opinion as to the fairness, from a financial point of view, to the holders of the common shares in the capital of Tim Hortons Inc. (the “Company”) of the Arrangement Consideration (defined below) set forth in the Arrangement Agreement and Plan of Merger (the “Merger Agreement”), dated as of August 26, 2014, by and among the Company, Burger King Worldwide, Inc. (“Parent”), 1011773 B.C. Unlimited Liability Company (“Holdings”), New Red Canada Partnership (“Partnership”), Blue Merger Sub, Inc. (“Merger Sub”) and 8997900 Canada Inc. (“Amalgamation Sub”). As more fully described in the Merger Agreement, the Merger Agreement provides for an arrangement (the “Arrangement”) and a merger (the “Merger”), structured as a single transaction (the Arrangement and the Merger collectively, the “Combination”). Pursuant to the Arrangement, Amalgamation Sub will acquire all of the outstanding common shares in the capital of the Company (“Company Common Stock”), followed by an amalgamation of the Company and Amalgamation Sub, as a result of which each outstanding share of Company Common Stock shall be converted into the right to receive C\$65.50 (Canadian dollars) in cash and 0.8025 of a share of Holdings common shares (“Holdings Common Stock”), or, at the election of the holder of such share of Company Common Stock, (a) 3.0879 shares of Holdings Common Stock, subject to proration or (b) C\$88.50 (Canadian dollars) in cash, subject to proration (the applicable consideration, the “Arrangement Consideration”). Pursuant to the Merger, Merger Sub shall be merged with and into Parent (the “Merger”), as a result of which each outstanding share of Parent common stock (“Parent Common Stock”) shall be converted into the right to receive, at the election of the holder of such share but subject to limitations on the issuance of exchangeable units of Partnership (“Partnership Unit”) and proration, either (a) 0.99 of a share of Holdings Common Stock (subject to adjustment) and 0.01 of a Partnership Unit or (b) one (1) Partnership Unit (the applicable consideration, the “Merger Consideration”).

In arriving at our opinion, we reviewed the Merger Agreement and held discussions with certain senior officers, directors and other representatives and advisors of the Company and certain senior officers and other representatives and advisors of Parent concerning the businesses, operations and prospects of the Company and Parent. We examined certain publicly available business and financial information relating to the Company and Parent as well as certain financial forecasts and other information and data relating to the Company and Parent which were provided to or discussed with us by the respective managements of the Company and Parent, including information relating to the potential strategic implications and operational benefits (including the amount, timing and achievability thereof) anticipated by the managements of the Company and Parent to result from the Combination. We reviewed the financial terms of the Combination as set forth in the Merger Agreement in relation to, among other things: current and historical market prices and trading volumes of Company Common Stock and Parent Common Stock; the historical and projected earnings and other operating data of the Company and Parent; and the capitalization and financial condition of the Company and Parent. We considered, to the extent publicly available, the financial terms of certain other transactions which we considered relevant in evaluating the Combination and analyzed certain financial, stock market and other publicly available information relating to the businesses of other companies whose operations we considered relevant in evaluating those of the Company and Parent. We also evaluated certain potential pro forma financial effects of the Combination. In

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addition to the foregoing, we conducted such other analyses and examinations and considered such other information and financial, economic and market criteria as we deemed appropriate in arriving at our opinion. The issuance of our opinion has been authorized by our fairness opinion committee.

In rendering our opinion, we have assumed and relied, without independent verification, upon the accuracy and completeness of all financial and other information and data publicly available or provided to or otherwise reviewed by or discussed with us and upon the assurances of the managements of the Company and Parent that they are not aware of any relevant information that has been omitted or that remains undisclosed to us. With respect to financial forecasts and other information and data relating to the Company and Parent provided to or otherwise reviewed by or discussed with us, we have been advised by the respective managements of the Company and Parent that such forecasts and other information and data were reasonably prepared on bases reflecting the best currently available estimates and judgments of the managements of the Company and Parent as to the future financial performance of the Company and Parent.

We have assumed, with your consent, that the Combination will be consummated in accordance with its terms, without waiver, modification or amendment of any material term, condition or agreement and that, in the course of obtaining the necessary regulatory or third party approvals, consents and releases for the Combination, no delay, limitation, restriction or condition will be imposed that would have an adverse effect on the Company, Parent or Holdings or the contemplated benefits of the Combination, other than as agreed in the Merger Agreement. We are not expressing any opinion as to what the value of Holdings Common Stock actually will be when issued pursuant to the Combination or the price at which Holdings Common Stock will trade at any time. We have not made or been provided with an independent evaluation or appraisal of the assets or liabilities (contingent or otherwise) of the Company or Parent nor have we made any physical inspection of the properties or assets of the Company or Parent. We were not requested to, and we did not, solicit third party indications of interest in the possible acquisition of all or a part of the Company, nor were we requested to consider, and our opinion does not address, the underlying business decision of the Company to effect the Combination, the relative merits of the Combination as compared to any alternative business strategies that might exist for the Company or the effect of any other transaction in which the Company might engage. We express no view as to, and our opinion does not address, the underlying business decision of the Company to effect the Combination, the relative merits of the Combination as compared to any alternative business strategies that might exist for the Company or the effect of any other transaction in which the Company might engage. We also express no view as to, and our opinion does not address, the fairness (financial or otherwise) of the amount or nature or any other aspect of any compensation to any officers, directors or employees of any parties to the Combination, or any class of such persons, relative to the Arrangement Consideration or the Merger Consideration. Our opinion is necessarily based upon information available to us, and financial, stock market and other conditions and circumstances existing, as of the date hereof.

Citigroup Global Markets Inc. has acted as financial advisor to the Company in connection with the proposed Combination and will receive a fee for such services, a significant portion of which is contingent upon the consummation of the Combination. We also will receive a fee in connection with the delivery of this opinion. We and our affiliates in the past have provided investment banking services to the Company and currently provide credit facilities unrelated to the proposed Combination to the Company, Parent and companies in which Parent's largest stockholder has controlling or substantial equity ownership, for which services we and such affiliates have received and expect to receive compensation, including, without limitation, acting as a co-manager for the Company's issuance of debt securities in 2014 and 2013. In the ordinary course of our business, we and our affiliates may actively trade or hold the securities of the Company and Parent for our own account or for the account of our customers and, accordingly, may at any time hold a long or short position in such securities. In addition, we and our affiliates (including Citigroup Inc. and its affiliates) may maintain relationships with the Company, Parent and their respective affiliates.

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Our advisory services and the opinion expressed herein are provided for the information of the Board of Directors of the Company in its evaluation of the proposed Combination, and our opinion is not intended to be and does not constitute a recommendation to any stockholder of the Company as to how such stockholder should vote or act on any matters relating to the proposed Arrangement.

Based upon and subject to the foregoing, our experience as investment bankers, our work as described above and other factors we deemed relevant, we are of the opinion that, as of the date hereof, the Arrangement Consideration is fair, from a financial point of view, to the holders of the Company Common Stock.

Very truly yours,

CITIGROUP GLOBAL MARKETS INC.

[LETTERHEAD OF RBC DOMINION SECURITIES INC.]

August 25, 2014

The Board of Directors
Tim Hortons Inc.
874 Sinclair Road
Oakville, Ontario
L6K 2Y1

To the Board:

RBC Dominion Securities Inc. (“RBC”), a member company of RBC Capital Markets, understands that Tim Hortons Inc. (the “Company”) and Burger King Worldwide, Inc. (“Parent”), 1011773 B.C. Unlimited Liability Company (“Holdings”), New Red Canada Partnership (“Partnership”), Blue Merger Sub, Inc. (“Merger Sub”) and 8997900 Canada Inc. (“Amalgamation Sub” and, together with Parent, Holdings, Partnership and Merger Sub, the “Parent Entities”) propose to enter into an arrangement agreement and plan of merger to be dated August 26, 2014 (the “Arrangement Agreement”). The Arrangement Agreement will, as part of a single integrated business combination transaction, provide for, among other things, (a) the acquisition by Amalgamation Sub of all of the outstanding common shares of the Company (the “Shares”) followed by an amalgamation of the Company and Amalgamation Sub pursuant to and in the manner provided for in a Plan of Arrangement (the “Arrangement”) and (b) the merger of Merger Sub with and into Parent, with Parent being the surviving corporation and a subsidiary of Holdings (the “Merger” and, such business combination transaction to be effected through the Merger and the Arrangement, the “Transaction”). RBC also understands that, pursuant to the Arrangement, the holders of Shares (the “Shareholders”) will receive, at the election of each Shareholder and subject to pro ration as set out in the Arrangement Agreement, for each Share held, (i) C\$88.50 in cash or (ii) C\$65.50 in cash and 0.8025 of a Holdings common share or (iii) 3.0879 Holdings common shares. The terms of the Transaction will be more fully described in a management information circular (the “Circular”), which will be mailed to Shareholders in connection with the Arrangement.

The Company has retained RBC to provide advice and assistance to the Company and the board of directors of the Company (the “Board”) in evaluating the Transaction, including the preparation and delivery to the Board of RBC’s opinion (the “Fairness Opinion”) as to the fairness of the consideration under the Arrangement from a financial point of view to the Shareholders. RBC has not prepared a valuation of the Company, Parent or any of their respective securities or assets and the Fairness Opinion should not be construed as such.

Engagement

The Company initially contacted RBC regarding a potential advisory assignment on March 28, 2014, and RBC was formally engaged by the Company through an agreement between the Company and RBC (the “Engagement Agreement”) effective March 28, 2014. The terms of the Engagement Agreement provide that RBC is to be paid a fee for its services as financial advisor, including fees that are contingent on a change of control of the Company or certain other events. In addition, RBC is to be reimbursed for its reasonable out-of-pocket expenses and to be indemnified by the Company in certain circumstances.

Relationship With Interested Parties

Neither RBC, nor any of its affiliates is an insider, associate or affiliate (as those terms are defined in the *Securities Act* (Ontario) (the “Act”)) of the Company, Parent, 3G Capital Inc. (“3G Capital”, the majority shareholder of Parent) or any of their respective associates or affiliates. RBC has not been engaged to provide any financial advisory services nor has it participated in any financing involving the Company, Parent, 3G Capital or

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any of their respective associates or affiliates, within the past two years, other than the services provided under the Engagement Agreement and as described herein. In the past two years, RBC has acted in the following capacities for the Company: (i) joint bookrunner for C\$450 million of senior unsecured notes in March 2014, (ii) joint bookrunner for C\$450 million of senior unsecured notes in November 2013 and (iii) lead arranger on a C\$400 million 364-day senior unsecured revolving facility used to fund an expanded share repurchase program in September 2013. In the past two years, RBC has acted for 3G Capital and its associates and affiliates as a participant in a debt financing package totaling US\$13.6 billion for the acquisition by 3G Capital of a majority interest in HJ Heinz Company in June 2013.

There are no understandings, agreements or commitments between RBC and the Company, Parent, 3G Capital or any of their respective associates or affiliates with respect to any future business dealings. RBC may, in the future, in the ordinary course of its business, perform financial advisory or investment banking services for the Company, Parent, 3G Capital or any of their respective associates or affiliates. Royal Bank of Canada, controlling shareholder of RBC, also provides banking services to the Company and certain of 3G Capital's associates or affiliates in the normal course of business.

RBC acts as a trader and dealer, both as principal and agent, in major financial markets and, as such, may have had and may in the future have positions in the securities of the Company, Parent, 3G Capital or any of their respective associates or affiliates and, from time to time, may have executed or may execute transactions on behalf of such companies or clients for which it received or may receive compensation. As an investment dealer, RBC conducts research on securities and may, in the ordinary course of its business, provide research reports and investment advice to its clients on investment matters, including with respect to the Company, Parent or the Transaction.

Credentials of RBC Capital Markets

RBC is one of Canada's largest investment banking firms, with operations in all facets of corporate and government finance, corporate banking, mergers and acquisitions, equity and fixed income sales and trading and investment research. RBC Capital Markets also has significant operations in the United States and internationally. The Fairness Opinion expressed herein represents the opinion of RBC and the form and content herein have been approved for release by a committee of its directors, each of whom is experienced in merger, acquisition, divestiture and fairness opinion matters.

Scope of Review

In connection with our Fairness Opinion, we have reviewed and relied upon or carried out, among other things, the following:

1. the most recent draft, dated August 25, 2014, of the Arrangement Agreement;
2. the most recent draft, dated August 25, 2014, of the securities purchase agreement by and between Holdings and Berkshire Hathaway Inc.;
3. the most recent draft, dated August 25, 2014, of the commitment letter from JPMorgan Chase Bank N.A., J.P. Morgan Securities LLC, Wells Fargo Bank, N.A., WF Investment Holdings, LLC and Wells Fargo Securities, LLC;
4. audited financial statements of the Company for each of the five fiscal years ended January 3, 2010, January 2, 2011, January 1, 2012, December 30, 2012 and December 29, 2013;
5. audited financial statements of Parent for each of the five fiscal years ended June 30, 2009, June 30, 2010, December 31, 2011, December 31, 2012 and December 31, 2013 and the transition report ended for the six-month period ended December 31, 2010;
6. the unaudited quarterly reports of the Company for the fiscal quarters ended March 30, 2014 and June 29, 2014;

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7. the unaudited quarterly reports of Parent for the fiscal quarters ended March 31, 2014 and June 30, 2014;
8. the annual reports of the Company for each of the two fiscal years ended December 30, 2012 and December 29, 2013;
9. the annual reports of Parent (Form 10-K) for each of the two fiscal years ended December 31, 2012 and December 31, 2013;
10. the Notice of Annual Meeting of Shareholders and Management Proxy Circular of the Company for the fiscal year ended December 30, 2012 and the Notice of Annual and Special Meeting of Shareholders and Management Proxy Circular of the Company for the fiscal year ended December 29, 2013;
11. the Proxy Statement of Parent for each of the two fiscal years dated December 31, 2012 and December 31, 2013;
12. annual information forms of the Company for each of the two fiscal years ended December 30, 2012 and December 29, 2013;
13. unaudited projected financial results of the Company on a consolidated basis, prepared by the management of the Company, for each of the fiscal years ending on the Sunday nearest to December 31, 2014 through December 31, 2018;
14. internal management and Board presentations regarding the Company's strategic plan and financial and operating performance;
15. summary unaudited projected financial results of Parent on a consolidated basis, prepared by the management of Parent, for each of the fiscal years ending December 31, 2014 to December 31, 2018;
16. discussions with senior management of each of the Company and Parent;
17. discussions with internal legal counsel of each of the Company and Parent;
18. discussions with Parent's financial advisor;
19. publicly available information relating to the business, operations, financial performance and stock trading history of the Company, Parent and other selected public companies considered by us to be relevant;
20. publicly available information with respect to other transactions of comparable nature considered by us to be relevant;
21. publicly available information regarding the North American quick service restaurant ("QSR") industry;
22. representations contained in certificates addressed to us, dated as of the date hereof, from senior officers of each of the Company and Parent as to the completeness and accuracy of the information upon which the Fairness Opinion is based;
23. such other corporate, industry and financial market information, investigations and analyses as RBC considered necessary or appropriate in the circumstances.

RBC has not, to the best of its knowledge, been denied access by the Company or Parent to any information requested by RBC.

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Assumptions and Limitations

With the Board's approval and as provided for in the Engagement Agreement, RBC has relied upon the completeness, accuracy and fair presentation of all of the financial (including, without limitation, the financial statements of the Company) and other information, data, advice, opinions or representations obtained by it from public sources, senior management of each of the Company and Parent, and their respective consultants and advisors (collectively, the "Company Information" as relates to the Company and its subsidiaries, and the "Parent Information" as relates to Parent and its subsidiaries). The Fairness Opinion is conditional upon such completeness, accuracy and fair presentation of such Company Information and Parent Information. Subject to the exercise of professional judgment and except as expressly described herein, we have not attempted to verify independently the completeness, accuracy or fair presentation of any of the Company Information or Parent Information.

Senior officers of the Company have represented to RBC in a certificate delivered as of the date hereof, among other things, that (i) the Company Information (as defined above) provided orally by an officer or employee of the Company or in writing by the Company or any of its subsidiaries (as such term is defined in the Act) or their respective agents to RBC for the purpose of preparing the Fairness Opinion was, at the date the Company Information was provided to RBC, and is, or in the case of historical information, was at the date of preparation if so specifically identified to RBC, complete, true and correct in all material respects, and did not and does not contain any untrue statement of a material fact (as such term is defined in the Act) in respect of the Company, its subsidiaries or the Transaction and did not and does not omit to state a material fact in respect of the Company, its subsidiaries or the Transaction necessary to make the Company Information or any statement contained therein not misleading in light of the circumstances under which the Company Information was provided or any statement was made; and that (ii) since the dates on which the Company Information was provided to RBC, except as disclosed in writing to RBC, there has been no material change, financial or otherwise, in the financial condition, assets, liabilities (contingent or otherwise), business, operations or prospects of the Company or any of its subsidiaries and no material change (as defined in the Act) has occurred in the Company Information or any part thereof which would have or which would reasonably be expected to have a material effect on the Fairness Opinion.

Senior officers of Parent have represented to RBC in a certificate delivered as of the date hereof, among other things, that (i) the Parent Information (as defined above) provided orally by an officer or employee of Parent or in writing by Parent or any of its subsidiaries (as such term is defined in the Act) or their respective agents to RBC for the purpose of preparing the Fairness Opinion was, at the date the Parent Information was provided to RBC, and is, or in the case of historical information, was at the date of preparation if so specifically identified to RBC, complete, true and correct in all material respects, and did not and does not contain any untrue statement of a material fact (as such term is defined in the Act) or omit to state any material fact in respect of Parent, its subsidiaries or the Transaction necessary to make the Parent Information not misleading in light of the circumstances under which the Parent Information was provided; and that (ii) since the dates on which the Parent Information was provided to RBC, except as disclosed in writing to RBC, there has been no material change, financial or otherwise, in the financial condition, assets, liabilities (contingent or otherwise), business, operations or prospects of Parent or any of its subsidiaries and no material change (as defined in the Act) has occurred in the Parent Information or any part thereof which would have or which would reasonably be expected to have a material effect on the Fairness Opinion.

In preparing the Fairness Opinion, RBC has made several assumptions, including that all of the conditions required to implement the Transaction will be met.

The Fairness Opinion is rendered on the basis of securities markets, economic, financial and general business conditions prevailing as at the date hereof and the condition and prospects, financial and otherwise, of the Company, Parent and their respective subsidiaries and affiliates, as they were reflected in the Company Information and Parent Information and as they have been represented to RBC in discussions with management

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of each of the Company and Parent. In its analyses and in preparing the Fairness Opinion, RBC made numerous assumptions with respect to industry performance, general business and economic conditions and other matters, many of which are beyond the control of RBC or any party involved in the Transaction.

The Fairness Opinion has been provided for the use of the Board in its evaluation of the Transaction. The Fairness Opinion is given as of the date hereof and RBC disclaims any undertaking or obligation to advise any person of any change in any fact or matter affecting the Fairness Opinion which may come or be brought to RBC's attention after the date hereof. Without limiting the foregoing, in the event that there is any material change in any fact or matter affecting the Fairness Opinion after the date hereof, RBC reserves the right to change, modify or withdraw the Fairness Opinion.

RBC believes that its analyses must be considered as a whole and that selecting portions of the analyses or the factors considered by it, without considering all factors and analyses together, could create a misleading view of the process underlying the Fairness Opinion. The preparation of a fairness opinion is a complex process and is not necessarily susceptible to partial analysis or summary description. Any attempt to do so could lead to undue emphasis on any particular factor or analysis. The Fairness Opinion is not to be construed as a recommendation to any Shareholder as to whether to vote in favour of the Arrangement.

Fairness Analysis

Approach to Fairness

In considering the fairness of the consideration under the Arrangement from a financial point of view to the Shareholders, RBC principally considered and relied upon the following: (i) a comparison of the consideration under the Arrangement to the results of a discounted cash flow analysis of the Company; (ii) a comparison of selected financial multiples, to the extent publicly available, of selected precedent transactions to the multiples implied by the consideration under the Arrangement; and (iii) a comparison of the consideration under the Arrangement to the recent market trading prices of the Shares. RBC also reviewed and compared selected financial multiples for North American QSR companies whose securities are publicly traded to the multiples implied by the consideration under the Arrangement. Given that public company values generally reflect minority discount values rather than "en bloc" values, RBC did not rely on this methodology.

Fairness Conclusion

Based upon and subject to the foregoing, RBC is of the opinion that, as of the date hereof, the consideration under the Arrangement is fair from a financial point of view to the Shareholders.

Yours very truly,

/s/ RBC DOMINION SECURITIES INC.

RBC DOMINION SECURITIES INC.

August 25, 2014

The Board of Directors
Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, Florida 33126

Dear Members of the Board:

We understand that Burger King Worldwide, Inc., a Delaware corporation (“Parent”), 1011773 B.C. Unlimited Liability Company, an unlimited liability company organized under the laws of British Columbia (“Holdings”), New Red Canada Partnership, a general partnership organized under the laws of Ontario and a wholly-owned subsidiary of Holdings (“Partnership”), Blue Merger Sub, Inc., a Delaware corporation and a wholly-owned subsidiary of Partnership (“Merger Sub”), 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly-owned subsidiary of Partnership, and Tim Hortons Inc., a corporation organized under the laws of Canada (the “Company”), propose to enter into an Arrangement Agreement and Plan of Merger (together with the schedules thereto, the “Agreement”), pursuant to which, among other things, (1) the Company will effect an arrangement under the Canada Business Corporations Act in which the Company will become an indirect wholly-owned subsidiary of Holdings (the “Arrangement”) and (2) Merger Sub will be merged with and into Parent with Parent surviving as an indirect wholly-owned subsidiary of Holdings (the “Merger”, and together with the Arrangement, the “Transaction”). Pursuant to the Agreement, (a) in the Arrangement, each issued and outstanding common share in the capital of the Company (“Company Common Shares”) (other than Company Common Shares in respect of which dissent rights under applicable law have been validly exercised) will be exchanged at the option of the holder thereof and subject to certain limitations and proration procedures set forth in the Agreement for (i) C\$88.50 in cash, (ii) 3.0879 common shares in the capital of Holdings (“Holdings Common Shares”) or (iii) C\$65.50 in cash and 0.8025 Holdings Common Shares and (b) in the Merger, each issued and outstanding share of common stock, par value US\$0.01, of Parent (“Parent Common Shares”) (other than Parent Common Shares owned as treasury stock or owned directly by Holdings, Partnership or Merger Sub (the “Excluded Holders”), each of which will be cancelled pursuant to the terms of the Agreement) will be converted into the right to receive at the option of the holder thereof and subject to certain limitations and proration procedures set forth in the Agreement (as to which we express no opinion), (i) 1.00 exchangeable units of Partnership that are each exchangeable for 1.00 Holdings Common Shares (“Exchangeable Units”) (the “Unit Consideration”) or (ii) 0.99 Holdings Common Shares and 0.01 Exchangeable Units (together, the “Share Consideration” and, together with the Unit Consideration, the “Consideration”). The terms and conditions of the Transaction are more fully set forth in the Agreement.

You have requested our opinion as of the date hereof as to the fairness, from a financial point of view, to the stockholders of Parent (other than the Excluded Holders and affiliates of Parent) of the Consideration to be received by such stockholders in the Transaction.

In connection with this opinion, we have:

- (i) Reviewed the financial terms and conditions of a draft, dated August 25, 2014, of the Agreement;
- (ii) Reviewed certain publicly available historical business and financial information relating to the Company and Parent;
- (iii) Reviewed various financial forecasts and other data provided to us by the Company relating to the business of the Company and extrapolations thereto prepared based on the guidance of management of Parent and approved for our use, financial forecasts and other data provided to us by Parent relating to the business of Parent and extrapolations thereto prepared based on the guidance of management of

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The Board of Directors
Burger King Worldwide, Inc.
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Parent and approved for our use, and the projected synergies and other benefits under various scenarios, including the amount and timing thereof, anticipated by the management of Parent to be realized from the Transaction;

- (iv) Held discussions with members of the senior managements of the Company and Parent with respect to the businesses and prospects of the Company and Parent, respectively, and with members of the senior management of Parent with respect to the synergies and other benefits, including the amount and timing thereof, anticipated by the management of Parent to be realized from the Transaction;
- (v) Reviewed public information with respect to certain other companies in lines of business we believe to be generally relevant in evaluating the businesses of the Company and Parent, respectively;
- (vi) Reviewed the financial terms of certain business combinations involving companies in lines of business we believe to be generally relevant in evaluating the businesses of the Company and Parent, respectively;
- (vii) Reviewed historical stock prices and trading volumes of Company Common Shares and Parent Common Shares;
- (viii) Reviewed the potential pro forma financial impact of the Transaction on the combined company based on the financial forecasts referred to above relating to the Company and Parent; and
- (ix) Conducted such other financial studies, analyses and investigations as we deemed appropriate.

We have assumed and relied upon the accuracy and completeness of the foregoing information, without independent verification of such information. We have not conducted any independent valuation or appraisal of any of the assets or liabilities (contingent or otherwise) of the Company or Parent or concerning the solvency or fair value of the Company or Parent, and we have not been furnished with any such valuation or appraisal. With respect to the financial forecasts utilized in our analyses, including those related to projected synergies and other benefits anticipated by the management of Parent to be realized from the Transaction, we have assumed, with the consent of Parent, that they have been reasonably prepared on bases reflecting the best currently available estimates and judgments as to the future financial performance of the Company and Parent, respectively, and such synergies and other benefits. In addition, we have assumed, with the consent of Parent, that such financial forecasts, including such projected synergies and other benefits, will be realized in the amounts and at the times contemplated thereby. We assume no responsibility for and express no view as to any such forecasts, including such projected synergies and other benefits, or the assumptions on which they are based. We have further assumed for purposes of our opinion, at the direction of Parent, that an Exchangable Unit will have equivalent economic value as a Holdings Common Share.

Further, our opinion is necessarily based on economic, monetary, market and other conditions as in effect on, and the information made available to us as of, the date hereof. We assume no responsibility for updating or revising our opinion based on circumstances or events occurring after the date hereof. We do not express any opinion as to the prices at which Holdings Common Shares, Exchangeable Units, Parent Common Shares or Company Common Shares may trade at any time subsequent to the announcement of the Transaction. Our opinion does not address the relative merits of the Transaction as compared to any other transaction or business strategy in which Parent might engage or the merits of the underlying decision by Parent to engage in the Transaction.

In rendering our opinion, we have assumed, with the consent of Parent, that the Transaction will be consummated on the terms described in the Agreement, without any waiver or modification of any material terms

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or conditions. Representatives of Parent have advised us, and we have assumed, that the Agreement, when executed, will conform to the draft reviewed by us in all material respects. We also have assumed, with the consent of Parent, that obtaining the necessary governmental, regulatory or third party approvals and consents for the Transaction will not have an adverse effect on Parent, the Company, Holdings, Partnership or the Transaction. The tax elements of our financial analyses, and the tax attributes expected to apply to the combined company following the consummation of the Transaction, were provided to us by Parent, and we do not express any view or opinion as to such tax elements or tax attributes. We do not express any opinion as to any tax or other consequences that might result from the Transaction, nor does our opinion address any legal, tax, regulatory or accounting matters, as to which we understand that Parent obtained such advice as it deemed necessary from qualified professionals. We express no view or opinion as to any terms or other aspects (other than the Consideration to the extent expressly specified herein) of the Transaction, including, without limitation, the form or structure of the Transaction or any agreements or arrangements entered into in connection with, or contemplated by, the Transaction, including any voting agreements, any agreements governing the Exchangable Units and any agreements relating to any debt or equity financing. In addition, we express no view or opinion as to the fairness of the amount or nature of, or any other aspects relating to, the compensation to any officers, directors or employees of any parties to the Transaction, or class of such persons, relative to the Consideration or otherwise.

Lazard Frères & Co. LLC (“Lazard”) is acting as financial advisor to Parent in connection with the Transaction and will receive a fee for such services, a portion of which is payable upon the rendering of this opinion and a substantial portion of which is contingent upon the closing of the Transaction. We in the past have provided, currently are providing and in the future may provide certain investment banking services to Parent’s principal stockholder, 3G Special Situations Fund II, L.P. (together with its affiliates, “3G Capital”), and certain of its affiliates, for which we have received and may receive compensation, including, without limitation, having advised 3G Capital in connection with the acquisition of Parent in 2010 and, in the past two years, having advised 3G Capital in connection with the acquisition of H.J. Heinz Company and having advised Anheuser-Busch InBev and predecessor companies, in which certain affiliates of 3G Capital have an interest, on numerous transactions (including the purchase of Oriental Brewery, the combination with Grupo Modelo and the related divestitures of the US business of Grupo Modelo and Santos Laguna). In addition, in the ordinary course, Lazard and our affiliates and our and their employees may trade securities of Parent, the Company and certain of their respective affiliates for their own accounts and for the accounts of their customers and, accordingly, may at any time hold a long or short position in such securities, and may also trade and hold securities on behalf of Parent, the Company and certain of their respective affiliates. The issuance of this opinion was approved by the Opinion Committee of Lazard.

Our engagement and the opinion expressed herein are for the benefit of the Board of Directors of Parent (in its capacity as such) and our opinion is rendered to the Board of Directors of Parent in connection with its evaluation of the Transaction. Our opinion is not intended to and does not constitute a recommendation to any stockholder as to how such stockholder should vote or act with respect to the Transaction or any matter relating thereto.

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The Board of Directors
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Based on and subject to the foregoing, we are of the opinion that, as of the date hereof, the Consideration to be received by stockholders of Parent (other than the Excluded Holders and affiliates of Parent) in the Transaction is fair, from a financial point of view, to such stockholders of Parent.

Very truly yours,

LAZARD FRERES & CO. LLC

By /s/ Alexander Hecker

Alexander Hecker

Managing Director

FORM OF WRITTEN CONSENT OF STOCKHOLDERS IN LIEU OF A MEETING

[, 20]

The undersigned, being the stockholders of Burger King Worldwide, Inc., a Delaware corporation (the “Company”), holding a majority of the outstanding shares of common stock, par value \$0.01 per share, of the Company (the “Stockholders”), acting by written consent in lieu of a special meeting, pursuant to the provisions of Section 228 of the General Corporation Law of the State of Delaware (“DGCL”), Article X of the Amended and Restated Certificate of Incorporation of the Company and Section 2.16 of the Amended and Restated Bylaws of the Company, hereby consent in writing to the adoption without a meeting of the following resolutions and to the taking of each of the actions contemplated thereby as of the date first written above:

WHEREAS, the Board of Directors of the Company (the “Board”) has determined that it is advisable and in the best interests of the Company and the stockholders of the Company for the Company to enter into, and have authorized the execution and delivery of, an Arrangement Agreement and Plan of Merger (the “Agreement”), by and among the Company, 9060669 Canada Inc., a corporation incorporated under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company) (“Holdings”), New Red Canada Limited Partnership, a limited partnership organized under the laws of Ontario and wholly-owned subsidiary of Holdings (f/k/a New Red Canada Partnership) (“Partnership”), Blue Merger Sub, Inc., a corporation incorporated under the laws of Delaware and a wholly-owned subsidiary of Partnership, 8997900 Canada Inc., a corporation organized under the laws of Canada and a wholly-owned subsidiary of Partnership, and Tim Hortons Inc., a corporation organized under the laws of Canada (“Tim Hortons”), pursuant to which, among other things, Merger Sub will merge with and into the Company (the “Merger”), with the Company continuing as the surviving corporation and a subsidiary of Holdings; and

WHEREAS, in accordance with the resolutions of the Board approving the Agreement, the Company has executed and delivered the Agreement and submitted the Agreement and the Merger to the stockholders of the Company for their adoption and approval.

Approval of Arrangement Agreement

NOW, THEREFORE, BE IT RESOLVED, that the Agreement and the transactions contemplated thereby, including the Merger, be, and they hereby are, adopted, ratified, approved and authorized in all respects by the Stockholders;

The undersigned hereby waives compliance with any and all notice requirements imposed by the DGCL or other applicable law.

When executed by the Stockholders, this Consent shall be delivered to the Company and Tim Hortons in accordance with Section 3 of the Voting Agreement, dated as of August 26, 2014, by and among Tim Hortons and the Stockholders.

[Signature Page Follows]

IN WITNESS WHEREOF, the Stockholders have executed this written consent as of the date first written above.

STOCKHOLDERS:

[STOCKHOLDER]

By: _____
Name: _____
Title: _____

[STOCKHOLDER]

By: _____
Name: _____
Title: _____

[STOCKHOLDER]

By: _____
Name: _____
Title: _____

SECTION 190 OF THE CBCA

190.(1) Right to dissent — Subject to sections 191 and 241, a holder of shares of any class of a corporation may dissent if the corporation is subject to an order under paragraph 192(4)(d) that affects the holder or if the corporation resolves to (a) amend its articles under section 173 or 174 to add, change or remove any provisions restricting or constraining the issue, transfer or ownership of shares of that class; (b) amend its articles under section 173 to add, change or remove any restriction on the business or businesses that the corporation may carry on; (c) amalgamate otherwise than under section 184; (d) be continued under section 188; (e) sell, lease or exchange all or substantially all its property under subsection 189(3); or (f) carry out a going-private transaction or a squeeze-out transaction.

(2) Further right — A holder of shares of any class or series of shares entitled to vote under section 176 may dissent if the corporation resolves to amend its articles in a manner described in that section.

(2.1) If one class of shares — The right to dissent described in subsection (2) applies even if there is only one class of shares.

(3) Payment for shares — In addition to any other right the shareholder may have, but subject to subsection (26), a shareholder who complies with this section is entitled, when the action approved by the resolution from which the shareholder dissents or an order made under subsection 192(4) becomes effective, to be paid by the corporation the fair value of the shares in respect of which the shareholder dissents, determined as of the close of business on the day before the resolution was adopted or the order was made.

(4) No partial dissent — A dissenting shareholder may only claim under this section with respect to all the shares of a class held on behalf of any one beneficial owner and registered in the name of the dissenting shareholder.

(5) Objection — A dissenting shareholder shall send to the corporation, at or before any meeting of shareholders at which a resolution referred to in subsection (1) or (2) is to be voted on, a written objection to the resolution, unless the corporation did not give notice to the shareholder of the purpose of the meeting and of their right to dissent.

(6) Notice of resolution — The corporation shall, within ten days after the shareholders adopt the resolution, send to each shareholder who has filed the objection referred to in subsection (5) notice that the resolution has been adopted, but such notice is not required to be sent to any shareholder who voted for the resolution or who has withdrawn their objection.

(7) Demand for payment — A dissenting shareholder shall, within twenty days after receiving a notice under subsection (6) or, if the shareholder does not receive such notice, within twenty days after learning that the resolution has been adopted, send to the corporation a written notice containing (a) the shareholder's name and address; (b) the number and class of shares in respect of which the shareholder dissents; and (c) a demand for payment of the fair value of such shares.

(8) Share certificate — A dissenting shareholder shall, within thirty days after sending a notice under subsection (7), send the certificates representing the shares in respect of which the shareholder dissents to the corporation or its transfer agent.

(9) Forfeiture — A dissenting shareholder who fails to comply with subsection (8) has no right to make a claim under this section.

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(10) Endorsing certificate — A corporation or its transfer agent shall endorse on any share certificate received under subsection (8) a notice that the holder is a dissenting shareholder under this section and shall forthwith return the share certificates to the dissenting shareholder.

(11) Suspension of rights — On sending a notice under subsection (7), a dissenting shareholder ceases to have any rights as a shareholder other than to be paid the fair value of their shares as determined under this section except where (a) the shareholder withdraws that notice before the corporation makes an offer under subsection (12), (b) the corporation fails to make an offer in accordance with subsection (12) and the shareholder withdraws the notice, or (c) the directors revoke a resolution to amend the articles under subsection 173(2) or 174(5), terminate an amalgamation agreement under subsection 183(6) or an application for continuance under subsection 188(6), or abandon a sale, lease or exchange under subsection 189(9), in which case the shareholder's rights are reinstated as of the date the notice was sent.

(12) Offer to pay — A corporation shall, not later than seven days after the later of the day on which the action approved by the resolution is effective or the day the corporation received the notice referred to in subsection (7), send to each dissenting shareholder who has sent such notice (a) a written offer to pay for their shares in an amount considered by the directors of the corporation to be the fair value, accompanied by a statement showing how the fair value was determined; or (b) if subsection (26) applies, a notification that it is unable lawfully to pay dissenting shareholders for their shares.

(13) Same Terms — Every offer made under subsection (12) for shares of the same class or series shall be on the same terms.

(14) Payment — Subject to subsection (26), a corporation shall pay for the shares of a dissenting shareholder within ten days after an offer made under subsection (12) has been accepted, but any such offer lapses if the corporation does not receive an acceptance thereof within thirty days after the offer has been made.

(15) Corporation may apply to court — Where a corporation fails to make an offer under subsection (12), or if a dissenting shareholder fails to accept an offer, the corporation may, within fifty days after the action approved by the resolution is effective or within such further period as a court may allow, apply to a court to fix a fair value for the shares of any dissenting shareholder.

(16) Shareholder application to court — If a corporation fails to apply to a court under subsection (15), a dissenting shareholder may apply to a court for the same purpose within a further period of twenty days or within such further period as a court may allow.

(17) Venue — An application under subsection (15) or (16) shall be made to a court having jurisdiction in the place where the corporation has its registered office or in the province where the dissenting shareholder resides if the corporation carries on business in that province

(18) No security for costs — A dissenting shareholder is not required to give security for costs in an application made under subsection (15) or (16).

(19) Parties — On an application to a court under subsection (15) or (16), (a) all dissenting shareholders whose shares have not been purchased by the corporation shall be joined as parties and are bound by the decision of the court; and (b) the corporation shall notify each affected dissenting shareholder of the date, place and consequences of the application and of their right to appear and be heard in person or by counsel.

(20) Power of court — On an application to a court under subsection (15) or (16), the court may determine whether any other person is a dissenting shareholder who should be joined as a party, and the court shall then fix a fair value for the shares of all dissenting shareholders.

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(21) Appraisers — A court may in its discretion appoint one or more appraisers to assist the court to fix a fair value for the shares of the dissenting shareholders.

(22) Final Order — The final order of a court shall be rendered against the corporation in favour of each dissenting shareholder and for the amount of the shares as fixed by the court.

(23) Interest — A court may in its discretion allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective until the date of payment.

(24) Notice that subsection (26) applies — If subsection (26) applies, the corporation shall, within ten days after the pronouncement of an order under subsection (22), notify each dissenting shareholder that it is unable lawfully to pay dissenting shareholders for their shares.

(25) Effect where subsection (26) applies — If subsection (26) applies, a dissenting shareholder, by written notice delivered to the corporation within thirty days after receiving a notice under subsection (24), may (a) withdraw their notice of dissent, in which case the corporation is deemed to consent to the withdrawal and the shareholder is reinstated to their full rights as a shareholder; or (b) retain a status as a claimant against the corporation, to be paid as soon as the corporation is lawfully able to do so or, in a liquidation, to be ranked subordinate to the rights of creditors of the corporation but in priority to its shareholders.

(26) Limitation — A corporation shall not make a payment to a dissenting shareholder under this section if there are reasonable grounds for believing that (a) the corporation is or would after the payment be unable to pay its liabilities as they become due; or (b) the realizable value of the corporation's assets would thereby be less than the aggregate of its liabilities.

PART II

INFORMATION NOT REQUIRED IN THE PROSPECTUS

Item 20. Indemnification of Directors and Officers

Holdings

Subject to the provisions of section 124 of the CBCA, Holdings' bylaws provide that Holdings will indemnify a director or officer of Holdings, a former director or officer of Holdings or another individual who acts or acted at Holdings' request as a director or officer, or an individual acting in a similar capacity, of another entity, against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment reasonably incurred by the individual in respect of any civil, criminal, administrative, investigative or other proceeding in which the individual is involved because of that association with Holdings or other entity. Despite the foregoing, Holdings will not be permitted to indemnify an individual unless the individual: (a) acted honestly and in good faith with a view to the best interests of Holdings or, as the case may be, to the best interests of the other entity for which the individual acted as director or officer or in a similar capacity at Holdings' request; and (b) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, the individual had reasonable grounds for believing that the individual's conduct was lawful. Holdings may also advance money to a director, officer or other individual for the costs, charges and expenses of a proceeding referred to above but such individual will be required to repay the money if the individual does not fulfil the foregoing conditions (a) and (b).

In accordance with its bylaws, it is expected that Holdings will purchase directors' and officers' liability insurance for the benefit of all of the directors and officers of Holdings, to indemnify them against any liability incurred by them in their capacity as directors and officers, subject to certain limitations under applicable laws. It is also expected that Holdings will execute agreements evidencing its indemnity in favor of the foregoing classes of persons to the fullest extent permitted by law.

Partnership

To the fullest extent permitted by law but subject to the limitations provided in the partnership agreement of Partnership, Holdings (as the initial General Partner), and any other Partnership Indemnatee will be indemnified and held harmless by Partnership from and against any and all losses, claims, damages, liabilities, joint or several expenses (including, without limitation, legal fees and expenses on a solicitor/client basis), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, whether civil, criminal, administrative or investigative, in which any Partnership Indemnatee may be involved, or is threatened to be involved, as a party or otherwise, provided that (i) in each case the Partnership Indemnatee acted honestly and in good faith with a view to the best interest of Partnership, (ii) in the case of a criminal or administrative action or proceeding that is enforced by monetary penalty, the Partnership Indemnatee had reasonable grounds for believing its conduct was lawful, and (iii) no indemnification will be available to a Partnership Indemnatee where the Partnership Indemnatee has been adjudged by a final decision of a court of competent jurisdiction in Ontario that is no longer appealable to have been in breach of, or negligent in the performance of, its obligations under the partnership agreement of Partnership. The termination of any action, suit or proceeding by judgment, order, settlement or conviction will not create a presumption that the Partnership Indemnatee acted in a manner contrary to the foregoing. Any indemnification under the partnership agreement of Partnership will be made only out of the assets of Partnership. To the fullest extent permitted by law, expenses (including, without limitation, legal fees and expenses) incurred by a Partnership Indemnatee in defending any claim, demand, action, suit or proceeding will, from time to time, be advanced by Partnership prior to the final disposition of any claim, demand, action, suit or proceeding upon receipt by Partnership of an undertaking by or on behalf of the Partnership Indemnatee to repay that amount if it is determined that the Partnership Indemnatee is not entitled to be indemnified.

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In accordance with the partnership agreement of Partnership, it is expected that Partnership will purchase and maintain (or reimburse the General Partner or its affiliates for the cost of) insurance, on behalf of those persons (other than the General Partner itself) as the General Partner determines, against any liability that may be asserted against or expense that may be incurred by that person in connection with Partnership's activities, whether or not Partnership would have the power to indemnify those persons against those liabilities under the provisions of the partnership agreement.

The General Partner will indemnify and hold harmless each Limited Partner (including former Limited Partners) for all costs, expenses, damages or liabilities suffered or incurred by the Limited Partner if the limited liability of that Limited Partner is lost for or by reason of the negligence of the General Partner in performing its duties and obligations under the partnership agreement of Partnership. The General Partner will indemnify Partnership and each Limited Partner from and against all costs, expenses, damages or liabilities suffered or incurred by Partnership or any Limited Partner by reason of an act of wilful misconduct or gross negligence by the General Partner or of any act or omission not believed by the General Partner in good faith to be within the scope of the authority conferred on the General Partner by the terms of the partnership agreement.

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Item 21. Exhibits and Financial Statement Schedules

(a) Exhibits

<u>Exhibit Number</u>	<u>Description</u>
2.1	Arrangement Agreement and Plan of Merger, dated as of August 26, 2014, among Burger King Worldwide, Inc., 9060669 Canada Inc. (f/k/a 1011773 B.C. Unlimited Liability Company), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), Blue Merger Sub, Inc., 8997900 Canada Inc. and Tim Hortons Inc. Plan of Arrangement (included as <i>Annex A</i> to this joint information statement/circular that is part of this registration statement)
2.2	Form of Plan of Arrangement of Tim Hortons Inc. (included as <i>Annex B</i> to this joint information statement/circular that is part of this registration statement)
3.1	Form of Articles of Amendment of 9060669 Canada Inc. (f/k/a 1011773 B.C. Unlimited Liability Company) (included as <i>Annex D</i> to this joint information statement/circular that is part of this registration statement)
3.2	Form of Amended and Restated By-Law No. 1 of 9060669 Canada Inc. (f/k/a 1011773 B.C. Unlimited Liability Company) (included as <i>Annex E</i> to this joint information statement/circular that is part of this registration statement)
3.3	Form of Partnership Agreement of New Red Canada Limited Partnership (f/k/a New Red Canada Partnership) (included as <i>Annex F</i> to this joint information statement/circular that is part of this registration statement)
4.1†	Indenture, dated as of October 8, 2014, by and among 1011778 B.C. Unlimited Liability Company, as issuer, New Red Finance, Inc., as co-issuer, the guarantors from time to time party thereto and Wilmington Trust, National Association, as trustee and collateral agent.
4.2	Credit Agreement, dated as of October 27, 2014, among 1011778 B.C. Unlimited Liability Company, as the parent borrower, New Red Finance, Inc., as the subsidiary borrower, 1013421 B.C. Unlimited Liability Company, JPMorgan Chase Bank, N.A., as administrative agent, collateral agent and swing line lender and each l/c issuer and lender from time to time party thereto
5.1	Opinion of Davies Ward Phillips & Vineberg LLP regarding validity of securities to be issued
8.1	Opinion of Paul, Weiss, Rifkind, Wharton & Garrison LLP regarding tax matters
8.2	Opinion of KPMG LLP regarding tax matters
8.3	Opinion of Wachtell, Lipton, Rosen & Katz regarding tax matters
10.1†	Voting Agreement, dated as of August 26, 2014, by and among 3G Special Situations Fund II, L.P. and Tim Hortons Inc.
10.2†	Form of Voting Trust Agreement between 9060669 Canada Inc. (f/k/a 1011773 B.C. Unlimited Liability Company), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership) and Trustee
10.4†	Form of Lock-Up Agreement with respect to Tim Hortons Inc. common shares
23.1	Consent of PricewaterhouseCoopers LLP
23.2	Consent of KPMG LLP
23.3	Consent of Davies Ward Phillips & Vineberg LLP to inclusion of legality opinion (included in Exhibit 5.1 to this joint information statement/circular)
23.4	Consent of Paul, Weiss, Rifkind, Wharton & Garrison LLP (included in Exhibit 8.1)

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<u>Exhibit Number</u>	<u>Description</u>
23.5	Consent of Wachtell, Lipton, Rosen & Katz (included in Exhibit 8.3)
24.1	Powers of Attorney (previously included on the signature pages hereto)
25.1*	Form T-1 Statement of Eligibility of Trustee
99.1†	Form of Tim Hortons Inc. Proxy Card
99.2†	Consent of Citigroup Global Markets Inc.
99.3†	Consent of RBC Dominion Securities Inc.
99.4†	Consent of Lazard Frères & Co. LLC
99.5*	Consent of Marc Caira

* To be filed by amendment.

† Previously filed.

(c) Reports, Opinions and Appraisals.

None.

Item 22. Undertakings.

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement: (i) to include any prospectus required by section 10(a)(3) of the Securities Act; (ii) to reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement (notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered)) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the SEC pursuant to Rule 424 (b) if, in the aggregate, the changes in volume and price represent no more than a 20% change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement; and (iii) to include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for the purpose of determining liability under the Securities Act to any purchaser, each prospectus filed pursuant to Rule 424(b) as part of a registration statement relating to an offering, other than registration statements relying on Rule 430B or other than prospectuses filed in reliance on Rule 430A, shall be deemed to be part of and included in the registration statement as of the date it is first used after effectiveness. Provided, however, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such first use, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such date of first use.

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(5) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser: (i) any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424; (ii) any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant; (iii) the portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and (iv) any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

(6) That, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to section 13(a) or 15(d) of the Exchange Act, as amended (and, where applicable, each filing of an employee benefit plan's annual report pursuant to section 15(d) of the Exchange Act, as amended) that is incorporated by reference in this registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(7) That prior to any public reoffering of the securities registered hereunder through use of a prospectus which is a part of this registration statement by any person or party who is deemed to be an underwriter within the meaning of Rule 145(c), the registrant undertakes that such reoffering prospectus will contain the information called for by the applicable registration form with respect to reofferings by persons who may be deemed underwriters, in addition to the information called for by the other items of the applicable form.

(8) That every prospectus (i) that is filed pursuant to paragraph (7) above, or (ii) that purports to meet the requirements of section 10(a)(3) of the Securities Act and is used in connection with an offering of securities subject to Rule 415, will be filed as a part of an amendment to this registration statement and will not be used until such amendment has become effective, and that, for the purpose of determining liabilities under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(9) Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the SEC such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer, or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question of whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

(10) To respond to requests for information that is incorporated by reference into the prospectus pursuant to Items 4, 10(b), 11 or 13 of this form, within one business day of receipt of such request, and to send the incorporated documents by first class mail or other equally prompt means. This includes information contained in documents filed subsequent to the effective date of the registration statement through the date of responding to the request.

(11) To supply by means of a post-effective amendment all information concerning a transaction, and the company being acquired involved therein, that was not the subject of and included in this registration statement when it became effective.

SIGNATURES

Pursuant to the requirements of the Securities Act, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of Miami, Florida, on October 31, 2014.

9060669 CANADA INC.

By: /s/ Joshua Kobza
Name: Joshua Kobza
Title: Vice President

NEW RED CANADA LIMITED PARTNERSHIP

By: /s/ Joshua Kobza
Name: Joshua Kobza
Title: Vice President

Pursuant to the requirements of the Securities Act, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Joshua Kobza</u>	Principal Executive, Financial and Accounting Officer of each of 9060669 Canada Inc. and New Red Canada Limited Partnership	October 31, 2014
<u>/s/ Jill Granat</u>	Director of 9060669 Canada Inc. and the general partner of New Red Canada Limited Partnership	October 31, 2014
<u>/s/ Joshua Kobza</u>	Director of 9060669 Canada Inc. and the general partner of New Red Canada Limited Partnership	October 31, 2014

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99.4†	Consent of Lazard Frères & Co. LLC
99.5*	Consent of Marc Caira

* To be filed by amendment.
† Previously filed.

CREDIT AGREEMENT

Dated as of October 27, 2014

among

1011778 B.C. UNLIMITED LIABILITY COMPANY,
as the Parent Borrower,

NEW RED FINANCE, INC.,
as the Subsidiary Borrower,

1013421 B.C. UNLIMITED LIABILITY COMPANY,
as Holdings,

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent and Collateral Agent,

THE LENDERS PARTY HERETO,

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Syndication Agent,

BANK OF AMERICA, N.A.,
BARCLAYS BANK PLC
MORGAN STANLEY SENIOR FUNDING, INC.,
THE BANK OF NOVA SCOTIA,
TD SECURITIES (USA) LLC,
COÖPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK B.A., “RABOBANK
NEDERLAND”, NEW YORK BRANCH,
CREDIT SUISSE AG,
FIFTH THIRD BANK,
and
HSBC SECURITIES (USA) INC.
as Co-Documentation Agents

J.P. MORGAN SECURITIES LLC,
and
WELLS FARGO SECURITIES, LLC,
as Joint Lead Arrangers

and

J.P. MORGAN SECURITIES LLC,
WELLS FARGO SECURITIES, LLC,
and
MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
as Joint Bookrunners

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CREDIT AGREEMENT

This CREDIT AGREEMENT is entered into as of October 27, 2014, among 1011778 B.C. Unlimited Liability Company, an unlimited liability company organized under the laws of British Columbia (the “Parent Borrower”), New Red Finance, Inc., a Delaware corporation (the “Subsidiary Borrower” and together with the Parent Borrower, the “Borrowers”), 1013421 B.C. Unlimited Liability Company, an unlimited liability company organized under the laws of British Columbia (“Holdings”), JPMORGAN CHASE BANK, N.A. (“JPMCB”), as Administrative Agent, Collateral Agent and Swing Line Lender and each L/C Issuer and lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”).

PRELIMINARY STATEMENTS

1. The Parent Borrower (as this and other capitalized terms used in these Preliminary Statements are defined in Section 1.01 below) intends to indirectly acquire (the “Acquisition”) all of the outstanding common stock of each of Tim Hortons Inc., a corporation organized under the laws of Canada (“THI”) and Burger King Worldwide, Inc., a Delaware corporation (“BKW”). To effect the Acquisition, (i) certain Investors will make the Equity Contribution and (ii) the Parent Borrower will indirectly consummate the transactions contemplated by the Arrangement Agreement and Plan of Merger, dated as of August 26, 2014 (as amended, the “Acquisition Agreement”), by and among BKW, 1011773 B.C. Unlimited Liability Company, New Red Canada Partnership, Blue Merger Sub, Inc., 8997900 Canada Inc. and THI.

2. The Borrowers have requested that immediately prior to the consummation of the Acquisition, the Lenders extend credit directly to or on behalf of the Parent Borrower in the form of (i) Term B Loans in an initial aggregate principal amount equal to \$6,750,000,000 and (ii) a Revolving Credit Facility in an initial aggregate principal amount of \$500,000,000. The Revolving Credit Facility may include one or more Swing Line Loans and one or more Letters of Credit from time to time.

3. The proceeds of the Term B Loans and the Initial Revolving Borrowing (to the extent permitted in accordance with the definition of the term “Permitted Initial Revolving Borrowing”), together with the proceeds of (i) the Senior Secured Notes and (ii) the Equity Contribution, will be used by the Parent Borrower to finance the Acquisition and the Transaction Expenses and, subject to the terms and conditions set forth herein, to consummate the Refinancing. The proceeds of Revolving Credit Loans made after the Closing Date and Letters of Credit will be used for working capital and other general corporate purposes of the Parent Borrower and its Subsidiaries. Swing Line Loans will be used for general corporate purposes of the Parent Borrower and its Subsidiaries.

4. The Lenders have indicated their willingness to lend, and the L/C Issuer has indicated its willingness to issue Letters of Credit, in each case, on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I

Definitions and Accounting Terms

Section 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:

“Acceptable Discount” has the meaning specified in Section 2.05(d)(iii).

“ Acceptance Date ” has the meaning specified in Section 2.05(d)(ii).

“ Accounting Changes ” has the meaning specified in Section 1.03(d).

“ Acquired EBITDA ” means, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable, all as determined on a consolidated basis for such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable.

“ Acquired Entity or Business ” has the meaning specified in the definition of the term “Consolidated EBITDA.”

“ Acquisition ” has the meaning specified in the Preliminary Statements to this Agreement.

“ Acquisition Agreement ” has the meaning specified in the Preliminary Statements to this Agreement.

“ Additional Lender ” has the meaning specified in Section 2.14(d).

“ Additional Revolving Credit Commitment ” has the meaning specified in Section 2.14(a).

“ Administrative Agent ” means, subject to Section 9.13, JPMCB (and any of its Affiliates selected by JPMCB to act as administrative agent for any of the facilities provided hereunder), in its capacity as administrative agent under the Loan Documents, or any successor administrative agent appointed in accordance with Section 9.09.

“ Administrative Agent’s Office ” means, with respect to any currency, the Administrative Agent’s address and, as appropriate, account as set forth on Schedule 10.02 with respect to such currency, or such other address or account as the Administrative Agent may from time to time notify the Parent Borrower and the Lenders.

“ Administrative Questionnaire ” means an Administrative Questionnaire in a form supplied by the Administrative Agent.

“ Affiliate ” means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. “ Control ” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “ Controlling ” and “ Controlled ” have meanings correlative thereto. Notwithstanding the foregoing, no Lender listed on Schedule 2.01 (nor any of their respective Affiliates a majority of the voting Equity Interests of which are owned directly or indirectly by a parent company of any such Lender) shall be deemed to be an Affiliate of the Parent Borrower, any Restricted Subsidiary or any Investor unless such Investor directly or indirectly owns a majority of the voting Equity Interests of any such Person.

“ Affiliated Debt Fund ” means a Sponsor Affiliated Lender that is primarily engaged in, or advises funds or other investment vehicles that are engaged in, making, purchasing, holding or

otherwise investing in commercial loans, bonds and similar extensions of credit in the ordinary course of business and with respect to which the Sponsor does not, directly or indirectly, possess the power to direct or cause the direction of the investment policies of such entity.

“ Agent-Related Persons ” means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

“ Agents ” means, collectively, the Administrative Agent, the Collateral Agent, and the Supplemental Administrative Agents (if any).

“ Aggregate Commitments ” means the Commitments of all the Lenders.

“ Agreement ” means this Credit Agreement.

“ Agreement Currency ” has the meaning specified in Section 10.17.

“ Alternative Currency ” means each of Euro, Argentine Peso, Australian Dollars, Brazilian Real, British Pounds Sterling, Canadian Dollars, Chinese Yuan, Croatian Kuna, Danish Kroner, Indian Rupee, Israeli New Shekel, Japanese Yen, Korean Won, Mexican Pesos, Nigerian Naira, Norwegian Krone, Pakistani Rupee, Polish Zloty, Russian Ruble, Singapore Dollars, South African Rand, Swedish Kroner, Swiss Francs, Turkish Lira, Uruguayan Peso, Venezuelan Bolívar, and each other currency (other than Dollars) that is a lawful currency that is readily available and freely transferable and convertible into Dollars.

“ Alternative Currency Letter of Credit ” means a Letter of Credit denominated in an Alternative Currency.

“ Applicable Discount ” has the meaning specified in Section 2.05(d)(iii).

“ Applicable Lending Office ” means for any Lender, such Lender’s office, branch or affiliate designated for Eurocurrency Rate Loans of the applicable currency, Base Rate Loans, L/C Advances, Swing Line Loans or Letters of Credit, as applicable, as notified to the Administrative Agent, any of which offices may be changed by such Lender.

“ Applicable Percentage ” means, at any time (a) with respect to any Lender with a Commitment of any Class, the percentage equal to a fraction the numerator of which is the amount of such Lender’s Commitment of such Class at such time and the denominator of which is the aggregate amount of all Commitments of such Class of all Lenders (provided that (i) in the case of Section 2.16 when a Defaulting Lender shall exist, “Applicable Percentage” with respect to the Revolving Credit Facility shall be determined by disregarding any Defaulting Lender’s Revolving Credit Commitment and (ii) if the Revolving Credit Commitments have terminated or expired, the Applicable Percentages of the Lenders shall be determined based upon the Revolving Credit Commitments most recently in effect) and (b) with respect to the Loans of any Class, a percentage equal to a fraction the numerator of which is such Lender’s Outstanding Amount of the Loans of such Class and the denominator of which is the aggregate Outstanding Amount of all Loans of such Class.

“ Applicable Rate ” means a percentage per annum equal to:

(a) (i) for Eurocurrency Rate Loans that are Term B Loans, 3.50%, and (ii) for Base Rate Loans that are Term B Loans, 2.50%, and

(b) (i) until delivery of financial statements and a related Compliance Certificate for the first full fiscal quarter commencing on or after the Closing Date pursuant to Section 6.01, (A) for Eurocurrency Rate Loans that are Revolving Credit Loans, 3.00%, (B) for Base Rate Loans that are Revolving Credit Loans, 2.00%, (C) for letter of credit fees, 3.00% per annum and (D) for Commitment Fees 0.50% and (ii) thereafter, in connection with Revolving Credit Loans, the percentages per annum set forth in the table below, based upon the First Lien Senior Secured Leverage Ratio as set forth in the most recent Compliance Certificate received by the Administrative Agent pursuant to Section 6.02(a) :

Applicable Rate

Pricing Level	First Lien Senior Secured Leverage	Letter of Credit	Base Rate for	Eurocurrency Rate	Commitment
	Ratio	Fees	Revolving Loans	for Revolving Loans	Fees
I	> 3.50x	3.00%	2.00%	3.00%	0.50%
II	< 3.50x but > 3.00x	2.75%	1.75%	2.75%	0.375%
III	< 3.00x	2.50%	1.50%	2.50%	0.375%

Any increase or decrease in the Applicable Rate pursuant to clause (a) or (b) above resulting from a change in the First Lien Senior Secured Leverage Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.02(a).

Notwithstanding anything to the contrary contained above in this definition or elsewhere in this Agreement, if it is subsequently determined that the First Lien Senior Secured Leverage Ratio set forth in any Compliance Certificate delivered to the Administrative Agent is inaccurate for any reason and the result thereof is that the Lenders received interest or fees for any period based on an Applicable Rate that is less than that which would have been applicable had the First Lien Senior Secured Leverage Ratio been accurately determined, then, for all purposes of this Agreement, the “Applicable Rate” for any day occurring within the period covered by such Compliance Certificate shall retroactively be deemed to be the relevant percentage as based upon the accurately determined First Lien Senior Secured Leverage Ratio for such period, and any shortfall in the interest or fees theretofore paid by the Parent Borrower for the relevant period pursuant to Section 2.08 and Section 2.09 as a result of the miscalculation of the First Lien Senior Secured Leverage Ratio shall be deemed to be (and shall be) due and payable under the relevant provisions of Section 2.08 or Section 2.09, as applicable, at the time the interest or fees for such period were required to be paid pursuant to such Section (and shall remain due and payable until paid in full, together with all amounts owing under Section 2.08 (other than Section 2.08(b)), in accordance with the terms of this Agreement); provided that, notwithstanding the foregoing, so long as an Event of Default described in Section 8.01(f) has not occurred with respect to the Parent Borrower, such shortfall shall be due and payable five (5) Business Days following the determination described above.

Notwithstanding the foregoing, the Applicable Rate in respect of any Class of Additional Revolving Credit Commitments or Extended Revolving Credit Commitments and any Incremental Term Loans, Extended Term Loans or Revolving Credit Loans made pursuant to any Additional Revolving Credit Commitments or Extended Revolving Credit Commitments shall be the applicable percentages per annum set forth in the relevant Incremental Facility Amendment or Extension Offer.

“ Appropriate Lender ” means, at any time, (a) with respect to Loans of any Class, the Lenders of such Class, (b) with respect to any Letters of Credit, (i) the relevant L/C Issuer and (ii) the Revolving Credit Lenders and (c) with respect to the Swing Line Facility, (i) the Swing Line Lender and (ii) if any Swing Line Loans are outstanding pursuant to Section 2.04(a), the Revolving Credit Lenders.

“ Approved Foreign Bank ” has the meaning specified in the definition of “Cash Equivalents.”

“ Approved Fund ” means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

“ Asset Percentage ” has the meaning specified in Section 2.05(b)(ii) .

“ Assignees ” has the meaning specified in Section 10.07(b) .

“ Assignment and Assumption ” means (a) an Assignment and Assumption substantially in the form of Exhibit E and (b) in the case of any assignment of Term Loans in connection with a Permitted Debt Exchange conducted in accordance with Section 2.17, such form of assignment (if any) as may have been requested by the Administrative Agent in accordance with Section 2.17(a)(viii) or, in each case, any other form (including electronic documentation generated by MarkitClear or other electronic platform) approved by the Administrative Agent.

“ Attorney Costs ” means and includes all reasonable fees, expenses and disbursements of any law firm or other external legal counsel.

“ Attributable Indebtedness ” means, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

“ Audited Financial Statements ” means (i) the audited consolidated balance sheets of each of THI and BKW as of the last day of each of the three most recent fiscal years ended at least 90 days prior to the Closing Date and (ii) the related audited consolidated statements of income and cash flows of each of THI and BKW for each of the three most recent fiscal years ended at least 90 days prior to the Closing Date.

“ Authorized Agent ” has the meaning specified in Section 10.14(c) .

“ Auto-Renewal Letter of Credit ” has the meaning specified in Section 2.03(b)(iii) .

“ Availability Period ” means, with respect to the Revolving Credit Facility, the period from the Closing Date to but excluding the earlier of the Maturity Date for the Revolving Credit Facility and the date of termination of the Revolving Credit Commitments in accordance with the provisions of this Agreement.

“ Available Amount ” means, at any time (the “ Available Amount Reference Time ”), an amount (which shall not be less than zero) equal to the sum of:

(a) \$350,000,000; plus

(b) 50% of Consolidated Net Income for the period from the first day of the fiscal quarter of the Parent Borrower during which the Closing Date occurred to and including the last day of the most recently ended fiscal quarter of the Borrower prior to the Available Amount Reference Time; plus

(c) the amount of any capital contributions or Net Cash Proceeds from any Permitted Equity Issuance (or issuance of debt securities that have been converted into or exchanged for Qualified Equity Interests) (other than any Cure Amount or any other capital contributions or equity or debt issuances to the extent utilized in connection with other transactions permitted pursuant to Section 7.02, Section 7.06 or Section 7.08) received by or made to the Parent Borrower (or any direct or indirect parent thereof and contributed by such parent to the Parent Borrower) during the period from and including the Business Day immediately following the Closing Date through and including the Available Amount Reference Time; plus

(d) the aggregate amount of Retained Declined Proceeds during the period from the Business Day immediately following the Closing Date through and including the Available Amount Reference Time; plus

(e) to the extent not (i) already included in the calculation of Consolidated Net Income of the Parent Borrower and the Restricted Subsidiaries or (ii) already reflected as a return of capital or deemed reduction in the amount of such Investment pursuant to clause (g) below or any other provision of Section 7.02, the aggregate amount of all cash dividends and other cash distributions received by the Parent Borrower or any Restricted Subsidiary from any JV Entity or Unrestricted Subsidiaries or, to the extent of any distribution to the Parent Borrower or a Subsidiary Guarantor of amounts not attributable to Disregarded Assets as determined in good faith by the Parent Borrower, Designated Non-Guarantors, during the period from the Business Day immediately following the Closing Date through and including the Available Amount Reference Time; plus

(f) to the extent not (i) already included in the calculation of Consolidated Net Income of the Parent Borrower and the Restricted Subsidiaries, (ii) already reflected as a return of capital or deemed reduction in the amount of such Investment pursuant to clause (g) below or any other provision of Section 7.02, or (iii) used to prepay Term Loans in accordance with Section 2.05(b)(ii), the aggregate amount of all Net Cash Proceeds received by the Parent Borrower or any Restricted Subsidiary in connection with the sale, transfer or other disposition of its ownership interest in any JV Entity or Unrestricted Subsidiary or, to the extent of amounts received by the Parent Borrower or any Subsidiary Guarantor and not attributable to Disregarded Assets, Designated Non-Guarantors during the period from the Business Day immediately following the Closing Date through and including the Available Amount Reference Time; minus

(g) the aggregate amount of (i) any Investments made pursuant to Section 7.02(n) (net of any return of capital in respect of such Investment or deemed reduction in the amount of such Investment, including, without limitation, upon the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary or the sale, transfer, lease or other disposition of any such Investment), (ii) any Restricted Payment made pursuant to Section 7.06(k) and (iii) any payments made pursuant to Section 7.08(a)(iii)(B), in each case, during the period commencing on the Closing Date through and including the Available Amount Reference Time (and, for purposes of this clause (g), without taking account of the intended usage of the Available Amount at such Available Amount Reference Time).

“Bankruptcy Code” means Title 11 of the United State Code, as amended, or any similar federal or state law for the relief of debtors.

“ Bankruptcy Event ” means, with respect to any Person, such Person or its parent entity becomes (other than via an Undisclosed Administration) the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, provided, further, that such ownership interest does not result in or provide such Person with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Person (or such Governmental Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person or its parent entity.

“ Base Rate ” means:

(1) with respect to Dollar-denominated Loans, a fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the highest of:

(a) the Prime Rate on such day;

(b) $\frac{1}{2}$ of 1.00% per annum above the Federal Funds Rate;

(c) the Eurocurrency Rate for Dollar deposits for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1.00%; provided that, for the avoidance of doubt, the Eurocurrency Rate for any day shall be based on the Eurocurrency Screen Rate at approximately 11:00 a.m. London time on such day (without any rounding); and

(d) in respect of Term B Loans, 2.00% per annum.

Any change in the Base Rate for Dollar-denominated Loans due to a change in the Prime Rate, the Federal Funds Rate or the Eurocurrency Rate shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Rate or the Eurocurrency Rate, respectively; and

(2) with respect to Canadian Dollar-denominated Loans, means a fluctuating interest rate per annum in effect from time to time, which rate per annum shall at all times be equal to the highest of:

(a) the annual rate of interest announced from time to time by JPMorgan Chase Bank, N.A., Toronto Branch as being its reference rate then in effect for determining interest rates on Canadian Dollar-denominated commercial loans made by it in Canada; and

(b) the CDOR Rate for a one-month term in effect from time to time plus 1.00% per annum.

Any change in the Base Rate for Canadian Dollar denominated Loans due to a change in the reference rate referred to in clause (a) above or the CDOR Rate referred to in clause (b) above shall be effective from and including the effective date in such change.

“ Base Rate Loan ” means a Loan that bears interest at a rate based on the Base Rate.

“ Berkshire Hathaway ” means Berkshire Hathaway Inc. and its Affiliates and funds or partnerships managed by it or any of its Affiliates, but not including, however, any of their portfolio companies.

“ BKW ” has the meaning specified in the Preliminary Statements to this Agreement.

“ Borrower Materials ” has the meaning specified in Section 6.02 .

“ Borrowers ” has the meaning specified in the introductory paragraph to this Agreement and a reference to a “ Borrower ” means either the Parent Borrower or the Subsidiary Borrower.

“ Borrowing ” means Loans of the same Class, Type and currency, made, converted or continued on the same date and, in the case of Eurocurrency Rate Loans, as to which a single Interest Period is in effect.

“ Borrowing Minimum ” means (a) in the case of a Borrowing denominated in Dollars, \$2,500,000, (b) in the case of a Borrowing denominated in Canadian Dollars, C\$2,500,000 and (c) in the case of a Borrowing denominated in Euro, €2,500,000.

“ Borrowing Multiple ” means (a) in the case of a Borrowing denominated in Dollars, \$100,000, (b) in the case of a Borrowing denominated in Canadian Dollars, C\$100,000 and (c) in the case of a Borrowing denominated in Euro, €100,000.

“ Business Day ” means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that (a) when used in connection with a Eurocurrency Rate Loan (other than a Eurocurrency Rate Loan denominated in Canadian Dollars), the term “Business Day” shall also exclude any day on which banks are not open for dealings in Dollar deposits in the London interbank market, (b) when used in connection with any Loan or Letter of Credit denominated in any Alternative Currency, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in such Alternative Currency, in London, (c) when used in connection with a Loan or Letter of Credit denominated in Euro, the term “Business Day” shall also exclude any day that is not a TARGET Day and (d) when used in connection with a Loan or Letter of Credit denominated in Canadian Dollars, the term “Business Day” shall also exclude any day on which commercial banks in Toronto, Canada are authorized or required by law to remain closed.

“ Buy/Sell Arrangement ” has the meaning set forth in Section 7.05(i) .

“ Canadian Advertising Fund Subsidiary ” means Tim Hortons Advertising and Promotion Fund (Canada) Inc.

“ Canadian Dollars ” or “ C\$ ” means lawful currency of Canada.

“ Canadian Security Agreement ” means, collectively, the (a) General Security Agreement executed by the Loan Parties party thereto on the Closing Date substantially in the form of Exhibit G-1 as supplemented by any Security Agreement Supplement executed and delivered pursuant to Section 6.10 and (b) in respect of personal or moveable property located in the Province of Quebec, (i) a notarial deed of hypothec, (ii) a bond pledge agreement and (iii) a bond.

“Canadian Tax Act” means the Income Tax Act (Canada), as amended.

“Capital Expenditures” means, for any period, the aggregate of, without duplication, (a) all expenditures (whether paid in cash or accrued as liabilities and including Capitalized Research and Development Costs and Capitalized Software Expenditures) by the Parent Borrower and its Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as additions during such period to property, plant or equipment reflected in the consolidated balance sheet of the Parent Borrower and its Restricted Subsidiaries and (b) Capitalized Lease Obligations incurred by the Parent Borrower and its Restricted Subsidiaries during such period.

“Capitalized Lease Obligation” means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

“Capitalized Leases” means all leases that are required to be, in accordance with GAAP, recorded as capitalized leases; provided that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP; provided that all obligations of the Parent Borrower and its Restricted Subsidiaries that are or would be characterized as an operating lease as determined in accordance with GAAP as in effect on the Closing Date (whether or not such operating lease was in effect on such date) shall continue to be accounted for as an operating lease (and not as a Capitalized Lease) for purposes of this Agreement regardless of any change in GAAP following the Closing Date that would otherwise require such obligation to be recharacterized as a Capitalized Lease.

“Capitalized Research and Development Costs” means research and development costs that are required to be, in accordance with GAAP, capitalized.

“Capitalized Software Expenditures” means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by a Person and its Restricted Subsidiaries during such period in respect of purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of a Person and its Restricted Subsidiaries.

“Cash Collateral” has the meaning specified in Section 2.03(f).

“Cash Collateralize” has the meaning specified in Section 2.03(f).

“Cash Equivalents” means any of the following types of Investments, to the extent owned by the Parent Borrower or any Restricted Subsidiary:

(1) Dollars and Canadian Dollars;

(2) securities issued or directly and fully and unconditionally guaranteed or insured by the United States government or any agency or instrumentality of the foregoing the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;

(3) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, with any domestic or foreign commercial bank having capital and surplus of not less than \$500,000,000 in the case of U.S. banks and \$100,000,000 (or the Dollar Equivalent as of the date of determination) in the case of non-U.S. banks;

(4) repurchase obligations for underlying securities of the types described in clauses (2), (3) and (7) of this definition entered into with any financial institution meeting the qualifications specified in clause (3) above;

(5) commercial paper rated at least “P-1” by Moody’s or at least “A-1” by S&P, and in each case maturing within 24 months after the date of creation thereof and Indebtedness or preferred stock issued by Persons with a rating of “A” or higher from S&P or “A-2” or higher from Moody’s, with maturities of 24 months or less from the date of acquisition;

(6) marketable short-term money market and similar securities having a rating of at least “P-2” or “A-2” from either Moody’s or S&P, respectively (or, if at any time neither Moody’s nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency selected by the Parent Borrower) and in each case maturing within 24 months after the date of creation or acquisition thereof;

(7) readily marketable direct obligations issued by any state, commonwealth or territory of the United States, any province or territory of Canada or any political subdivision or taxing authority thereof having an Investment Grade Rating from Moody’s or S&P with maturities of 24 months or less from the date of acquisition;

(8) readily marketable direct obligations issued by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from Moody’s or S&P with maturities of 24 months or less from the date of acquisition;

(9) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated within the top three ratings category by S&P or Moody’s;

(10) with respect to any Foreign Subsidiary or the Parent Borrower: (i) obligations of the national government of the country in which such Foreign Subsidiary or the Parent Borrower maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, in each case maturing within one year after the date of investment therein, (ii) certificates of deposit of, bankers acceptances of, or time deposits with, any commercial bank which is organized and existing under the laws of the country in which such Foreign Subsidiary or the Parent Borrower maintains its chief executive office and principal place of business provided such country is a member of the Organization for Economic Cooperation and Development, and whose short-term commercial paper rating from S&P is at least “A-1” or the equivalent thereof or from Moody’s is at least “P-1” or the equivalent thereof (any such bank being an “Approved Foreign Bank”), and in each case with maturities of not more than 270 days from the date of acquisition and (iii) the equivalent of demand deposit accounts which are maintained with an Approved Foreign Bank;

(11) Cash Equivalents of the types described in clauses (1) through (10) above denominated in Dollars or, solely to the extent held in the ordinary course of business and not for speculative purposes, any Alternative Currency; and

(12) investment funds investing at least 90% of their assets in Cash Equivalents of the types described in clauses (1) through (11) above.

“Cash Management Bank” means any Lender, any Agent or any Affiliate of the foregoing on the Closing Date or at the time it provides any treasury, depository, credit or debit card, purchasing card, and/or cash management services or automated clearing house transfers of funds to the Parent Borrower or any Restricted Subsidiary or conducting any automated clearing house transfers of funds.

“Cash Management Obligations” means obligations owed by the Parent Borrower or any Restricted Subsidiary to any Cash Management Bank in respect of any overdraft and related liabilities arising from treasury, depository, credit or debit card, purchasing card, or cash management services or any automated clearing house transfers of funds.

“Casualty Event” means any event that gives rise to the receipt by the Parent Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

“CDOR Rate” means on any day, with respect to a particular term as specified herein, the annual rate of discount or interest which is the arithmetic average of the discount rates for such term applicable to Canadian Dollar bankers’ acceptances identified as such on the Reuters Screen CDOR Page at approximately 10:00 a.m. on such day, or if such day is not a Business Day, then on the immediately preceding Business Day (as adjusted by the Administrative Agent after 10:00 a.m. to reflect any error in any posted rate or in the posted average annual rate) plus 0.10%. If such rate does not appear on the Reuters Screen CDOR Page as provided in preceding sentence (i) the CDOR Rate on any day shall be calculated as the arithmetic average of the annual discount rates for such term applicable to Canadian Dollar bankers’ acceptances of, and as quoted by, the Schedule I Reference Banks, as of 10:00 a.m. on that day, or if that day is not a Business Day, then on the immediately preceding Business Day, or (ii) if the Schedule I Reference Banks are not quoting such rates, the Canadian deposit offered rate component of such rate on that day shall be calculated as the cost of funds quoted by JPMorgan Chase Bank, Toronto Branch to raise Canadian Dollars for the applicable Interest Period as of 10:00 a.m. Toronto local time on such day for commercial loans or other extensions of credit to businesses of comparable credit risk; or if such day is not a Business Day, then as quoted by JPMorgan Chase Bank, Toronto Branch on the immediately preceding Business Day; provided that in no event shall the CDOR Rate for any Interest Period be less than 0%.

“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law,” regardless of the date enacted, adopted or issued.

“Change of Control” means the earlier to occur of:

(a) the Permitted Holders ceasing to have the power, directly or indirectly, to vote or direct the voting of securities having a majority of the ordinary voting power for the election of directors, managers or other governing body of the Parent Borrower; provided that the occurrence

of the foregoing event shall not be deemed a Change of Control if, for any reason whatsoever, (A) no “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act), excluding the Permitted Holders and any direct or indirect holding company formed for purposes of directly or indirectly holding Equity Interests of the Parent Borrower, shall become the “beneficial owner” (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of more than the greater of (x) thirty-five percent (35%) of the then outstanding voting stock of the Parent Borrower, and (y) the percentage of the then outstanding voting stock of the Parent Borrower owned, directly or indirectly, beneficially by the Permitted Holders, and (B) during each period of twelve (12) consecutive months, the board of directors, managers or other governing body of the Parent Borrower shall consist of a majority of the Continuing Directors; or

(b) the occurrence of a “Change of Control” (or similar event, however denominated), as defined in the Senior Secured Notes Indenture.

“Class” (a) when used with respect to Lenders, refers to whether such Lenders hold a particular Class of Commitments or Loans, (b) when used with respect to Commitments, refers to whether such Commitments are Revolving Credit Commitments, Term B Commitments, Extended Revolving Credit Commitments that are designated as an additional Class of Commitments, Additional Revolving Credit Commitments that are designated as an additional Class of Commitments or commitments in respect of any Incremental Term Loans that are designated as an additional Class of Term Loans and (c) when used with respect to Loans or a Borrowing, refers to whether such Loans, or the Loans comprising such Borrowing, are Revolving Credit Loans, Term B Loans, Extended Term Loans that are designated as an additional Class of Term Loans, Incremental Term Loans that are designated as an additional Class of Term Loans or Swing Line Loans and any Loans made pursuant to any other Class of Commitments.

“Closing Date” means the date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

“Code” means the U.S. Internal Revenue Code of 1986, as amended.

“Collateral” means all the “Collateral” as defined in the Collateral Documents and all other property of whatever kind and nature pledged or charged as collateral under any Collateral Document, and shall include the Mortgaged Properties.

“Collateral Agent” means JPMCB, in its capacity as collateral agent under any of the Loan Documents, or any successor collateral agent appointed in accordance with Section 9.09.

“Collateral and Guarantee Requirement” means, at any time, the requirement that:

(a) the Collateral Agent shall have received each Collateral Document required to be delivered on the Closing Date pursuant to Section 4.01(a)(iii), or thereafter pursuant to Section 6.10 or Section 6.12, duly executed by each Loan Party that is a party thereto;

(b) all Obligations shall have been unconditionally guaranteed (the “Guarantees”), jointly and severally, by Holdings (in the absence of any Intermediate Holding Company), any Intermediate Holding Company and each Restricted Subsidiary that is a Material Subsidiary (other than any Excluded Subsidiary) including as of the Closing Date those that are listed on Schedule 1.01D hereto (each, a “Guarantor”);

(c) the Obligations and the Guarantees shall have been secured pursuant to the Security Agreements or other applicable Collateral Document by a first-priority security interest in (i) all the Equity Interests of the Parent Borrower and (ii) all Equity Interests (other than Excluded Equity) held directly by either Borrower or any Subsidiary Guarantor in any Wholly-Owned Subsidiary, in each case subject to (x) those Liens permitted under Sections 7.01(b), (o), (w) (solely with respect to modifications, replacements, renewals or extensions of Liens permitted by Sections 7.01(b) and (o)) and (dd) and (y) any nonconsensual Lien that is permitted under Section 7.01;

(d) except to the extent otherwise provided hereunder or under any Collateral Document, the Obligations and the Guarantees shall have been secured by a perfected security interest (other than in the case of mortgages, to the extent such security interest may be perfected by delivering certificated securities and instruments, filing personal property financing statements or other similar documentation, or making any necessary filings with the (i) United States Patent and Trademark Office or United States Copyright Office and (ii) the Canadian Intellectual Property Office) in, and mortgages on, substantially all tangible and intangible assets of Holdings, each Borrower, any Intermediate Holding Company and each other Guarantor (including, without limitation, accounts receivable, inventory, equipment, investment property, intellectual property, intercompany receivables, other general intangibles, owned (but not leased) real property and proceeds of the foregoing), in each case, with the priority required by the Collateral Documents; provided that security interests in real property shall be limited to the Mortgaged Properties;

(e) none of the Collateral shall be subject to any Liens other than Permitted Liens;

(f) the Collateral Agent shall have received (i) counterparts of a Mortgage with respect to each Material Real Property required to be delivered pursuant to Section 4.01(a)(iii) (if applicable), Section 6.10, and/or Section 6.12, as applicable, duly executed and delivered by the record owner of such property, (ii) a title insurance policy for such Mortgaged Property (or marked-up title insurance commitment having the effect of a title insurance policy) (the “Mortgage Policies”) insuring the Lien of each such Mortgage as a valid first priority Lien on the property described therein, free of any other Liens except Permitted Liens, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request and to the extent available in each applicable jurisdiction, (iii) a Survey with respect to each Mortgaged Property, provided, however, that a Survey shall not be required to the extent that (A) an existing survey together with an “affidavit of no change” satisfactory to the Title Company is delivered to the Collateral Agent and the Title Company and (B) the Title Company removes the standard survey exception and provides reasonable and customary survey-related endorsements and other coverages in the applicable Mortgage Policy, (iv) a completed “Life-of-Loan” Federal Emergency Management Agency standard flood hazard determination with respect to each Mortgaged Property (together with a notice about special flood hazard area status and flood disaster assistance duly executed by the applicable Loan Party relating thereto), (v) a copy of, or a certificate as to coverage under, and a declaration page relating to, the flood insurance policies required by Section 6.06 hereof, each of which (A) shall be endorsed or otherwise amended to name the Collateral Agent as mortgagee and loss payee, (B) shall (1) identify the addresses of each property located in a special flood hazard area, (2) indicate the applicable flood zone designation, the flood insurance coverage and the deductible relating thereto and (3) provide that the insurer will give the Collateral Agent 45 days written notice of cancellation or non-renewal and (4) shall be otherwise in form and substance reasonably satisfactory to the Collateral Agent, and (iv) such existing abstracts, existing appraisals, legal opinions and other documents as the Collateral Agent may reasonably request with respect to any such Mortgaged Property; and

(g) in the event any Guarantor is added that is organized in a Covered Jurisdiction, other than the US or Canada, such Loan Party shall grant a perfected lien on substantially all of its assets (other than Excluded Assets) pursuant to arrangements reasonably agreed between the Administrative Agent and the Parent Borrower subject to customary limitations in such Covered Jurisdiction to be reasonably agreed to between the Administrative Agent and the Parent Borrower.

The foregoing definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of title insurance or surveys with respect to, particular assets (i) if and for so long as the Administrative Agent and the Parent Borrower agree in writing that the cost of creating or perfecting such pledges or security interests in such assets or obtaining title insurance or surveys in respect of such assets shall be excessive in view of the benefits to be obtained by the Lenders therefrom and (ii) to the extent the creation or perfection of pledges of or security interests in such assets, or the obtaining of title insurance or surveys in respect of such assets, in a particular Covered Jurisdiction (other than the United States) is inconsistent in scope with the pledges or security interests created or perfected, or title insurance or surveys obtained, on or around the Closing Date (and after the Closing Date pursuant to Section 6.10 or 6.12, as applicable) in such Covered Jurisdiction (other than the United States), other than due to changes in law in the applicable jurisdiction or as a result of an acquisition of material assets in a new Province in Canada.

The Administrative Agent may grant extensions of time for the perfection of security interests in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Parent Borrower, that perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary:

(A) Liens required to be granted from time to time pursuant to the Collateral and Guarantee Requirement shall be subject to exceptions and limitations set forth in the Collateral Documents and, to the extent appropriate in the applicable jurisdiction, as agreed between the Administrative Agent and the Parent Borrower;

(B) the Collateral and Guarantee Requirement shall not apply to any Excluded Property;

(C) no deposit account control agreement, securities account control agreement or other control agreements or control arrangements shall be required with respect to any deposit account, securities account or other asset specifically requiring perfection through control agreements;

(D) no actions in any jurisdiction other than the Covered Jurisdictions or that are necessary to comply with the Laws of any jurisdiction other than the Covered Jurisdictions shall be required in order to create any security interests in assets located, titled, registered or filed outside of the Covered Jurisdictions or to perfect such security interests (it being understood that there shall be no security agreements, pledge agreements, or share charge (or mortgage) agreements governed under the Laws of any jurisdiction other than the Covered Jurisdictions);

(E) general statutory limitations, financial assistance, corporate benefit, capital maintenance rules, fraudulent preference, “thin capitalization” rules, retention of title claims and similar principle may limit the ability of a Foreign Subsidiary to provide a Guarantee or Collateral or may require that the Guarantee or Collateral be limited by an amount or otherwise, in each case as reasonably determined by the Parent Borrower in consultation with the Administrative Agent; and

(F) no stock certificates of Immaterial Subsidiaries shall be required to be delivered to the Collateral Agent.

“Collateral Documents” means, collectively, the Escrow Agreement, the Security Agreements, the Mortgages, each of the mortgages, collateral assignments, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Collateral Agent and the Lenders pursuant to Section 4.01(a)(iii), Section 6.10 or Section 6.12, the Guaranty and each of the other agreements, instruments or documents that creates or purports to create a Lien or Guarantee in favor of the Collateral Agent for the benefit of the Secured Parties.

“Commitment” means a Term Commitment, a Revolving Credit Commitment, an Extended Revolving Credit Commitment or an Additional Revolving Credit Commitment.

“Commitment Fee” has the meaning provided in Section 2.09(a).

“Committed Loan Notice” means a notice of (a) a Term Borrowing, (b) a Revolving Credit Borrowing, (c) a conversion of Loans from one Type to the other, or (d) a continuation of Eurocurrency Rate Loans pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A.

“Commodity Exchange Act” means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*), as amended from time to time, and any successor statute.

“Company Material Adverse Effect” has the meaning specified in the Acquisition Agreement.

“Compensation Period” has the meaning specified in Section 2.12(c)(ii).

“Compliance Certificate” means a certificate substantially in the form of Exhibit D.

“Consolidated Depreciation and Amortization Expense” means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees or costs, capitalized expenditures, customer acquisition costs and incentive payments, conversion costs and contract acquisition costs, the amortization of original issue discount resulting from the issuance of Indebtedness at less than par and amortization of favorable or unfavorable lease assets or liabilities, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

“Consolidated EBITDA” means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period:

(a) increased (without duplication) by the following:

(i) provision for taxes based on income or profits or capital, including, without limitation, state franchise, excise and similar taxes and foreign withholding taxes of such Person paid or accrued during such period, including any penalties and interest relating to any tax examinations, deducted (and not added back) in computing Consolidated Net Income; plus

(ii) Fixed Charges of such Person for such period (including (x) net losses or any obligations under any Swap Contracts or other derivative instruments entered into for the purpose of hedging interest rate, currency or commodities risk, (y) bank fees and (z) costs of surety bonds in connection with financing activities, to the extent the same were deducted (and not added back) in calculating such Consolidated Net Income); plus

(iii) Consolidated Depreciation and Amortization Expense of such Person for such period to the extent the same were deducted (and not added back) in computing Consolidated Net Income; plus

(iv) any expenses or charges (other than depreciation or amortization expense) related to any equity offering, Investment, acquisition, disposition or recapitalization permitted hereunder or the incurrence of Indebtedness permitted to be incurred hereunder (including a refinancing thereof) (whether or not successful), including (A) such fees, expenses or charges related to the offering of the Senior Secured Notes, this Agreement and any other credit facilities and (B) any amendment or other modification of the Senior Secured Notes, this Agreement and any other credit facilities, in each case, deducted (and not added back) in computing Consolidated Net Income; plus

(v) the amount of any restructuring charge or reserve, integration cost or other business optimization expense or cost that is deducted (and not added back) in such period in computing Consolidated Net Income, including any one-time costs incurred in connection with acquisitions or divestitures after the Closing Date, and costs related to the closure and/or consolidation of facilities and to exiting lines of business; plus

(vi) any other non-cash charges, write-downs, expenses, losses or items reducing Consolidated Net Income for such period including any impairment charges or the impact of purchase accounting, (excluding any such non-cash charge, write-down or item to the extent it represents an accrual or reserve for a cash expenditure for a future period) or other items classified by the Parent Borrower as special items less other non-cash items of income increasing Consolidated Net Income (excluding any such non-cash item of income to the extent it represents a receipt of cash in any future period); plus

(vii) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-Wholly-Owned Subsidiary; plus

(viii) the amount of “run-rate” cost savings and synergies projected by the Parent Borrower in good faith to result from actions taken or to be taken prior to or during such period (which cost savings or synergies shall be subject only to certification by a Responsible Officer of the Parent Borrower and shall be calculated on a pro forma basis as though such cost savings or synergies had been realized on the first day of such period), net of the amount of actual benefits realized prior to or during such period from such actions; provided that a Responsible Officer of the Parent Borrower shall have certified to the Administrative Agent that (x) such cost savings or synergies are

reasonably identifiable, reasonably attributable to the actions specified and reasonably anticipated to result from such actions and (y) such actions have been taken or are to be taken within eighteen (18) months (or, in connection with the Transactions, within twenty-four (24) months of the Closing Date); plus

(ix) any costs or expense incurred by the Parent Borrower or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Parent Borrower or Net Cash Proceeds of an issuance of Equity Interests (other than Disqualified Equity Interests) of the Parent Borrower; plus

(x) with respect to any JV Entity, an amount equal to the proportion of those items described in clauses (i) and (iii) above relating to such JV Entity's corresponding to the Parent Borrower's and the Restricted Subsidiaries' proportionate share of such JV Entity's Consolidated Net Income (determined as if such JV Entity were a Restricted Subsidiary); plus

(xi) the amount of any loss attributable to a new plant or facility until the date that is twenty-four (24) months after the date of commencement of construction or the date of acquisition thereof, as the case may be; provided that (A) such losses are reasonably identifiable and certified by a Responsible Officer of the Parent Borrower, (B) losses attributable to such plant or facility after twenty-four (24) months from the date of commencement of construction or the date of acquisition of such plant or facility, as the case may be, shall not be included in this clause (xi) and (C) no amounts shall be added pursuant to this clause (xi) to the extent duplicative of any expenses or charges relating to such cost savings that are included in clause (viii) above with respect to such period; plus

(xii) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for any previous period and not added back; plus

(xiii) any net loss included in Consolidated Net Income attributable to non-controlling interests pursuant to the application of Accounting Standards Codification Topic 810-10-45; plus

(xiv) realized foreign exchange losses resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Parent Borrower and its Restricted Subsidiaries; plus

(xv) net realized losses from Swap Contracts or embedded derivatives that require similar accounting treatment and the application of Accounting Standard Codification Topic 815 and related pronouncements; plus

(xvi) the amount of management, advisory, consulting, refinancing subsequent transaction and exit fees (including termination fees) and related indemnities and expenses paid or accrued in such period to the Sponsor to the extent permitted hereunder; plus

(xvii) the amount of loss on sale of receivables and related assets in connection with a Permitted Receivables Financing;

(b) decreased (without duplication) by the following:

(i) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of an accrual or cash reserve for a potential cash item that reduced Consolidated EBITDA in any prior period and any non-cash gains with respect to cash actually received in a prior period so long as such cash did not increase Consolidated EBITDA in such prior period; plus

(ii) realized foreign exchange income or gains resulting from the impact of foreign currency changes on the valuation of assets or liabilities on the balance sheet of the Parent Borrower and its Restricted Subsidiaries; plus

(iii) any net realized income or gains from any obligations under any Swap Contracts or embedded derivatives that require similar accounting treatment and the application of Accounting Standard Codification Topic 815 and related pronouncements; plus

(iv) any amount included in Consolidated Net Income of such Person for such period attributable to non-controlling interests pursuant to the application of Accounting Standards Codification Topic 810-10-45;

(c) increased or decreased (without duplication) by, as applicable, any adjustments resulting from the application of Accounting Standards Codification Topic 460 or any comparable regulation; and

(d) increased or decreased (to the extent not already included in determining Consolidated EBITDA) by any Pro Forma Adjustment.

There shall be included in determining Consolidated EBITDA for any period, without duplication, (A) the Acquired EBITDA of any Person, property, business or asset acquired by the Parent Borrower or any Restricted Subsidiary during such period (but not the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired), to the extent not subsequently sold, transferred or otherwise disposed of by the Parent Borrower or such Restricted Subsidiary during such period (each such Person, property, business or asset acquired and not subsequently so disposed of, an “Acquired Entity or Business”), and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each, a “Converted Restricted Subsidiary”), based on the actual Acquired EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary for such period (including the portion thereof occurring prior to such acquisition), (B) an adjustment in respect of each Acquired Entity or Business equal to the amount of the Pro Forma Adjustment with respect to such Acquired Entity or Business for such period (including the portion thereof occurring prior to such acquisition) as specified in a certificate executed by a Responsible Officer and delivered to the Lenders and the Administrative Agent and (C) the annualized effect (including franchise fees net of the incremental costs of the Parent Borrower and its Restricted Subsidiaries relating to such franchise arrangements, in the case of franchised stores) of restaurant openings during such period (whether company owned or franchised) by the Parent Borrower and its Restricted Subsidiaries with respect to any restaurant opened subsequent to the first day of the applicable period for which Consolidated EBITDA is being determined. For purposes of determining the Consolidated EBITDA for

any period, there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset (other than an Unrestricted Subsidiary) sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Parent Borrower or any Restricted Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a “Sold Entity or Business”) and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each, a “Converted Unrestricted Subsidiary”), based on the actual Disposed EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer or disposition). Notwithstanding the foregoing, but subject to any adjustment set forth above with respect to any transactions occurring after the Closing Date, Consolidated EBITDA shall be \$398.2 million, \$331.5 million, \$393.1 million and \$380.8 million for the fiscal quarters ended June 30, 2014, March 31, 2014, December 31, 2013 and September 30, 2013, respectively.

“Consolidated Interest Expense” means, with respect to any Person for any period, without duplication, the sum of:

- (1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (a) amortization of original issue discount or premium resulting from the issuance of Indebtedness at less than par, (b) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (c) non-cash interest payments, (d) the interest component of Capitalized Lease Obligations and (e) net payments, if any, pursuant to interest rate obligations under any Swap Contracts with respect to Indebtedness); plus
- (2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less
- (3) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

“Consolidated Net Income” means, with respect to any Person for any period, the net income (loss) of such Person and its Restricted Subsidiaries for such period determined on a consolidated basis on the basis of GAAP; provided, however, that there will not be included in such Consolidated Net Income:

- (1) any net income (loss) of any Person if such Person is not a Restricted Subsidiary, except that the Parent Borrower’s equity in the net income of any such Person for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed (or, so long as such Person is not (x) a joint venture with outstanding third party indebtedness for borrowed money or (y) an Unrestricted Subsidiary, that (as reasonably determined by a Responsible Officer of the Parent Borrower) could have been distributed by such Person during such period to the Parent Borrower or a Restricted Subsidiary) as a dividend or other distribution or return on investment, subject, in the case of a dividend or other distribution or return on investment to a Restricted Subsidiary, to the limitations contained in clause (2) below;

(2) solely for the purpose of determining the Available Amount, any net income (loss) of any Restricted Subsidiary (other than any Guarantor) if such Subsidiary is subject to restrictions, directly or indirectly, on the payment of dividends or the making of distributions by such Restricted Subsidiary, directly or indirectly, to a Borrower or a Guarantor by operation of the terms of such Restricted Subsidiary's charter or any agreement, instrument, judgment, decree, order, statute or governmental rule or regulation applicable to such Restricted Subsidiary or its shareholders (other than (a) restrictions that have been waived or otherwise released and (b) restrictions pursuant to the Loan Documents or the Senior Secured Notes Indenture), except that the Parent Borrower's equity in the net income of any such Restricted Subsidiary for such period will be included in such Consolidated Net Income up to the aggregate amount of cash or Cash Equivalents actually distributed or that could have been distributed by such Restricted Subsidiary during such period to the Parent Borrower or another Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend to another Restricted Subsidiary, to the limitation contained above in this clause);

(3) any net gain (or loss) from disposed, abandoned or discontinued operations and any net gain (or loss) on disposal of disposed, discontinued or abandoned operations;

(4) any net gain (or loss) realized upon the sale or other disposition of any asset (including pursuant to any sale/leaseback transaction) which is not sold or otherwise disposed of in the ordinary course of business (as determined in good faith by a Responsible Officer or the board of directors of the Parent Borrower);

(5) any extraordinary, exceptional, unusual or nonrecurring gain, loss, charge or expense (including relating to the Transaction Expenses), or any charges, expenses or reserves in respect of any restructuring, relocation, redundancy or severance expense, new product introductions or one-time compensation charges;

(6) the cumulative effect of a change in accounting principles;

(7) any (i) non-cash compensation charge or expense arising from any grant of stock, stock options or other equity based awards and any non-cash deemed finance charges in respect of any pension liabilities or other provisions and (ii) income (loss) attributable to deferred compensation plans or trusts;

(8) all deferred financing costs written off and premiums paid or other expenses incurred directly in connection with any early extinguishment of Indebtedness and any net gain (loss) from any write-off or forgiveness of Indebtedness;

(9) any unrealized gains or losses in respect of any obligations under any Swap Contracts or any ineffectiveness recognized in earnings related to hedge transactions or the fair value of changes therein recognized in earnings for derivatives that do not qualify as hedge transactions, in each case, in respect of any obligations under any Swap Contracts;

(10) any unrealized foreign currency translation gains or losses in respect of Indebtedness of any Person denominated in a currency other than the functional currency of such Person and any unrealized foreign exchange gains or losses relating to translation of assets and liabilities denominated in foreign currencies;

(11) any unrealized foreign currency translation or transaction gains or losses in respect of Indebtedness or other obligations of the Parent Borrower or any Restricted Subsidiary owing to the Parent Borrower or any Restricted Subsidiary;

(12) any purchase accounting effects including, but not limited to, adjustments to inventory, property and equipment, software and other intangible assets and deferred revenue in component amounts required or permitted by GAAP and related authoritative pronouncements (including the effects of such adjustments pushed down to the Parent Borrower and the Restricted Subsidiaries), as a result of any consummated acquisition, or the amortization or write-off of any amounts thereof (including any write-off of in process research and development);

(13) any impairment charge, write-down or write-off, including impairment charges, write-downs or write-offs relating to goodwill, intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation;

(14) any after-tax effect of income (loss) from the early extinguishment or cancellation of Indebtedness or any obligations under any Swap Contracts or other derivative instruments;

(15) accruals and reserves that are established within twelve months after the Closing Date that are so required to be established as a result of the Transaction in accordance with GAAP;

(16) any net unrealized gains and losses resulting from Swap Contracts or embedded derivatives that require similar accounting treatment and the application of Accounting Standards Codification Topic 815 and related pronouncements; and

(17) any deferred tax expense associated with tax deductions or net operating losses arising as a result of the Transactions, or the release of any valuation allowance related to such item.

In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall include (i) any expenses and charges that are reimbursed by indemnification or other reimbursement provisions in connection with any investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder and (ii) to the extent covered by insurance and actually reimbursed, or, so long as the Parent Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), expenses with respect to liability or casualty events or business interruption.

“Consolidated Total Debt” means, as of any date of determination, (a) the aggregate principal amount of Indebtedness of the Parent Borrower and its Restricted Subsidiaries outstanding on such date, determined on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with the Transaction or any Permitted Acquisition), consisting of Indebtedness for borrowed money, Capitalized Lease Obligations and debt obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments minus (b) the aggregate amount of cash and Cash Equivalents (in each case, free and clear of all Liens other than any nonconsensual Lien that is permitted under the Loan Documents, Liens

of the Collateral Agent and Liens that are subordinated to or pari passu with the Liens of the Collateral Agent pursuant to a Customary Intercreditor Agreement) included in the consolidated balance sheet of the Parent Borrower and its Restricted Subsidiaries as of such date, which aggregate amount of cash and Cash Equivalents shall be determined without giving pro forma effect to the proceeds of Indebtedness incurred on such date; provided that Consolidated Total Debt shall not include (x) Letters of Credit (or other letters of credit), except to the extent of Unreimbursed Amounts (or unreimbursed amounts) thereunder, (y) obligations under Swap Contracts entered into in the ordinary course of business and not for speculative purposes and (z) Indebtedness in respect of any Permitted Receivables Financing.

“Consolidated Working Capital” means, at any date, the excess of (a) the sum of (i) all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption “total current assets” (or any like caption) on a consolidated balance sheet of the Parent Borrower and its Restricted Subsidiaries at such date and (ii) long-term accounts receivable over (b) the sum of (i) all amounts that would, in conformity with GAAP, be set forth opposite the caption “total current liabilities” (or any like caption) on a consolidated balance sheet of the Parent Borrower and its Restricted Subsidiaries on such date and (ii) long-term deferred revenue, but excluding, without duplication, (a) the current portion of any Funded Debt or other long-term liabilities, (b) all Indebtedness consisting of Revolving Credit Loans, Swing Line Loans and L/C Obligations to the extent otherwise included therein, (c) the current portion of interest, (d) the current portion of current and deferred income taxes, (e) the current portion of any Capitalized Lease Obligations, (f) deferred revenue arising from cash receipts that are earmarked for specific projects, (g) the current portion of deferred acquisition costs and (h) current accrued costs associated with any restructuring or business optimization (including accrued severance and accrued facility closure costs).

“Continuing Directors” means the directors, managers or equivalent body of Holdings or the Parent Borrower, as the case may be, on the Closing Date, as elected or appointed after giving effect to the Acquisition and the other transactions contemplated hereby, and each other director, manager or equivalent body, if, in each case, such other director’s, manager’s or equivalent body’s nomination for election to the board of directors, managers or other governing body of Holdings or the Parent Borrower, as the case may be (or the direct or indirect parent of the Parent Borrower) is recommended by a majority of the then Continuing Directors or such other director, manager or equivalent body receives the vote of the Permitted Holders in his or her election by the stockholders or partners of Holdings or the Parent Borrower, as the case may be (or the direct or indirect parent of the Parent Borrower).

“Contract Consideration” has the meaning specified in the definition of “Excess Cash Flow.”

“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

“Control” has the meaning specified in the definition of “Affiliate.”

“Converted Restricted Subsidiary” has the meaning specified in the definition of “Consolidated EBITDA.”

“Converted Unrestricted Subsidiary” has the meaning specified in the definition of “Consolidated EBITDA.”

“Covered Jurisdiction” means each of the United States (and each State thereof and the District of Columbia), Canada (and each of the provinces and territories thereof) and the jurisdiction of organization of any Restricted Subsidiary that becomes a Guarantor pursuant to the last sentence of the definition of “Guarantor.”

“Credit Extension” means each of the following: (a) a Borrowing and (b) an L/C Credit Extension.

“Cure Amount” has the meaning specified in Section 8.05.

“Cure Right” has the meaning specified in Section 8.05.

“Customary Intercreditor Agreement” means (a) to the extent executed in connection with any incurrence of Indebtedness secured by Liens on the Collateral that are intended to rank equal in priority to the Liens on the Collateral securing the Obligations (but without regard to the control of remedies), a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Parent Borrower, which agreement shall provide, *inter alia*, that the Liens on the Collateral securing such other Indebtedness to the extent validly perfected and not subject to other Liens ranking senior to the Liens securing such Indebtedness but junior to the Liens securing the Obligations shall rank equal in priority to the Liens on the Collateral securing the Obligations (but without regard to the control of remedies), (b) to the extent executed in connection with the incurrence of Indebtedness secured by Liens on the Collateral which are intended to rank junior to the Liens on the Collateral securing the Obligations, a customary intercreditor agreement in form and substance reasonably acceptable to the Administrative Agent and the Parent Borrower, which agreement shall provide that the Liens on the Collateral securing such Indebtedness shall rank junior to the Liens on the Collateral securing the Obligations and (c) any Ratably Secured Existing Notes Intercreditor Agreement.

“Debtor Relief Laws” means the Bankruptcy Code of the United States, the *Bankruptcy and Insolvency Act* (Canada), the *Companies’ Creditors Arrangement Act* (Canada) and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States, Canada or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Declined Proceeds” has the meaning specified in Section 2.05(b)(v).

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Rate” means an interest rate equal to (a) with respect to any overdue principal for any Loan, the applicable interest rate for such Loan plus 2.00% per annum (provided that with respect to Eurocurrency Rate Loans, the determination of the applicable interest rate is subject to Section 2.02(c) to the extent that Eurocurrency Rate Loans may not be converted to, or continued as, Eurocurrency Rate Loans, pursuant thereto) and (b) with respect to any other overdue amount, including overdue interest, the interest rate applicable to Base Rate Loans that are Term Loans plus 2.00% per annum, in each case, to the fullest extent permitted by applicable Laws.

“Defaulting Lender” means any Lender that (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans required to be funded by it, (ii) fund any portion of its participations in Letters of Credit or Swing Line Loans required to be funded by it or (iii) pay over to the Administrative Agent, the L/C Issuer, the Swing Line Lender or any other Lender any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Administrative Agent in writing that such failure is the result of such Lender’s good

faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Parent Borrower or the Administrative Agent, the L/C Issuer, the Swing Line Lender or any other Lender in writing that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing indicates that such position is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a Loan cannot be satisfied), (c) has failed, within three (3) Business Days after request by the Administrative Agent, the L/C Issuer, the Swing Line Lender or any other Lender, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations to fund prospective Loans and participations in then outstanding Letters of Credit and Swing Line Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Administrative Agent's, L/C Issuer's, Swing Line Lender's or Lender's receipt of such certification in form and substance satisfactory to it and the Administrative Agent, or (d) after the date of this Agreement, has become the subject of a Bankruptcy Event.

“ Designated Non-Guarantor Subsidiary ” means a non-Wholly-Owned Restricted Subsidiary that is not the direct or indirect parent company of any Subsidiary Guarantor (other than a Subsidiary Guarantor whose Guarantee is concurrently released pursuant to Section 9.11(c)) that has been designated to the Administrative Agent as a “Designated Non-Guarantor Subsidiary” pursuant to Section 9.11(c)(ii); provided that, except to the extent of the fair market value of any assets of such Restricted Subsidiary consisting of (i) Investments in Persons that are not Loan Parties or (ii) Specified Assets (the assets in clause (i) and (ii), “ Disregarded Assets ”), the designation of a Restricted Subsidiary as a Designated Non-Guarantor Subsidiary shall be deemed to be an Investment by a Loan Party in a Restricted Subsidiary that is not a Loan Party in an amount equal to the fair market value of the Parent Borrower's equity ownership of such Designated Non-Guarantor Subsidiary as determined in good faith by the Parent Borrower at the time of such designation (and such Investment must be permitted by a provision of Section 7.02 other than clause (z) thereof); provided, further, that if such Designated Non-Guarantor Subsidiary subsequently becomes a Subsidiary Guarantor it will be deemed to be a return of an Investment to a Loan Party from a Restricted Subsidiary that is not a Loan Party to the extent of the fair market value of such Subsidiary Guarantor's assets at such time as determined in good faith by the Parent Borrower except to the extent of the fair market value of any Disregarded Assets of such Subsidiary Guarantor as determined in good faith by the Parent Borrower.

“ Discount Range ” has the meaning specified in Section 2.05(d)(ii) .

“ Discounted Prepayment Option Notice ” has the meaning specified in Section 2.05(d)(ii) .

“ Discounted Voluntary Prepayment ” has the meaning specified in Section 2.05(d)(i) .

“ Discounted Voluntary Prepayment Notice ” has the meaning specified in Section 2.05(d)(v) .

“ Disposed EBITDA ” means, with respect to any Sold Entity or Business or any Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or such Converted Unrestricted Subsidiary, all as determined on a consolidated basis for such Sold Entity or Business or such Converted Unrestricted Subsidiary.

“ Disposition ” or “ Dispose ” means the sale, transfer, license, lease or other disposition (including any Sale Leaseback and any sale of Equity Interests) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith; provided that (i) “Disposition” and “Dispose”

shall not be deemed to include any issuance by Holdings, any Intermediate Holding Company or the Parent Borrower of any of its Equity Interests to another Person and (ii) no transaction or series of related transactions shall be considered a “Disposition” for purpose of Section 2.05 (b)(ii) or Section 7.05 unless the fair market value (as determined in good faith by the Parent Borrower) of the property disposed of in such transaction or series of transactions shall exceed \$20,000,000.

“Disqualified Equity Interests” means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments and all outstanding Letters of Credit), (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Latest Maturity Date at the time such Equity Interests are issued.

“Disqualified Lenders” means (i) such Persons that have been specified in writing to the Lead Arrangers by the Parent Borrower prior to August 26, 2014 as being “Disqualified Lenders,” (ii) competitors of the Parent Borrower and its Subsidiaries that have been specified in writing to the Administrative Agent from time to time by the Parent Borrower and (iii) any of their Affiliates (other than in the case of clause (ii), Affiliates that are bona fide debt funds) that are (x) identified in writing from time to time to the Administrative Agent by the Parent Borrower or (y) clearly identifiable on the basis of such Affiliates’ name.

“Disregarded Assets” has the meaning set forth in the definition of “Designated Non-Guarantor Subsidiary.”

“Documentation Agents” means the Persons identified as such on the cover page to this Agreement, in their respective capacities as Documentation Agents under this Agreement.

“Dollar” and “\$” mean lawful money of the United States.

“Dollar Equivalent” means, on any date of determination, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount in any other currency, the equivalent in Dollars of such amount, determined by the Administrative Agent or the L/C Issuer, as applicable, pursuant to Section 1.08 using the Exchange Rate with respect to such currency at the time in effect under the provisions of such Section.

“Domestic Foreign Holding Company” means any Domestic Subsidiary that is a disregarded entity for U.S. federal income tax purposes with no material assets other than Equity Interests and/or Indebtedness of one or more Foreign Subsidiaries and other assets incidental thereto.

“Domestic Subsidiary” means any Subsidiary that is organized under the laws of the United States, any state thereof or the District of Columbia.

“ECF Percentage” has the meaning specified in Section 2.05(b)(i).

“Effective Yield” means, with respect to any term loan facility or other term loans, as of any date of determination, the sum of (i) the higher of (A) the Eurocurrency Rate on such date for a deposit in Dollars with a maturity of one month and (B) the Eurocurrency rate “floor,” if any, with respect thereto as of such date, (ii) the Applicable Rate (or other applicable margin) as of such date for Eurocurrency Rate Loans (or other loans that accrue interest by reference to a similar reference rate) and (iii) the amount of original issue discount and upfront fees thereon (converted to yield assuming a four-year average life and without any present value discount), but excluding the effect of any arrangement, structuring, syndication or other fees payable in connection therewith that are not shared with all lenders or holders of such term loan facility or other term loans; provided that the amounts set forth in clauses (i) and (ii) above for any term loans that are not incurred under this Agreement shall be based on the stated interest rate basis for such term loans.

“Eligible Assignee” means any Assignee permitted by and consented to in accordance with Section 10.07(b).

“Environment” means ambient air, indoor air, surface water, groundwater, drinking water, soil, surface and subsurface strata, and natural resources such as wetlands, flora and fauna.

“Environmental Laws” means any and all applicable Laws relating to pollution, the protection of the environment, natural resources or to the generation, transport, storage, use, treatment, Release or threat of Release of any Hazardous Materials or, to the extent relating to exposure to Hazardous Materials, human health.

“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of its respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage or treatment of any Hazardous Materials, (c) exposure of any Person to any Hazardous Materials, (d) the Release or threatened Release of any Hazardous Materials into the Environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

“Equity Contribution” means cash, common or preferred equity contributions by the Investors indirectly to the Parent Borrower consistent with the amount, sources and terms disclosed to the Lead Arrangers prior to August 26, 2014, directly or indirectly, in an aggregate amount equal to \$3,000,000,000.

“Equity Interests” means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” means any trade or business (whether or not incorporated) that is under common control with any Loan Party and is treated as a single employer within the meaning of Section 414 of the Code or Section 4001 of ERISA.

“ERISA Event” means (a) a Reportable Event with respect to a Pension Plan; (b) a withdrawal by any Loan Party or any ERISA Affiliate from a Pension Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA; (c) a failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA with respect to a Pension Plan, whether or not waived, or a failure to make any required contribution to a Multiemployer Plan; (d) a complete or partial withdrawal by any Loan Party or any ERISA Affiliate from a Multiemployer Plan, notification of any Loan Party or ERISA Affiliate concerning the imposition of Withdrawal Liability or notification that a Multiemployer Plan is insolvent or in reorganization within the meaning of Title IV of ERISA or in endangered or critical status, within the meaning of Section 305 of ERISA; (e) the filing of a notice of intent to terminate, the treatment of a Pension Plan or Multiemployer Plan amendment as a termination under Section 4041 or 4041A of ERISA, or the commencement of proceedings by the PBGC to terminate a Pension Plan or Multiemployer Plan; (f) an event or condition which constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan or Multiemployer Plan; (g) the imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon any Loan Party or any ERISA Affiliate; (h) a determination that any Pension Plan is, or is expected to be, in “at-risk” status (within the meaning of Section 303(i)(4)(A) of ERISA or Section 430(i)(4)(A) of the Code); or (i) the occurrence of a non-exempt prohibited transaction with respect to any Pension Plan maintained or contributed to by any Loan Party (within the meaning of Section 4975 of the Code or Section 406 of ERISA) which could result in liability to any Loan Party.

“Escrow Account” has the meaning set forth in the Escrow Agreement.

“Escrow Agent” means JPMorgan Chase Bank, N.A., in its capacity as such together with its successors in such capacity pursuant to the Escrow Agreement.

“Escrow Agreement” means the Escrow Agreement, dated as of October 27, 2014, by and among, the Borrower, the Escrow Agent and the Administrative Agent.

“Escrow Closing Date” means October 27, 2014.

“Escrow Property” has the meaning set forth in the Escrow Agreement.

“Euro” and “€” means the lawful currency of the European Union as constituted by the Treaty of Rome which established the European Community, as such treaty may be amended from time to time and as referred to in the European Monetary Union legislation.

“Eurocurrency Rate” means, for any Interest Period with respect to any Eurocurrency Rate Loan:

(1) with respect to any Eurocurrency Borrowing in Dollars or Euro for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Administration (or any other Person that takes over the administration of such rate) for the applicable currency for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case the “Eurocurrency Screen Rate”) at approximately 11:00 a.m., London time, on the relevant

Quotation Date; provided that if the Eurocurrency Screen Rate shall be less than 0%, such rate shall, subject to the last paragraph of this definition, be deemed to be 0% for the purposes of this Agreement; provided further that if the Eurocurrency Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”) with respect to the applicable currency then the Eurocurrency Rate shall be the Interpolated Rate; provided that if any Interpolated Rate shall, subject to the final paragraph of this definition, be less than 0%, such rate shall be deemed to be 0% for purposes of this Agreement;

(2) with respect to any Eurocurrency Rate Loan denominated in Canadian Dollars, the CDOR Rate for such Interest Period; and

(3) with respect to any other Alternative Currency that becomes a Revolving Alternative Currency following the Closing Date, such reference rate for loans or deposits in such currency for such Interest Period as the Administrative Agent, the Parent Borrower and the Revolving Credit Lenders shall agree.

Notwithstanding any provision to the contrary in this Agreement, the applicable Eurocurrency Rate in respect of Term B Loans shall at no time be less than 1.00% per annum.

“Eurocurrency Rate Loan” means a Loan that bears interest at a rate based on the Eurocurrency Rate.

“Eurocurrency Screen Rate” has the meaning assigned to it in the definition of “Eurocurrency Rate.”

“Event of Default” has the meaning specified in Section 8.01.

“Excess Cash Flow” means, for any period, an amount equal to the excess of:

(a) the sum, without duplication, of:

(i) Consolidated Net Income for such period;

(ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) to the extent deducted in arriving at such Consolidated Net Income;

(iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions by the Parent Borrower and its Restricted Subsidiaries completed during such period or the application of purchase accounting);

(iv) an amount equal to the aggregate net non-cash loss on Dispositions by the Parent Borrower and its Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income; and

(v) cash receipts in respect of Swap Contracts during such period to the extent not otherwise included in Consolidated Net Income; over

(b) the sum, without duplication, of:

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income and cash charges to the extent included in arriving at such Consolidated Net Income;

(ii) without duplication of amounts deducted pursuant to clause (x) below in prior fiscal years, the amount of Capital Expenditures or acquisitions made in cash during such period, except to the extent that such Capital Expenditures or acquisitions were financed with the proceeds of an incurrence or issuance of Indebtedness of the Parent Borrower or its Restricted Subsidiaries;

(iii) the aggregate amount of all principal payments of Indebtedness of the Parent Borrower and its Restricted Subsidiaries (including (A) the principal component of Capitalized Lease Obligations and (B) the amount of repayments of Term Loans pursuant to Section 2.07(a) and any mandatory prepayment of Term Loans pursuant to Section 2.05(b) to the extent required due to a Disposition that resulted in an increase to such Consolidated Net Income and not in excess of the amount of such increase but excluding (X) all other prepayments of Term Loans, (Y) all prepayments under the Revolving Credit Facility and (Z) all prepayments in respect of any other revolving credit facility, except, in the case of clause (Z), to the extent there is an equivalent permanent reduction in commitments thereunder) made during such period, except to the extent financed with the proceeds of an incurrence or issuance of other Indebtedness of the Parent Borrower or its Restricted Subsidiaries;

(iv) an amount equal to the aggregate net non-cash gain on Dispositions by the Parent Borrower and its Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income;

(v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions by the Parent Borrower and its Restricted Subsidiaries completed during such period or the application of purchase accounting);

(vi) cash payments by the Parent Borrower and its Restricted Subsidiaries during such period in respect of long-term liabilities of the Parent Borrower and its Restricted Subsidiaries other than Indebtedness (including such Indebtedness specified in clause (b) (iii) above);

(vii) without duplication of amounts deducted pursuant to clause (xi) below in prior periods, the amount of Investments and acquisitions made during such period pursuant to Section 7.02 (other than Section 7.02(a), (d), (n) and (bb)) except to the extent that such Investments and acquisitions were financed with the proceeds of an incurrence or issuance of Indebtedness of the Parent Borrower or its Restricted Subsidiaries;

(viii) the amount of Restricted Payments paid during such period pursuant to Section 7.06 (other than Section 7.06(a)) (solely in respect of amounts paid to the Parent Borrower or a Restricted Subsidiary), (b) and (k) except to the extent that such Restricted Payments were financed with the proceeds of an incurrence or issuance of Indebtedness of the Parent Borrower or its Restricted Subsidiaries;

(ix) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Parent Borrower and its Restricted Subsidiaries during such period that are required to be made in connection with any prepayment of Indebtedness except to the extent that such amounts were financed with the proceeds of an incurrence or issuance of Indebtedness of the Parent Borrower or its Restricted Subsidiaries;

(x) the aggregate amount of expenditures actually made by the Parent Borrower and its Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such period and were not financed with the proceeds of an incurrence or issuance of Indebtedness of the Parent Borrower or its Restricted Subsidiaries;

(xi) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Parent Borrower or any of its Restricted Subsidiaries pursuant to binding contracts (the “Contract Consideration”) entered into prior to or during such period relating to Permitted Acquisitions, Capital Expenditures or acquisitions to be consummated or made during the period of four consecutive fiscal quarters of the Parent Borrower following the end of such period except to the extent intended to be financed with the proceeds of an incurrence or issuance of other Indebtedness of the Parent Borrower or its Restricted Subsidiaries; provided that to the extent the aggregate amount utilized to finance such Permitted Acquisitions, Capital Expenditures or acquisitions during such period of four consecutive fiscal quarters is less than the Contract Consideration, the amount of such shortfall, shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters;

(xii) the amount of cash taxes (including penalties and interest) paid or tax reserves set aside or payable (without duplication) in such period to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period; and

(xiii) cash expenditures in respect of Swap Contracts during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income.

“Exchange Act” means the Securities Exchange Act of 1934.

“Exchange Rate” means, on any day, for purposes of determining the Dollar Equivalent of any currency other than Dollars, the rate at which such other currency may be exchanged into Dollars at the time of determination on such day on the Reuters WRLD Page for such currency. In the event that such rate does not appear on any Reuters WRLD Page, the Exchange Rate shall be determined by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such an agreement, such Exchange Rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about such time as the Administrative Agent shall elect after determining that such rates shall be the basis for determining the Exchange Rate, on such date for the purchase of Dollars for delivery two Business Days later, provided that if at the time of any such determination, for any reason, no such spot rate is being quoted, the Administrative Agent may use any reasonable method it deems appropriate to determine such rate, and such determination shall be conclusive absent manifest error.

“Excluded Equity” means Equity Interests (i) of any Unrestricted Subsidiary, (ii) of any Subsidiary acquired pursuant to a Permitted Acquisition financed with Indebtedness permitted pursuant to Section 7.03(v) if such Equity Interests are pledged and/or mortgaged as security for such Indebtedness and if and for so long as the terms of such Indebtedness prohibit the creation of any other Lien on such Equity Interests, (iii) of any Wholly-Owned Foreign Subsidiary or Domestic Foreign Holding Company, in each case of a Domestic Subsidiary of the Parent Borrower and not otherwise constituting Excluded Equity, in excess of 65% of the issued and outstanding Equity Interests of each such Wholly-Owned Foreign Subsidiary or Domestic Foreign Holding Company, (iv) of any Subsidiary with respect to which the Administrative Agent and the Parent Borrower have determined in their reasonable judgment and agreed in writing that the costs of providing a pledge of such Equity Interests or perfection thereof is excessive in view of the benefits to be obtained by the Secured Parties therefrom, (v) of any captive insurance companies, not-for-profit Subsidiaries, special purpose entities (including any entity used to effect a Permitted Receivables Financing), (vi) of any Subsidiary outside the United States and Canada the pledge of which is prohibited by applicable Laws or which would reasonably be expected to result in a violation or breach of, or conflict with, fiduciary duties of such Subsidiary’s officers, directors or managers and (vii) for so long as it is an Excluded Subsidiary and its Equity Interests are not subject to any Liens securing any Indebtedness in excess of \$5,000,000 in the aggregate, the Canadian Advertising Fund Subsidiary.

“Excluded Property” means (i) any fee-owned real property that is not a Material Real Property and any leasehold interests in real property (it being understood that no action shall be required with respect to creation or perfection of security interests with respect to such leases, including to obtain landlord waivers, estoppels or collateral access letters), (ii) motor vehicles and other assets subject to certificates of title, to the extent a Lien thereon cannot be perfected by the filing of a UCC or PPSA financing statement (or analogous procedures under applicable Laws in the relevant Covered Jurisdiction), letter of credit rights to the extent a Lien thereon cannot be perfected by the filing of a UCC or PPSA financing statement (or analogous procedures under applicable Laws in the relevant Covered Jurisdiction) and commercial tort claims, (iii) assets for which a pledge thereof or a security interest therein is prohibited by applicable Laws, (iv) margin stock, (v) any cash and cash equivalents, deposit accounts and securities accounts (including securities entitlements and related assets) (it being understood that this exclusion shall not affect the grant of the Lien on proceeds of Collateral and all proceeds of Collateral shall be Collateral), (vi) any lease, license or other agreements, or any property subject to a purchase money security interest, Capitalized Lease Obligation or similar arrangements, in each case to the extent permitted under the Loan Documents, to the extent that a pledge thereof or a security interest therein would violate or invalidate such lease, license or agreement, purchase money, Capitalized Lease or similar arrangement, or create a right of termination in favor of any other party thereto (other than a Borrower or a Guarantor) after giving effect to the applicable anti-assignment clauses of the Uniform Commercial Code and applicable Laws, other than the proceeds and receivables thereof the assignment of which is expressly deemed effective under applicable Laws notwithstanding such prohibition, (vii) any intent-to-use trademark application in the United States prior to the filing of a “Statement of Use” or “Amendment to Allege Use” with respect thereto, to the extent, if any, that, and solely during the period, if any, in which, the grant, attachment, or enforcement of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable Federal law and (viii) Excluded Equity.

“Excluded Subsidiary” means (a) each Subsidiary listed on Schedule 1.01C hereto, (b) any Subsidiary that is prohibited by applicable Law or by any contractual obligation existing on the Closing Date (or, if later, the date such Subsidiary first becomes a Subsidiary) from guaranteeing the Obligations or which would require governmental (including regulatory) consent, approval, license or authorization to provide a Guarantee unless such consent, approval, license or authorization has been received, (c) any Subsidiary organized in a jurisdiction other than a Covered Jurisdiction, (d) any Foreign

Subsidiary to the extent the provision of a Guarantee by such Subsidiary would expose the officers, directors or shareholders of such Subsidiary to individual liability or would result in corporate benefit, financial assistance or similar issues, in each case as reasonably determined by the Parent Borrower in consultation with the Administrative Agent, (e) any Restricted Subsidiary acquired pursuant to a Permitted Acquisition that, at the time of such Permitted Acquisition, has assumed secured Indebtedness not incurred in contemplation of such Permitted Acquisition and each Restricted Subsidiary that is a Subsidiary thereof that guarantees such Indebtedness to the extent such secured Indebtedness prohibits such Subsidiary from becoming a Guarantor (provided that each such Restricted Subsidiary shall cease to be an Excluded Subsidiary under this clause (e) if such secured Indebtedness is repaid or becomes unsecured, if such Restricted Subsidiary ceases to be an obligor with respect to such secured Indebtedness or such prohibition no longer exists, as applicable), (f) any Immaterial Subsidiary or Unrestricted Subsidiary, (g) captive insurance companies, (h) not-for-profit Subsidiaries, (i) special purpose entities (including any entity used to effect any Permitted Receivables Financing), (j) any non-Wholly-Owned Subsidiary, (k) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent (confirmed in writing by notice to the Parent Borrower), the cost or other consequences (including any adverse tax consequences) of providing a Guarantee shall be excessive in view of the benefits to be obtained by the Lenders therefrom and (l) for so long as it does not have in excess of \$15,000,000 of Indebtedness outstanding (other than Indebtedness owed to the Parent Borrower or any of its Restricted Subsidiaries), the Canadian Advertising Fund Subsidiary.

“ Excluded Swap Obligation ” means, with respect to any Guarantor, any Swap Obligation if, and solely to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest pursuant to the Collateral Documents to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal or unlawful under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act at the time the Guarantee of such Guarantor or the grant of such security interest would otherwise have become effective with respect to such related Swap Obligation but for such Guarantor’s failure to constitute an “eligible contract participant” at such time.

“ Excluded Taxes ” means, with respect to any Agent, any Lender, any L/C Issuer or any other recipient of any payment to be made by or on account of any obligation of any Loan Party under any Loan Document, (a) Taxes imposed by any jurisdiction as a result of a present or former connection of such Agent, Lender, L/C Issuer or other recipient, as the case may be, with such jurisdiction (including as a result of being resident or being deemed to be resident, being organized, maintaining an Applicable Lending Office or carrying on business or being deemed to carry on business in such jurisdiction) (other than any connection arising solely from any Loan Documents or any transactions contemplated thereby), (b) any Canadian withholding Tax resulting from (i) a Lender not dealing at arm’s length with the Parent Borrower for purposes of the Canadian Tax Act, or (ii) a Lender being, or not dealing at arm’s length with, a “specified shareholder” of the Parent Borrower for purposes of subsection 18(5) of the Canadian Tax Act, (c) any withholding Tax resulting from a failure of a Lender to comply with Section 3.01(f) or a failure of the Administrative Agent to comply with Section 3.01(g), (d) any U.S. federal withholding Tax imposed pursuant to FATCA (including any amounts deducted as a result of Administrative Agent treating the Parent Borrower as if it were a “United States person” (as defined in Section 7701(a)(30) of the Code) for purposes of FATCA) and (e) any U.S. federal backup withholding imposed pursuant to Section 3406 of the Code.

“ Existing Letters of Credit ” has the meaning specified in Section 2.03(a).

“Existing Notes” means THI’s 4.20% Senior Unsecured Notes, Series 1, due June 1, 2017, 4.52% Senior Unsecured Notes, Series 2, due December 1, 2023 and 2.85% Senior Unsecured Notes, Series 3, due April 1, 2019 and BKW’s 9 7/8% Senior Notes due 2018 and 11% Senior Discount Notes due 2019.

“Extended Revolving Credit Commitment” has the meaning specified in Section 2.15(a).

“Extended Term Loans” has the meaning specified in Section 2.15(a).

“Extension” has the meaning specified in Section 2.15(a).

“Extension Offer” has the meaning specified in Section 2.15(a).

“Facility” means a Class of Term Loans or a Revolving Credit Facility, as the context may require.

“FATCA” means current Sections 1471 through 1474 of the Code (and any amended or successor version that is substantively comparable) or any current or future Treasury regulations with respect thereto or other official administrative interpretations thereof, any agreements entered into pursuant to current Section 1471(b)(1) of the Code (or any amended or successor version described above) and any intergovernmental agreements entered into to implement or further the collection of Taxes imposed pursuant to the foregoing (together with any law implementing such agreements).

“Federal Funds Rate” means, for any day, the rate per annum equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1.00%) of the quotations for the day of such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

“Fee Letter” means the Fee Letter dated August 26, 2014, among the Parent Borrower, BKW, JPMCB, J.P. Morgan Securities LLC, Wells Fargo Bank, National Association, WF Investment Holdings, LLC and Wells Fargo Securities, LLC, as amended, supplemented or otherwise modified from time to time.

“Financial Covenant” means the covenant set forth in Section 7.09.

“First Lien Senior Secured Leverage Ratio” means, with respect to any Test Period, the ratio of (a) Consolidated Total Debt (other than any portion of Consolidated Total Debt that is unsecured or is secured solely by a Lien that is junior to the Liens securing the Obligations) as of the last day of such Test Period to (b) Consolidated EBITDA of the Parent Borrower for such Test Period.

“First Lien Shared Collateral” means the Shared Collateral to the extent subject to a Lien in favor of the Collateral Agent securing the Obligations.

“Fixed Amounts” has the meaning specified in Section 1.09(b).

“ Fixed Charge Coverage Ratio ” means, with respect to any Test Period, the ratio of (a) Consolidated EBITDA of the Parent Borrower for such Test Period to (b) Fixed Charges of the Parent Borrower for such period.

“ Fixed Charges ” means, with respect to any Person for any period, the sum of:

(a) Consolidated Interest Expense of such Person for such period; plus

(b) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock of any Restricted Subsidiary of such Person made during such period; plus

(c) all cash dividend payments (excluding items eliminated in consolidation) on any series of Disqualified Equity Interests of such Person or any Restricted Subsidiary of such Person made during such period.

“ Flood Insurance Laws ” means, collectively, (i) National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto.

“ Foreign Plan ” means any employee benefit plan, program, policy, arrangement or agreement maintained or contributed to or by, or entered into with, any Loan Party or any Restricted Subsidiary with respect to employees outside the United States.

“ Foreign Subsidiary ” means any direct or indirect Restricted Subsidiary of the Parent Borrower which is not a Domestic Subsidiary.

“ Franchisee ” means any Person, other than Holdings, the Parent Borrower or any Restricted Subsidiary, that directly or indirectly owns or operates or is approved by the Parent Borrower or any Restricted Subsidiary to, directly or indirectly, own or operate a restaurant that is branded as Burger King, Hungry Jack’s, Tim Horton’s or any other brand operated by the Parent Borrower or any Restricted Subsidiary.

“ FRB ” means the Board of Governors of the Federal Reserve System of the United States.

“ Fronting Fee ” has the meaning specified in Section 2.03(h).

“ Fund ” means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

“ Funded Debt ” means all Indebtedness of the Parent Borrower and its Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

“GAAP” means generally accepted accounting principles in the United States, as in effect from time to time; provided that (A) if the Parent Borrower notifies the Administrative Agent that the Parent Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Parent Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith, (B) at any time after the Closing Date, the Parent Borrower may elect, upon notice to the Administrative Agent, to apply IFRS accounting principles in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS (except as otherwise provided herein), including as to the ability of the Parent Borrower or the Required Lenders to make an election pursuant to clause (A) of this proviso, (C) any election made pursuant to clause (B) of this proviso, once made, shall be irrevocable, (D) any calculation or determination in this Agreement that requires the application of GAAP for periods that include fiscal quarters ended prior to the Parent Borrower’s election to apply IFRS shall remain as previously calculated or determined in accordance with GAAP and (E) the Parent Borrower may only make an election pursuant to clause (B) of this proviso if it also elects to report any subsequent financial reports required to be made by the Borrower, including pursuant to Sections 6.01(a) and (b), in IFRS.

“Governmental Authority” means any nation or government, any state, provincial, country, territorial or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

“Granting Lender” has the meaning specified in Section 10.07(h).

“Guarantee Obligations” means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); provided that the term “Guarantee Obligations” shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee Obligation shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

“Guarantees” has the meaning specified in the definition of “Collateral and Guarantee Requirement.”

“Guarantors” has the meaning specified in the definition of “Collateral and Guarantee Requirement.” For avoidance of doubt, the Parent Borrower in its sole discretion may cause any Restricted Subsidiary that is not a Guarantor to Guarantee the Obligations by causing such Restricted Subsidiary to execute and deliver to the Administrative Agent a Guaranty Supplement (as defined in the Guaranty), and any such Restricted Subsidiary shall thereafter be a Guarantor, Loan Party and Subsidiary Guarantor hereunder for all purposes; provided that if such Restricted Subsidiary is not organized in an existing Covered Jurisdiction, the jurisdiction or organization of such Restricted Subsidiary shall be reasonably satisfactory to the Collateral Agent if acting as Collateral Agent or entering into Loan Documents with Subsidiaries in such jurisdiction is prohibited by applicable Law or would expose the Collateral Agent, in its capacity as such, to material additional liabilities.

“Guaranty” means, collectively, (a) the Guaranty substantially in the form of Exhibit F and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.10.

“Hazardous Materials” means all explosive or radioactive substances or wastes, and all other chemicals, pollutants, contaminants, substances or wastes of any nature regulated pursuant to any Environmental Law, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas and toxic mold.

“Hedge Bank” means any Person that is a Lender, an Agent or an Affiliate of the foregoing on the Escrow Closing Date, or at the time it enters into a Swap Contract with a Loan Party or any Restricted Subsidiary.

“Holdings” has the meaning specified in the introductory paragraph to this Agreement.

“Honor Date” has the meaning specified in Section 2.03(c)(i).

“IFRS” means International Financial Reporting Standards as adopted in the European Union.

“Immaterial Subsidiary” means, at any date of determination, each Restricted Subsidiary of the Parent Borrower that has been designated by the Parent Borrower in writing to the Administrative Agent as an “Immaterial Subsidiary” for purposes of this Agreement (and not redesignated as a Material Subsidiary as provided below), provided that (a) for purposes of this Agreement, at no time shall (i) the total assets of all Immaterial Subsidiaries (other than Subsidiaries organized in jurisdictions that are not Covered Jurisdictions and Unrestricted Subsidiaries) at the last day of the most recent Test Period equal or exceed 2.50% (or, for purposes of Section 8.03, 5.0%) of the total assets of the Parent Borrower and its Restricted Subsidiaries at such date or (ii) the gross revenues for such Test Period of all Immaterial Subsidiaries (other than Subsidiaries organized in jurisdictions that are not Covered Jurisdictions and Unrestricted Subsidiaries) equal or exceed 2.50% (or, for the purposes of Section 8.03, 5.0%) of the consolidated gross revenues of the Parent Borrower and its Restricted Subsidiaries for such period, in each case determined on a consolidated basis in accordance with GAAP, (b) the Parent Borrower shall not designate any new Immaterial Subsidiary if such designation would not comply with the provisions set forth in clause (a) above, and (c) if the total assets or gross revenues of all Restricted Subsidiaries so designated by the Parent Borrower as “Immaterial Subsidiaries” (and not redesignated as “Material

Subsidiaries”) shall at any time exceed the limits set forth in clause (a) above, then all such Restricted Subsidiaries shall be deemed to be Material Subsidiaries unless and until the Parent Borrower shall redesignate one or more Immaterial Subsidiaries as Material Subsidiaries, in each case in a written notice to the Administrative Agent, and, as a result thereof, the total assets and gross revenues of all Restricted Subsidiaries still designated as “Immaterial Subsidiaries” do not exceed such limits; and provided, further, that the Parent Borrower may designate and re-designate a Restricted Subsidiary as an Immaterial Subsidiary at any time, subject to the terms set forth in this definition.

“Impacted Interest Period” has the meaning assigned to it in the definition of “Eurocurrency Rate.”

“Incremental Facilities” has the meaning specified in Section 2.14(a).

“Incremental Facility Amendment” has the meaning specified in Section 2.14(d).

“Incremental Facility Closing Date” has the meaning specified in Section 2.14(d).

“Incremental Revolving Credit Commitments” has the meaning specified in Section 2.14(a).

“Incremental Revolving Lender” has the meaning specified in Section 2.14(d).

“Incremental Term Loans” has the meaning specified in Section 2.14(a).

“Incurrence Based Amounts” has the meaning specified in Section 1.09(b).

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

(a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;

(b) the maximum amount (after giving effect to any prior drawings or reductions which may have been reimbursed) of all letters of credit (including standby and commercial), banker’s acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;

(c) net obligations of such Person under any Swap Contract;

(d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business and (ii) any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and if not paid within thirty (30) days after becoming due and payable);

(e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;

(f) all Attributable Indebtedness;

- (g) all obligations of such Person in respect of Disqualified Equity Interests; and
- (h) all Guarantee Obligations of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation, company, or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt and (B) in the case of the Parent Borrower and its Restricted Subsidiaries, exclude all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business consistent with past practice. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the fair market value of the property encumbered thereby as determined by such Person in good faith.

"Indemnified Liabilities" has the meaning specified in Section 10.05.

"Indemnified Taxes" means (a) all Taxes, other than Excluded Taxes, imposed on or in respect of any payment made by or on account of any Loan Party under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

"Indemnitees" has the meaning specified in Section 10.05.

"Information" has the meaning specified in Section 10.08.

"Initial Revolving Borrowing" means one or more borrowings of Revolving Credit Loans or issuances or deemed issuances of Letters of Credit on the Closing Date as specified in the definition of the term "Permitted Initial Revolving Borrowing."

"Interest Payment Date" means (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan (including a Swing Line Loan), the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made.

"Interest Period" means, as to each Eurocurrency Rate Loan, the period commencing on the date such Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, or to the extent agreed to by each Lender of such Eurocurrency Rate Loan, twelve months thereafter as selected by the Parent Borrower in its Committed Loan Notice; provided that:

(a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(c) no Interest Period shall extend beyond the Maturity Date of the Facility under which such Loan was made.

Notwithstanding the foregoing, the Parent Borrower may select an initial Interest Period for the Term B Loans ending on the date that is no more than 3 months after the Escrow Closing Date that is, subject to clause (a) of the definition of “Interest Period,” the next succeeding January 1, April 1, July 1 or October 1 following the Escrow Closing Date.

“ Intermediate Holding Company ” means any wholly-owned Subsidiary of Holdings that directly or indirectly through another Intermediate Holding Company, owns 100% of the issued and outstanding Equity Interests of the Parent Borrower.

“ Interpolated Rate ” means, at any time, for any Interest Period, the rate *per annum* (rounded to the same number of decimal places as the Eurocurrency Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the Eurocurrency Screen Rate for the longest period for which the Eurocurrency Screen Rate is available for the applicable currency that is shorter than the Impacted Interest Period; and (b) the Eurocurrency Screen Rate for the shortest period (for which that Eurocurrency Screen Rate is available for the applicable currency) that exceeds the Impacted Interest Period, in each case, at such time.

“ Investment ” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee Obligation with respect to any Obligation of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person (excluding, in the case of the Parent Borrower and its Restricted Subsidiaries, intercompany loans, advances, or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business consistent with past practice) or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

“ Investment Grade Rating ” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s and BBB- (or the equivalent) by S&P, or an equivalent rating by Fitch, Inc.

“ Investors ” means the Sponsor, Berkshire Hathaway and the Management Stockholders.

“ ISP ” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).

“ IP Rights ” has the meaning specified in Section 5.14.

“ JPMCB ” has the meaning specified in the introductory paragraph to this Agreement.

“ Judgment Currency ” has the meaning specified in Section 10.17.

“ JV Entity ” means any joint venture of the Parent Borrower or any Restricted Subsidiary that is not a Subsidiary.

“ Latest Maturity Date ” means, at any date of determination, the latest Maturity Date applicable to any Loan or Commitment hereunder at such time, including the latest maturity date of any Extended Revolving Credit Commitment, Additional Revolving Credit Commitment, Extended Term Loan or Incremental Term Loan, in each case as extended in accordance with this Agreement from time to time.

“ Laws ” means, collectively, all international, foreign, federal, state, provincial and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

“ L/C Advance ” means, with respect to each Revolving Credit Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Applicable Percentage.

“ L/C Borrowing ” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the applicable Honor Date or refinanced as a Revolving Credit Borrowing. The amount of any L/C Borrowing made by an L/C Issuer in a Revolving Alternative Currency and not reimbursed by the Borrowers shall be determined as set forth in Section 2.03(c).

“ L/C Credit Extension ” means, with respect to any Letter of Credit, the issuance thereof or extension of the expiry date thereof, or the renewal or increase of the amount thereof.

“ L/C Exposure ” means, at any time, the sum of (a) the undrawn portion of the Outstanding Amount of all Letters of Credit at such time and (b) the Outstanding Amount of all L/C Borrowings in respect of Letters of Credit that have not yet been reimbursed by or on behalf of the Parent Borrower at such time. The L/C Exposure of any Revolving Credit Lender at any time shall be its Applicable Percentage of the aggregate L/C Exposure at such time.

“ L/C Issuer ” means (i) JPMCB or any of its Affiliates selected by JPMCB, (ii) Wells Fargo Bank, N.A. or any of its Affiliates selected by Wells Fargo Bank, N.A., (iii) Bank of America, N.A. or any of its Affiliates selected by Bank of America, N.A., (iv) The Bank of Nova Scotia or any of its Affiliates selected by The Bank of Nova Scotia and (v) any other Lender (or any of its Affiliates) that becomes an L/C Issuer in accordance with Section 2.03(j) or Section 10.07(j); in the case of each of clause (i) through (v) above, in its capacity as an issuer of Letters of Credit hereunder, or any successor issuer of Letters of Credit hereunder.

“ L/C Issuer Sublimit ” means (i) with respect to JPMCB, \$41,500,000, (ii) with respect to Wells Fargo Bank, N.A., \$41,500,000, (iii) with respect to Bank of America, N.A., \$32,000,000, (iv) with respect to The Bank of Nova Scotia, \$10,000,000 and (v) with respect to any other L/C Issuer, such amount as may be mutually agreed between the Parent Borrower and such L/C Issuer and notified in writing to the Administrative Agent by such parties.

“ L/C Obligation ” means, as at any date of determination, the aggregate Dollar Equivalent maximum amount then available to be drawn under all outstanding Letters of Credit plus the aggregate of

all Unreimbursed Amounts in respect of Letters of Credit, including all L/C Borrowings. For all purpose under this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, the “Outstanding Amount” of such Letter of Credit shall be deemed to be the amount so remaining available to be drawn.

“ LCA Election ” has the meaning specified in Section 1.09(a) .

“ LCA Test Date ” has the meaning specified in Section 1.09(a) .

“ Lead Arrangers ” means J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, in their capacities as Joint Lead Arrangers and Joint Bookrunners under this Agreement and Merrill Lynch, Pierce, Fenner & Smith Incorporated, in its capacity as a Joint Bookrunner under this Agreement.

“ Lender ” has the meaning specified in the introductory paragraph to this Agreement and, as the context requires, includes an L/C Issuer and the Swing Line Lender, and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a “Lender.”

“ Lender Participation Notice ” has the meaning specified in Section 2.05(d)(iii) .

“ Letter of Credit ” means any letter of credit issued hereunder. A Letter of Credit may be a commercial letter of credit or a standby letter of credit.

“ Letter of Credit Application ” means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the relevant L/C Issuer.

“ Letter of Credit Expiration Date ” means, for Letters of Credit under the Revolving Credit Facility, the day that is five (5) Business Days prior to the scheduled Maturity Date then in effect for the Revolving Credit Facility (or, if such day is not a Business Day, the next preceding Business Day).

“ Letter of Credit Sublimit ” means an amount equal to the lesser of (a) \$125,000,000 and (b) the aggregate amount of the Revolving Credit Commitments.

“ Lien ” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, assignment (by way of security or otherwise), deemed trust, or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capitalized Lease having substantially the same economic effect as any of the foregoing).

“ Limited Condition Acquisition ” means any acquisition, including by way of merger, by the Parent Borrower or one or more of its Restricted Subsidiaries permitted pursuant to this Agreement whose consummation is not conditioned upon the availability of, or on obtaining, third party financing.

“ Loan ” means an extension of credit by a Lender to the Parent Borrower under Article II in the form of a Term Loan, a Revolving Credit Loan or a Swing Line Loan (including any Incremental Term Loans, any Extended Term Loans, loans made pursuant to any Additional Revolving Credit Commitment or loans made pursuant to Extended Revolving Credit Commitments).

“Loan Documents” means, collectively, (i) this Agreement, (ii) the Notes, (iii) each Guaranty, (iv) the Collateral Documents and (v) each Letter of Credit Application, in each case as amended.

“Loan Parties” means, collectively, (i) the Borrowers, (ii) Holdings and (iii) each other Guarantor.

“Local Time” means (a) local time in New York City, with respect to the times for (i) the determination of “Dollar Equivalent” and (ii) the receipt and sending of notices by and to and the disbursement by or payment to the Administrative Agent, any L/C Issuer or Lender with respect to Loans and Letters of Credit denominated in Dollars; (b) local time in London, England, with respect to the time for the receipt and sending of notices by and to the Administrative Agent, any L/C Issuer or any Lender with respect to Loans and Letters of Credit denominated in Euro; (c) local time in London, England, with respect to the disbursement by or payment to the Administrative Agent or any Lender with respect to Loans denominated in Euro and Letters of Credit denominated in Euro; (d) local time in Toronto, Canada with respect to the receipt and sending of notices by and to and the disbursement by or payment to the Administrative Agent, any L/C Issuer or any Lender with respect to Loans and Letters of Credit denominated in Canadian Dollars; (e) local time in such other jurisdiction as the Administrative Agent may specify with respect to the disbursement by or payment to the Administrative Agent or any Lender with respect to Loans denominated in any other Alternative Currency and Letters of Credit denominated in any other Alternative Currency; and (f) in all other circumstances, New York, New York time.

“Management Stockholders” means the members of management of Parent Borrower or any of its Subsidiaries who are investors in Holdings or any direct or indirect parent thereof.

“Master Agreement” has the meaning specified in the definition of “Swap Contract.”

“Material Adverse Effect” means (a) a material adverse effect on the business, operations, assets, liabilities (actual or contingent) or financial condition of the Parent Borrower and its Restricted Subsidiaries, taken as a whole, (b) a material adverse effect on the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) a material adverse effect on the rights and remedies of the Lenders or the Agents under any Loan Document.

“Material Real Property” means (a) any real property owned by a Loan Party on the Closing Date and set forth on Schedule 1.01F and (b) any real property acquired by any Loan Party following the Closing Date located in the United States or Canada with a book value in excess of \$10,000,000.

“Material Subsidiary” means, at any date of determination, each Restricted Subsidiary of the Parent Borrower that is not an Immaterial Subsidiary (but including, in any case, any Restricted Subsidiary that has been designated as a Material Subsidiary as provided in, or has been designated as an Immaterial Subsidiary in a manner that does not comply with, the definition of “Immaterial Subsidiary”).

“Maturity Date” means (a) with respect to the Revolving Credit Facility, the fifth anniversary of the Closing Date (and, with respect to any Additional Revolving Credit Commitments or Extended Revolving Credit Commitments, the maturity date applicable to such Additional Revolving Credit Commitments or Extended Revolving Credit Commitments in accordance with the terms hereof), (b) with respect to Term B Loans, the earlier of (x) the seventh anniversary of the Closing Date and (y) December 31, 2021, or (c) with respect to any (i) Extended Term Loan, the maturity date applicable to such Extended Term Loan in accordance with the terms hereof or (ii) Incremental Term Loan, the

maturity date applicable to such Incremental Term Loan in accordance with the terms hereof; provided that if any such day is not a Business Day, the Maturity Date shall be the Business Day immediately preceding such day.

“ Maximum Tender Condition ” has the meaning specified in Section 2.17(b).

“ Minimum Extension Condition ” has the meaning specified in Section 2.15(b).

“ Minimum Tender Condition ” has the meaning specified in Section 2.17(b).

“ Minimum Tranche Amount ” has the meaning specified in Section 2.15(b).

“ Moody’s ” means Moody’s Investors Service, Inc. and any successor thereto.

“ Mortgage ” means, collectively, the deeds of trust, trust deeds, deeds of hypothecation, security deeds, immovable hypothecs, and mortgages creating and evidencing a Lien on a Mortgaged Property made by the Loan Parties in favor or for the benefit of the Collateral Agent on behalf of the Secured Parties in form and substance reasonably satisfactory to the Collateral Agent, and any other mortgages executed and delivered pursuant to Section 4.01(a)(iii) and Section 6.10 and/or Section 6.12, as applicable.

“ Mortgage Policies ” has the meaning specified in paragraph (f) of the definition of Collateral and Guarantee Requirement.

“ Mortgaged Property ” means each Material Real Property, if any, which shall be subject to a Mortgage delivered pursuant to Section 4.01(a)(iii), Section 6.10 and/or Section 6.12, as applicable.

“ Multiemployer Plan ” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which any Loan Party or any ERISA Affiliate makes or is obligated to make contributions, or during the immediately preceding six (6) years, has made or been obligated to make contributions.

“ Net Cash Proceeds ” means:

(a) with respect to the Disposition of any asset by the Parent Borrower or any Restricted Subsidiary or any Casualty Event, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of the Parent Borrower or any Restricted Subsidiary) over (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or Casualty Event and that is required to be repaid (and is timely repaid) in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents and Indebtedness that is secured by Liens ranking junior to or pari passu with the Liens securing Indebtedness under the Loan Documents), (B) the out-of-pocket fees and expenses (including attorneys’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by the Parent Borrower or such Restricted Subsidiary in connection with such Disposition or Casualty Event, (C) taxes paid or reasonably

estimated to be actually payable in connection therewith (including, for the avoidance of doubt, any income, withholding and other taxes payable as a result of the distribution of such proceeds to the Parent Borrower), and (D) any reserve for adjustment in respect of (x) the sale price of such asset or assets established in accordance with GAAP and (y) any liabilities associated with such asset or assets and retained by the Parent Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or with respect to any indemnification obligations associated with such transaction, it being understood that “Net Cash Proceeds” shall include (i) any cash or Cash Equivalents received upon the Disposition of any non-cash consideration by the Parent Borrower or any Restricted Subsidiary in any such Disposition and (ii) upon the reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in clause (D) above or if such liabilities have not been satisfied in cash and such reserve is not reversed within 365 days after such Disposition or Casualty Event, the amount of such reserve; and

(b) (i) with respect to the incurrence or issuance of any Indebtedness by the Parent Borrower or any Restricted Subsidiary, the excess, if any, of (x) the sum of the cash received in connection with such incurrence or issuance over (y) the investment banking fees, underwriting discounts, commissions, costs and other out-of-pocket expenses and other customary expenses incurred by the Parent Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and (ii) with respect to any Permitted Equity Issuance by any direct or indirect parent of the Parent Borrower, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Parent Borrower.

“ Non-Consenting Lender ” has the meaning specified in Section 3.06(d).

“ Non-Loan Party ” means any Restricted Subsidiary of the Parent Borrower that is not a Loan Party.

“ Nonrenewal Notice Date ” has the meaning specified in Section 2.03(b)(iii).

“ Note ” means a Term Note or a Revolving Credit Note as the context may require.

“ Notes Intercreditor Agreement ” means the Intercreditor Agreement substantially in the form of Exhibit K, dated as of the Closing Date, among the Collateral Agent and Wilmington Trust, National Association, as trustee and second priority collateral agent, as the same may be amended, modified or supplemented from time to time.

“ Obligations ” means all (x) advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party or other Subsidiary arising under any Loan Document or otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any other Subsidiary of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding, (y) obligations of any Loan Party or any other Subsidiary arising under any Secured Hedge Agreement (other than, with respect to any Guarantor, Excluded Swap Obligations of such Guarantor), and (z) Cash Management Obligations. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and of any of their Subsidiaries to the extent they have obligations under the Loan Documents) include (a) the obligation (including guarantee obligations) to pay principal, interest, Letter of Credit commissions, reimbursement obligations, charges, expenses, fees, Attorney Costs, indemnities

and other amounts, in each case, payable by any Loan Party or any other Subsidiary under any Loan Document and (b) the obligation of any Loan Party or any other Subsidiary to reimburse any amount in respect of any of the foregoing that any Lender, in its sole discretion, may elect to pay or advance on behalf of such Loan Party or such Subsidiary.

“Offered Loans” has the meaning specified in Section 2.05(d)(iii).

“Organization Documents” means (a) with respect to any corporation or company, the certificate or articles of incorporation, the memorandum and articles of association, any certificates of change of name and/or the bylaws; (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, declaration, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

“Other Taxes” means all present or future stamp, court or documentary Taxes and any other property, intangible, mortgage recording or similar Taxes which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document, excluding, in each case, any such Tax resulting from an Assignment and Assumption or transfer or assignment to or designation of a new Applicable Lending Office or other office for receiving payments under any Loan Document (an “Assignment Tax”) but only if (a) such Assignment Tax is imposed as a result of a present or former connection of the assignor or assignee with the jurisdiction imposing such Assignment Tax (other than any connection arising solely from any Loan Documents or any transactions contemplated thereby) and (b) such Assignment Tax does not arise as a result of an assignment (or designation of a new Applicable Lending Office) pursuant to a request by Borrower under Section 3.06.

“Outstanding Amount” means (a) with respect to any Loan on any date, the Dollar Equivalent of the outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments thereof (including any refinancing of outstanding Unreimbursed Amounts under Letters of Credit or L/C Borrowings as a Revolving Credit Borrowing) occurring on such date; and (b) with respect to any Letter of Credit, Unreimbursed Amount, L/C Borrowing or L/C Obligations on any date, the Dollar Equivalent of the outstanding amount thereof on such date after giving effect to any related L/C Credit Extension occurring on such date and any other changes thereto as of such date, including as a result of any reimbursements of outstanding Unreimbursed Amounts under related Letters of Credit (including any refinancing of outstanding Unreimbursed Amounts under related Letters of Credit or related L/C Credit Extensions as a Revolving Credit Borrowing) or any reductions in the maximum amount available for drawing under related Letters of Credit taking effect on such date.

“Parent Borrower” has the meaning specified in the introductory paragraph to this Agreement.

“Participant” has the meaning specified in Section 10.07(e).

“Participant Register” has the meaning specified in Section 10.07(e).

“PBGC” means the Pension Benefit Guaranty Corporation.

“ Pension Plan ” means any “employee pension benefit plan” (as such term is defined in Section 3(2) of ERISA) other than a Multiemployer Plan, that is subject to Title IV of ERISA and is sponsored or maintained by any Loan Party or any ERISA Affiliate or to which any Loan Party or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions at any time during the immediately preceding six (6) years.

“ Permitted Acquisition ” has the meaning specified in Section 7.02(j) .

“ Permitted Alternative Incremental Facilities Debt ” has the meaning specified in Section 7.03(t) .

“ Permitted Canadian Part VI.1 Tax ” means any Taxes (other than (x) Taxes measured by income and (y) withholding Taxes) under Part VI.1 of the Canadian Tax Act, required to be paid (provided such Taxes are in fact paid) by any direct or indirect parent of the Parent Borrower by virtue of its payment of dividends on its Equity Interests or the redemption or repurchase of its Equity Interests.

“ Permitted Credit Facilities Acquisition Debt ” has the meaning specified in Section 7.03(v) .

“ Permitted Debt Exchange ” has the meaning specified in Section 2.17(a) .

“ Permitted Debt Exchange Notes ” has the meaning specified in Section 2.17(a) .

“ Permitted Debt Exchange Offer ” has the meaning specified in Section 2.17(a) .

“ Permitted Equity Issuance ” means any sale or issuance of any Qualified Equity Interests.

“ Permitted Holders ” means any of (a) the Sponsor and (b) any other Investor.

“ Permitted Initial Revolving Borrowing ” means (a) one or more Borrowings of Revolving Credit Loans (i) to finance the Acquisition and related transactions and pay the Transaction Expenses, in an aggregate amount for this clause (i) of up to the sum of (A) \$100,000,000 plus (B) the amount of overseas cash being repatriated by BKW in connection with the Transactions but which is not available as of the Closing Date notified in writing to the Administrative Agent by a Responsible Officer of the Parent Borrower, plus (ii) to finance any amount of original issue discount or upfront fees imposed pursuant to the “market flex” provisions of the Fee Letter or in connection with the issuance of the Senior Secured Notes on or prior to the Closing Date plus (iii) for working capital and other general corporate purposes and (b) the issuance of Letters of Credit in replacement of, or as a backstop for, letters of credit of the Parent Borrower or its Restricted Subsidiaries outstanding on the Closing Date.

“ Permitted Liens ” means any Liens permitted by Section 7.01 .

“ Permitted Non-Recourse Factoring ” means one or more non-recourse (except for customary representations, warranties, covenants and indemnities made in connection with such non-recourse facilities) receivables purchase facilities made available to the Parent Borrower or any of its Restricted Subsidiaries on then-market terms (as reasonably determined by the Parent Borrower) in an aggregate principal amount for all such facilities not exceeding \$200,000,000 at any time outstanding.

“ Permitted Receivables Financing ” means a Permitted Non-Recourse Factoring or a Permitted Recourse Receivables Financing.

“ Permitted Recourse Receivables Financing ” means one or more receivables purchase facilities made available to the Parent Borrower or any of its Restricted Subsidiaries on then-market terms (as reasonably determined by the Parent Borrower) in an aggregate principal amount for all such facilities not exceeding \$75,000,000 at any time outstanding.

“ Permitted Refinancing ” means, with respect to any Person, any modification (other than a release of such Person), refinancing, refunding, renewal or extension of any Indebtedness of such Person; provided that (a) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, and as otherwise permitted under Section 7.03, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(f), such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended, (c) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(f), at the time thereof, no Event of Default shall have occurred and be continuing, (d) to the extent such Indebtedness being so modified, refinanced, refunded, renewed or extended is secured by a Lien on the Collateral, the Lien securing such Indebtedness as modified, refinanced, refunded, renewed or extended shall not be senior in priority to the Lien on the Collateral securing the Indebtedness being modified, refinanced, refunded, renewed or extended unless otherwise permitted under this Agreement and (e) if such Indebtedness being modified, refinanced, refunded, renewed or extended is Indebtedness permitted pursuant to Section 7.03(c), (i) to the extent such Indebtedness being so modified, refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being so modified, refinanced, refunded, renewed or extended, (ii) except in the case of any Ratably Secured Existing Notes, the terms and conditions (including, if applicable, as to collateral but excluding as to subordination, interest rate and redemption premium) of any such modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed or extended; provided that a certificate of a Responsible Officer of the Parent Borrower delivered to the Administrative Agent at least five (5) Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Parent Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement, shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Parent Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees) and (iii) such modification, refinancing, refunding, renewal or extension is incurred by a Person who is the obligor of the Indebtedness being so modified, refinanced, refunded, renewed or extended or a Loan Party.

“ Permitted Sale Leaseback ” means any Sale Leaseback consummated by the Parent Borrower or any of its Restricted Subsidiaries after the Closing Date; provided that any such Sale Leaseback not between (a) a Loan Party and another Loan Party or (b) a Restricted Subsidiary that is not

a Loan Party and another Restricted Subsidiary that is not a Loan Party must be, in each case, consummated for fair value as determined at the time of consummation in good faith by (i) the Parent Borrower or such Restricted Subsidiary and (ii) in the case of any Sale Leaseback (or series of related Sales Leasebacks) the aggregate proceeds of which exceed \$50,000,000, the board of managers or directors, as applicable, of the Parent Borrower or such Restricted Subsidiary (which such determination may take into account any retained interest or other Investment of the Parent Borrower or such Restricted Subsidiary in connection with, and any other material economic terms of, such Sale Leaseback); provided that in the case of clause (ii) above, if after giving Pro Forma Effect to any such Disposition for consideration in excess of \$75,000,000, the First Lien Senior Secured Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period is greater than 3.50:1.00, the Borrower or any of its Restricted Subsidiaries shall receive not less than 75.0% of such consideration in the form of cash or Cash Equivalents (as determined in accordance with Section 7.05(m)).

“ Permitted Tax Distribution ” means

(a) if and for so long as the Parent Borrower is a member of a group filing a consolidated or combined tax return with any parent entity, any dividends or other distributions to fund any income Taxes for which such parent entity is liable up to an amount not to exceed with respect to such Taxes the amount of any such Taxes that the Parent Borrower and its Subsidiaries would have been required to pay on a separate company basis or on a consolidated basis if the Parent Borrower and its Subsidiaries had paid Tax on a consolidated, combined, group, affiliated or unitary basis on behalf of an affiliated group consisting only of the Parent Borrower and its Subsidiaries; and

(b) for any taxable year (or portion thereof) ending after the Closing Date for which the Parent Borrower is treated as a disregarded entity, partnership, or other flow-through entity for federal, state, provincial, territorial, and/or local income Tax purposes, the payment of dividends or other distributions to the Parent Borrower’s direct owner(s) to fund the income Tax liability of such owner(s) (or, if a direct owner is a pass-through entity, of the indirect owner(s)) for such taxable year (or portion thereof) attributable to the operations and activities of the Parent Borrower and its direct and indirect Subsidiaries, in an aggregate amount not to exceed the product of (x) the highest combined marginal federal and applicable state, provincial, territorial, and/or local statutory Tax rate (after taking into account the deductibility of U.S. state and local income Tax for U.S. federal income Tax purposes, and of Canadian provincial and local income Tax for Canadian federal income tax purposes, and the character of the taxable income in question (e.g. , long term capital gain, qualified dividend income, etc.)) applicable to the direct parent of the Borrower for the taxable year (or portion thereof) in question (or, where the direct parent is a pass-through entity, applicable to any indirect equity owner for such year) as reasonably determined by the Parent Borrower using information available to it, and (y) the taxable income of the Parent Borrower for such taxable year (or portion thereof), reduced by any cumulative net loss with respect to all prior taxable years (or portions thereof) to the extent such cumulative net taxable loss is of a character and type that would permit such loss to be deducted against the income of the taxable year (or portion thereof) in question and has not previously been taken into account under this clause (y).

“ Permitted Tax Restructuring ” means any reorganizations and other activities related to tax planning and tax reorganization (as determined by the Parent Borrower in good faith) entered into on or after the date hereof so long as such Permitted Tax Restructuring does not materially impair the security interests of the Lenders and is otherwise not materially adverse to the Lenders and after giving effect to such Permitted Tax Restructuring, the Parent Borrower and its Restricted Subsidiaries otherwise comply with Section 6.10.

“ Person ” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Plan” means any “employee benefit plan” (as such term is defined in Section 3(3) of ERISA) other than a Foreign Plan, established or maintained by any Loan Party or, with respect to any such plan that is subject to Section 412 of the Code or Title IV of ERISA, any ERISA Affiliate.

“Platform” has the meaning specified in Section 6.02.

“Post-Acquisition Period” means, with respect to any Permitted Acquisition or the conversion of any Unrestricted Subsidiary into a Restricted Subsidiary, the period beginning on the date such Permitted Acquisition or conversion is consummated and ending on the last day of the fourth full consecutive fiscal quarter immediately following the date on which such Permitted Acquisition or conversion is consummated.

“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 or under any other Loan Document on the Collateral is governed by the personal property security legislation or other applicable legislation with respect to personal property security in effect in a jurisdiction in Canada other than the Province of Ontario, “PPSA” means the Personal Property Security Act or such other applicable legislation (including the Civil Code (Quebec)) in effect from time to time in such other jurisdiction in Canada for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“Preferred Stock” means \$3,000,000,000 initial aggregate liquidation preference of 9% preferred stock of an indirect controlling parent of the Parent Borrower on the Closing Date and any accretions or accumulations of unpaid dividends thereon (including through the payment in kind of dividends).

“Prime Rate” means the rate of interest per annum publicly announced from time to time by the Administrative Agent as its prime rate at its principal office in New York City; each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Pro Forma Adjustment” means, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period (or, with respect to the Acquisition, the twelve (12) months following the Closing Date), with respect to the Acquired EBITDA of the applicable Acquired Entity or Business or Converted Restricted Subsidiary or the Consolidated EBITDA of the Parent Borrower, (a) the pro forma increase or decrease in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, that is factually supportable and is expected to have a continuing impact, in each case as determined on a basis consistent with Article 11 of Regulation S-X of the Securities Act, as interpreted by the Securities and Exchange Commission and (b) additional good faith pro forma adjustments arising out of cost savings initiatives attributable to such transaction and additional costs associated with the combination of the operations of such Acquired Entity or Business or Converted Restricted Subsidiary with the operations of the Parent Borrower and its Restricted Subsidiaries, in each case being given pro forma effect, that (i) have been realized or (ii) will be implemented following such transaction and are supportable and quantifiable and expected to be realized within the succeeding eighteen (18) months and, in each case, including, but not limited to, (w) reduction in personnel expenses, (x) reduction of costs related to administrative functions, (y) reductions of costs related to leased or owned properties and (z) reductions from the consolidation of operations and streamlining of corporate overhead taking into account, for purposes of determining such compliance, the historical financial statements of the Acquired Entity or Business or Converted Restricted Subsidiary and the consolidated financial statements of the Parent Borrower and its Subsidiaries, assuming such Permitted Acquisition or conversion, and all other Permitted Acquisitions or conversions that have been consummated during the

period, and any Indebtedness or other liabilities repaid in connection therewith had been consummated and incurred or repaid at the beginning of such period (and assuming that such Indebtedness to be incurred bears interest during any portion of the applicable measurement period prior to the relevant acquisition at the interest rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination); provided that, so long as such actions are initiated during such Post-Acquisition Period or such costs are incurred during such Post-Acquisition Period, as applicable, for purposes of projecting such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, it may be assumed that such cost savings will be realizable during the entirety of such Test Period, or such additional costs, as applicable, will be incurred during the entirety of such Test Period.

“ Pro Forma Balance Sheet ” has the meaning specified in Section 5.05(a)(ii).

“ Pro Forma Basis ” and “ Pro Forma Effect ” mean, with respect to compliance with any test hereunder for an applicable period of measurement, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement (as of the last date in the case of a balance sheet item) in such test: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a Disposition of all or substantially all Equity Interests in any Restricted Subsidiary of the Parent Borrower or any division, product line, or facility used for operations of the Parent Borrower or any of its Restricted Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or Investment described in the definition of “Specified Transaction,” shall be included, (b) any retirement of Indebtedness, and (c) any Indebtedness incurred or assumed by the Parent Borrower or any of its Restricted Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination; provided that, without limiting the application of the Pro Forma Adjustment pursuant to (A) above, the foregoing pro forma adjustments may be applied to any such test solely to the extent that such adjustments are consistent with the definition of Consolidated EBITDA and give effect to events (including operating expense reductions) that are (as determined by the Parent Borrower in good faith) (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Parent Borrower and its Restricted Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of Pro Forma Adjustment.

“ Pro Forma Financial Statements ” has the meaning specified in Section 5.05(a)(ii).

“ Proposed Discounted Prepayment Amount ” has the meaning specified in Section 2.05(d)(ii).

“ Public Lender ” has the meaning specified in Section 6.02.

“ Qualified Equity Interests ” means any Equity Interests of Holdings (or of the Parent Borrower or any Intermediate Holding Company or any direct or indirect parent of Holdings), in each case, that are not Disqualified Equity Interests.

“ Qualifying Lenders ” has the meaning specified in Section 2.05(d)(iv).

“ Qualifying Loans ” has the meaning specified in Section 2.05(d)(iv).

“Quotation Date” means, in respect of the determination of the Eurocurrency Rate for any Interest Period for a Eurocurrency Rate Loan (a) in Dollars, Canadian Dollars and Euro, the day that is two Business Days prior to the first day of such Interest Period and (b) in the case of any other currency, the date specified by the Administrative Agent; provided that following the Escrow Closing Date and prior to the Closing Date, the Quotation Date shall be the tenth Business Day prior to the first day of the relevant Interest Period and, for purposes of determining the Eurodollar Rate for any such Interest Period, such Interest Period shall be deemed to commence on the second Business Day following such date.

“Ratably Secured Existing Notes” has the meaning specified in the definition of “Refinancing.”

“Ratably Secured Existing Notes Guarantor” means any “Guarantor” as defined in the Ratably Secured Existing Notes Indenture.

“Ratably Secured Existing Notes Indenture” means the Trust Indenture dated as of June 1, 2010, as supplemented by (a) the First Supplemental Indenture dated as of June 1, 2010 and the First (Reopening) Supplemental Indenture dated as of December 1, 2010, (b) the Second Supplemental Trust Indenture dated as of November 29, 2013 and (c) the Third Supplemental Trust Indenture dated as of March 28, 2014, in each case, between THI and the Ratably Secured Existing Notes Trustee.

“Ratably Secured Existing Notes Intercreditor Agreement” has the meaning specified in Section 10.20(c).

“Ratably Secured Existing Notes Issuer” means the “Issuer” as defined in the Ratably Secured Existing Notes Indenture.

“Ratably Secured Existing Notes Trustee” means BNY Trust Company of Canada, as trustee for the Ratably Secured Existing Notes, and its successors in such capacity.

“Refinancing” means:

(i) the repayment in full and termination of all commitments under THI’s Senior Revolving Facility Credit Agreement, dated as of October 4, 2013;

(ii) the repayment in full and termination of all commitments under BKW’s or its subsidiaries’ Credit Agreement, dated as of September 28, 2012; and

(iii) the (A) purchase and retirement of the Existing Notes on or prior to the Closing Date (pursuant to a tender offer or otherwise), (B) calling for redemption of the Existing Notes on the Closing Date for the earliest permitted redemption date and the deposit of funds sufficient to fund such redemption with the trustee or other paying agent therefor on the Closing Date or (C) solely in the case of the Existing Notes of THI, granting of an equal and ratable Lien to secure such Existing Notes on a pari passu basis with the Obligations (any such equally and ratably secured Existing Notes, the “Ratably Secured Existing Notes”).

“Refinancing Revolving Credit Commitments” means Incremental Revolving Credit Commitments that are designated by a Responsible Officer of the Parent Borrower as “Refinancing Revolving Credit Commitments” in a certificate of a Responsible Officer of the Parent Borrower delivered to the Administrative Agent on or prior to the date of incurrence.

“Refinancing Term Loans” means Incremental Term Loans that are designated by a Responsible Officer of the Parent Borrower as “Refinancing Term Loans” in a certificate of a Responsible Officer of the Parent Borrower delivered to the Administrative Agent on or prior to the date of incurrence.

“Register” has the meaning specified in Section 10.07(d).

“Rejection Notice” has the meaning specified in Section 2.05(b)(v).

“Release” means any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection, migration or leaching into or through the Environment or into, from or through any building, structure or facility.

“Reportable Event” means, with respect to any Pension Plan, any of the events set forth in Section 4043(c) of ERISA or the regulations issued thereunder, other than events for which the thirty (30) day notice period has been waived.

“Repricing Transaction” means, with respect to the Term B Loans, (a) any prepayment or repayment of Term B Loans with the proceeds of, or any conversion of Term B Loans into, any new or replacement tranche of term loans bearing interest with an Effective Yield less than the Effective Yield applicable to the Term B Loans, but excluding any new or replacement loans incurred in connection with a Change of Control and (b) any amendment (including pursuant to a replacement term loan as contemplated by Section 10.01) to the Term B Loans which reduces the Effective Yield applicable to the Term B Loans.

“Request for Credit Extension” means (a) with respect to a Borrowing, conversion or continuation of Term Loans or Revolving Credit Loans, a Committed Loan Notice, (b) with respect to an L/C Credit Extension, a Letter of Credit Application, and (c) with respect to a Swing Line Loan, a Swing Line Loan Notice.

“Required Lenders” means, as of any date of determination, Lenders holding more than 50% of the sum of the (a) Total Outstandings (with the aggregate Outstanding Amount of each Lender’s Revolving Credit Exposure being deemed “held” by such Lender for purposes of this definition), (b) aggregate unused Term Commitments and (c) aggregate unused Revolving Credit Commitments; provided that (i) the unused Term Commitment and unused Revolving Credit Commitment of, and the portion of the Total Outstandings held or deemed held by any Defaulting Lender shall be excluded for all purposes of making a determination of Required Lenders, (ii) the unused Term Commitment and unused Revolving Credit Commitment of, and the portion of the Total Outstandings held or deemed held by any Lenders that are Sponsor Affiliated Lenders (other than Affiliated Debt Funds) shall be excluded for all purposes of making a determination of Required Lenders and (iii) Affiliated Debt Funds may not, in the aggregate, account for more than 49.9% of the amount necessary to establish that the Required Lenders have consented to an action and the unused Term Commitment and unused Revolving Credit Commitment of, and the portion of the Total Outstandings held or deemed held by any Affiliated Debt Funds in excess of such amount shall be excluded for all purposes of making a determination of Required Lenders.

“Required Revolving Credit Lenders” means, as of any date of determination, at least two Lenders having more than 50.0% in the aggregate of the Revolving Credit Commitments plus after the termination of the Revolving Credit Commitments, the Revolving Credit Exposure of all Lenders; provided that (i) the Revolving Credit Commitment and the Revolving Credit Exposure of any Defaulting Lender shall be excluded for all purposes of making a determination of Required Revolving Credit

Lenders, (ii) the Revolving Credit Commitments and Revolving Credit Exposure of Lenders that are Sponsor Affiliated Lenders (other than Affiliated Debt Funds) shall be excluded for all purposes of making a determination of Required Revolving Credit Lenders and (iii) Affiliated Debt Funds may not, in the aggregate, account for more than 49.9% of the amount necessary to establish that the Required Revolving Credit Lenders have consented to an action and any other Revolving Credit Commitments and Revolving Credit Exposure of Affiliated Debt Funds in excess of such amount shall be excluded for all purposes of making a determination of Required Revolving Credit Lenders.

“ Responsible Officer ” means the chief executive officer, president, vice president, chief financial officer, treasurer, assistant treasurer, or other similar officer or director of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“ Restricted Casualty Event ” has the meaning specified in Section 2.05(b)(vi) .

“ Restricted Disposition ” has the meaning specified in Section 2.05(b)(vi) .

“ Restricted Payment ” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest in the Parent Borrower or any Restricted Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to the holders of Equity Interests of the Parent Borrower.

“ Restricted Subsidiary ” means any Subsidiary of the Parent Borrower other than an Unrestricted Subsidiary.

“ Retained Declined Proceeds ” has the meaning specified in Section 2.05(b)(v) .

“ Revolving Alternative Currency ” means Euro and Canadian Dollars and any other currencies as shall be agreed from time to time among the Administrative Agent, each Revolving Credit Lender, each applicable L/C Issuer and the Borrower.

“ Revolving Credit Borrowing ” means a borrowing consisting of Revolving Credit Loans of the same Class, Type and currency, made, converted or continued on the same date and, in the case of Eurocurrency Rate Loans, as to which a single Interest Period is in effect.

“ Revolving Credit Commitment ” means with respect to each Lender, the commitment, if any, of such Lender to make Revolving Credit Loans and to acquire participations in Letters of Credit and Swing Line Loans, expressed as an amount representing the maximum possible aggregate amount of such Lender’s Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 and (b) increased from time to time pursuant to Section 2.14 . The initial amount of each Lender’s Revolving Credit Commitment on the Escrow Closing Date is set forth on Schedule 2.01 of this Agreement, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Revolving Credit Commitment, as the case may be. The initial aggregate amount of the Lenders’ Revolving Credit Commitments on the Escrow Closing Date is \$500,000,000.

“ Revolving Credit Exposure ” means, at any time for any Lender, the sum of (a) the Outstanding Amount of the Revolving Credit Loans of such Lender outstanding at such time, (b) the L/C Exposure of such Lender at such time and (c) except for purposes of Section 2.09, the Swing Line Exposure of such Lender at such time.

“ Revolving Credit Facility ” means the Revolving Credit Commitments and the extension of credit made thereunder.

“ Revolving Credit Lender ” means a Lender with a Revolving Credit Commitment or, if the Revolving Credit Commitments have terminated or expired, a Lender with Revolving Credit Exposure.

“ Revolving Credit Loan ” means a Loan made pursuant to Section 2.01(b).

“ Revolving Credit Note ” means a promissory note of the Borrowers payable to any Revolving Credit Lender or its registered assigns, in substantially the form of Exhibit C-2 hereto with appropriate insertions, evidencing the aggregate Indebtedness of the Borrowers to such Revolving Credit Lender resulting from the Revolving Credit Loans made by such Revolving Credit Lender under the Revolving Credit Facility.

“ S&P ” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, and any successor thereto.

“ Sale Leaseback ” means any transaction or series of related transactions pursuant to which the Parent Borrower or any of its Restricted Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed.

“ Sanctions Laws and Regulations ” means any sanctions or requirements imposed by, or based upon the obligations or authorities set forth in, (a) the USA PATRIOT Act, the Executive Order No. 13224 of September 23, 2001, entitled Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)), the U.S. International Emergency Economic Powers Act (50 U.S.C. §§ 1701 *et seq.*), the U.S. Trading with the Enemy Act (50 U.S.C. App. §§ 1 *et seq.*), the U.S. Syria Accountability and Lebanese Sovereignty Act, the U.S. Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 or the Iran Sanctions Act, Section 1245 of the National Defense Authorization Act of 2012, all as amended, or any of the foreign assets control regulations (including but not limited to 31 C.F.R., Subtitle B, Chapter V, as amended) or any other law or executive order relating thereto administered by the U.S. Department of the Treasury Office of Foreign Assets Control or the U.S. Department of State, and any similar law, regulation, or executive order enacted in the United States after the date of this Agreement and (b) by a government of Canada pursuant to Canadian Economic Sanctions and Export Control Laws.

“ SEC ” means the Securities and Exchange Commission or any Governmental Authority succeeding to any of its principal functions.

“ Secured Hedge Agreement ” means any Swap Contract that is entered into by and between any Loan Party (or any Person that merges into a Loan Party) or any Restricted Subsidiary and any Hedge Bank.

“Secured Parties” means, collectively, the Administrative Agent, the Collateral Agent, the Lead Arrangers, the Documentation Agents, the Syndication Agent, the Lenders, the Hedge Banks, the Cash Management Banks, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.01(c).

“Securities Act” means the Securities Act of 1933.

“Security Agreements” means, collectively, the Canadian Security Agreement and the U.S. Security Agreement.

“Security Agreement Supplement” means a supplement to any Security Agreement as contemplated by such Security Agreement.

“Senior Secured Notes” means up to \$2,250,000,000 aggregate principal amount of (i) 6% Second Lien Senior Secured Notes due 2022 issued by the Borrowers pursuant to the Senior Secured Notes Indenture or (ii) in the event such notes referred to in clause (i) become subject to redemption in full on or prior to the Closing Date, other Indebtedness of the Parent Borrower and/or any Guarantor secured by Liens ranking junior to the Liens securing the Obligations pursuant to the Notes Intercreditor Agreement or a Customary Intercreditor Agreement and with a final maturity (disregarding any interim maturity that would only apply upon the occurrence of an Event of Default with respect to the Parent Borrower pursuant to Section 8.01(f)) not earlier than the date that is seven years and six months after the Escrow Closing Date.

“Senior Secured Notes Indenture” means (i) the Indenture dated October 8, 2014, among the Borrowers, the guarantors party thereto and the Trustee or (ii) if Senior Secured Notes are issued pursuant to clause (ii) of the definition thereof, the loan agreement or indenture governing such Senior Secured Notes.

“Shared Collateral” means any Tim Hortons Property to the extent subject to a Lien that secures the obligations under the Ratably Secured Existing Notes, where such security is required in order for the Ratably Secured Existing Notes Issuer or any Ratably Secured Existing Notes Guarantor to comply with their respective obligations under the Ratably Secured Existing Notes Indenture.

“Sold Entity or Business” has the meaning specified in the definition of the term “Consolidated EBITDA.”

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date (i) the fair value of the property of such Person is greater than the total amount of debts and liabilities, contingent, subordinated or otherwise, of such Person, (ii) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the liability of such Person on its debts as they become absolute and matured, (iii) such Person will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as they become absolute and matured and (iv) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital; provided that the amount of contingent liabilities at any time shall be computed as the amount that, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“SPC” has the meaning specified in Section 10.07(h).

“Specified Acquisition Agreement Representations” means the representations made by THI in the Acquisition Agreement that are material to the interests of the Lenders, but only to the extent that BKW has the right to terminate its obligations under the Acquisition Agreement or to decline to consummate the Acquisition as a result of a breach of such representations in the Acquisition Agreement.

“Specified Assets” means non-core assets having an aggregate fair market value (as determined in good faith by the Parent Borrower) that is not in excess of \$150,000,000.

“Specified Dispositions” means a Disposition of Specified Assets.

“Specified Representations” means the representations and warranties of the Borrowers set forth in Sections 5.01(a) (solely as it relates to Holdings and the Borrowers), 5.01(b)(ii), 5.02(a) (related to the entering into and performance of the Loan Documents and the incurrence of the extensions of credit thereunder), 5.02(b)(i) (related to the entering into and performance of the Loan Documents and the incurrence of the extensions of credit thereunder), 5.04, 5.12, 5.15, 5.16 (subject to the proviso to Section 4.01(a)(iii)), 5.18 (limited to the use of proceeds of the Loans on the Closing Date) and 5.19.

“Specified Transaction” means any Investment, Disposition, incurrence or repayment of Indebtedness, Restricted Payment, Subsidiary designation, Incremental Term Loan or Incremental Revolving Credit Commitments that by the terms of this Agreement requires such test to be calculated on a “Pro Forma Basis” or after giving “Pro Forma Effect”; provided that any increase in the Revolving Credit Commitments (including, for this purpose, any Additional Revolving Credit Commitment or Extended Revolving Credit Commitment) above the amount of Revolving Credit Commitments in effect on the Closing Date, for purposes of this “Specified Transaction” definition, shall be deemed to be fully drawn; provided, further, that any such Specified Transaction (other than a Restricted Payment) having an aggregate value of less than \$20,000,000 shall not be calculated on a “Pro Forma Basis” or after giving “Pro Forma Effect.”

“Sponsor” means each of 3G Capital Partners Ltd. and its Affiliates and funds or partnerships managed by it or any of its Affiliates, but not including, however, any of their portfolio companies.

“Sponsor Affiliated Lender” means the Sponsor and any Affiliate of the Sponsor (including Affiliated Debt Funds).

“Sponsor Management Agreement” means, collectively, each of the management agreements between certain of the management companies associated with the Sponsor or their advisors, the Parent Borrower, certain of its Subsidiaries and/or certain of its direct or indirect parents.

“Subordinated Debt” means Indebtedness incurred by a Loan Party that is subordinated in right of payment to the prior payment of all Obligations of such Loan Party under the Loan Documents.

“Subordinated Debt Documents” means any agreement, indenture or instrument pursuant to which any Subordinated Debt is issued, in each case as amended to the extent permitted under the Loan Documents.

“Subsidiary” of a Person means a corporation, company, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly or indirectly, through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of the Parent Borrower.

“Subsidiary Borrower” has the meaning specified in the Preliminary Statements to this Agreement.

“Subsidiary Guarantor” means, collectively, the Subsidiaries of the Parent Borrower that are Guarantors.

“Supplemental Administrative Agent” has the meaning specified in Section 9.13(a) and “Supplemental Administrative Agents” shall have the corresponding meaning.

“Survey” means a survey of any Mortgaged Property (and all improvements thereon) which is (a) (i) prepared by a surveyor or engineer licensed to perform surveys in the jurisdiction where such Mortgaged Property is located, (ii) dated (or redated) not earlier than six months prior to the date of delivery thereof unless there shall have occurred within six months prior to such date of delivery any exterior construction on the site of such Mortgaged Property or any easement, right of way or other interest in the Mortgaged Property has been granted or become effective through operation of law or otherwise with respect to such Mortgaged Property which, in either case, can be depicted on a survey, in which events, as applicable, such survey shall be dated (or redated) after the completion of such construction or if such construction shall not have been completed as of such date of delivery, not earlier than 20 days prior to such date of delivery, or after the grant or effectiveness of any such easement, right of way or other interest in the Mortgaged Property, (iii) certified by the surveyor (in a manner reasonably acceptable to the Administrative Agent) to the Administrative Agent, the Collateral Agent and the Title Company, (iv) complying in all respects with the minimum detail requirements of the American Land Title Association as such requirements are in effect on the date of preparation of such survey, (v) sufficient for the Title Company to remove all standard survey exceptions from the Mortgage Policy relating to such Mortgaged Property and issue the endorsements of the type required by paragraph (f) of the definition of Collateral and Guarantee Requirement and (vi) otherwise reasonably acceptable to the Administrative Agent.

“Surviving Indebtedness” means Indebtedness of the Parent Borrower or any of its Subsidiaries outstanding immediately after giving effect to the Refinancing.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a “Master Agreement”), including any such obligations or liabilities under any Master Agreement.

“Swap Obligation” means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of section 1a(47) of the Commodity Exchange Act.

“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark to market value(s) for such Swap Contracts, as determined by the Hedge Bank (or the Parent Borrower, if no Hedge Bank is party to such Swap Contract) in accordance with the terms thereof and in accordance with customary methods for calculating mark-to-market values under similar arrangements by the Hedge Bank (or the Parent Borrower, if no Hedge Bank is party to such Swap Contract).

“Swing Line Borrowing” means a borrowing of a Swing Line Loan pursuant to Section 2.04.

“Swing Line Exposure” means, at any time for any Lender, such Lender’s Applicable Percentage of the Outstanding Amount of Swing Line Loans outstanding at such time.

“Swing Line Lender” means JPMorgan Chase Bank, N.A., in its capacity as provider of Swing Line Loans, or any successor swing line lender hereunder.

“Swing Line Loan Notice” means a notice of a Swing Line Borrowing pursuant to Section 2.04(b), which, if in writing, shall be substantially in the form of Exhibit B.

“Swing Line Loans” means a Loan made pursuant to Section 2.04(a).

“Swing Line Sublimit” means an amount equal to the lesser of (a) \$40,000,000 and (b) the aggregate principal amount of the Revolving Credit Commitments. The Swing Line Sublimit is part of, and not in addition to, the Revolving Credit Commitments.

“Syndication Agent” means Wells Fargo Bank, National Association, in its capacity as Syndication Agent under this Agreement.

“TARGET Day” means any day on which (i) TARGET2 is open for settlement of payments in Euro and (ii) banks are open for dealings in deposits in Euro in the London interbank market.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

“Taxes” means all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges imposed by any Governmental Authorities, and all liabilities (including additions to tax, penalties and interest) with respect thereto.

“Term B Commitment” means, as to each Term B Lender, its obligation to make a Term B Loan to the Parent Borrower pursuant to Section 2.01 in an aggregate principal amount not to exceed the amount set forth opposite such Lender’s name on Schedule 2.01 under the caption “Term B Commitment” or in the Assignment and Assumption pursuant to which such Term B Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Term B Commitments is \$6,750,000,000.

“Term B Lender” means, at any time, any Lender that has a Term B Commitment or a Term B Loan at such time.

“ Term B Loan ” means a Loan made pursuant to Section 2.01(a).

“ Term Borrowing ” means a Borrowing in respect of a Class of Term Loans.

“ Term Commitments ” means a Term B Commitment or a commitment in respect of any Incremental Term Loans or any combination thereof, as the context may require.

“ Term Lenders ” means the Term B Lenders, the Lenders with Incremental Term Loans and the Lenders with Extended Term Loans.

“ Term Loans ” means the Term B Loans, the Incremental Term Loans and the Extended Term Loans.

“ Term Note ” means a promissory note of the Borrowers payable to any Term Lender or its registered assigns, in substantially the form of Exhibit C-1 hereto with appropriate insertions, evidencing the aggregate Indebtedness of the Borrowers to such Term Lender resulting from any Class of Term Loans made by such Term Lender.

“ Test Period ” means, at any date of determination, the most recently completed four consecutive fiscal quarters of the Parent Borrower ending on or prior to such date for which financial statements have been or are required to be delivered pursuant to Section 6.01(a) or 6.01(b).

“ THI ” has the meaning specified in the Preliminary Statements to this Agreement.

“ Threshold Amount ” means \$100,000,000.

“ Tim Hortons Property ” means any “Property” (as defined in the Ratably Secured Existing Notes Indenture) or assets, whether now owned or hereafter acquired, of the Ratably Secured Existing Notes Issuer or any Ratably Secured Existing Notes Guarantor.

“ Title Company ” means any title insurance company as shall be retained by Borrower to issue the Mortgage Policies and reasonably acceptable to the Administrative Agent.

“ Total Assets ” means the total assets of the Parent Borrower and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent balance sheet of the Parent Borrower delivered pursuant to Section 6.01(a) or (b) or, for the period prior to the time any such statements are so delivered pursuant to Section 6.01(a) or (b), the Pro Forma Balance Sheet.

“ Total Leverage Ratio ” means, with respect to any Test Period, the ratio of (a) Consolidated Total Debt as of the last day of such Test Period to (b) Consolidated EBITDA of the Parent Borrower for such Test Period.

“ Total Outstandings ” means the aggregate Outstanding Amount of all Loans and all L/C Obligations.

“ Transaction ” means, collectively, (a) the Equity Contribution, (b) the Acquisition, (c) the funding of the Term B Loans and, if applicable, the Initial Revolving Borrowing on the Closing Date, (d) the funding of the Senior Secured Notes on or prior to the Closing Date, (e) the Refinancing, (f) the consummation of any other transactions in connection with the foregoing and (g) the payment of Transaction Expenses.

“Transaction Expenses” means any fees or expenses incurred or paid by Holdings, the Borrowers, or any Restricted Subsidiary in connection with the Transaction, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby in connection therewith.

“Trustee” means Wilmington Trust, National Association under the terms of the Senior Secured Notes Indenture.

“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Eurocurrency Rate Loan.

“UCP” means, with respect to any Letter of Credit, the “Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

“Unaudited Financial Statements” means the unaudited consolidated balance sheets and related statements of income, changes in equity and cash flows of each of THI and BKW, covering any of the first three fiscal quarters that have ended after the most recent fiscal year covered by the Audited Financial Statements and at least forty-five (45) days before the Closing Date.

“Undisclosed Administration” means in relation to a Lender or its parent company the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where such Lender or such parent company is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

“Uniform Commercial Code” or “UCC” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“United States” and “U.S.” mean the United States of America.

“United States Tax Compliance Certificate” has the meaning specified in Section 3.01.

“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).

“Unrestricted Subsidiary” means (i) each Subsidiary of the Parent Borrower listed on Schedule 1.01B, (ii) any Subsidiary of the Parent Borrower designated by the board of directors or managers, as applicable, of the Parent Borrower as an Unrestricted Subsidiary pursuant to Section 6.13 subsequent to the date hereof and (iii) any Subsidiary of an Unrestricted Subsidiary.

“U.S. Security Agreement” means, collectively, the Security Agreement executed by the Loan Parties party thereto on the Closing Date substantially in the form of Exhibit G-2 as supplemented by any Security Agreement Supplement executed and delivered pursuant to Section 6.10

“USA PATRIOT Act” means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

“Weighted Average Life to Maturity” means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a)

the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

“ Wholly-Owned ” means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director’s qualifying shares and (y) shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly-owned Subsidiaries of such Person.

“ Withdrawal Liability ” means the liability of a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

Section 1.02 Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

(a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.

(b) (i) The words “ herein,” “ hereto,” “ hereof ” and “ hereunder ” and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.

(ii) Article, Section, Exhibit and Schedule references are to the Loan Document in which such reference appears.

(iii) The term “ including ” is by way of example and not limitation.

(iv) The term “ documents ” includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.

(c) In the computation of periods of time from a specified date to a later specified date, the word “ from ” means “ from and including ”; the words “ to ” and “ until ” each mean “ to but excluding ”; and the word “ through ” means “ to and including .”

(d) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 Accounting Terms.

(a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.

(b) Notwithstanding anything to the contrary herein, for purposes of determining compliance with any test contained in this Agreement with respect to any period during which any

Specified Transaction occurs, the Total Leverage Ratio, the First Lien Senior Secured Leverage Ratio and the Fixed Charge Coverage Ratio shall be calculated with respect to such period and such Specified Transaction on a Pro Forma Basis.

(c) Where reference is made to “the Parent Borrower and its Restricted Subsidiaries on a consolidated basis” or similar language, such consolidation shall not include any Subsidiaries of the Parent Borrower other than Restricted Subsidiaries.

(d) In the event that the Parent Borrower elects to prepare its financial statements in accordance with IFRS and such election results in a change in the method of calculation of financial covenants, standards or terms (collectively, the “Accounting Changes”) in this Agreement, the Parent Borrower and the Administrative Agent agree to enter into good faith negotiations in order to amend such provisions of this Agreement (including the levels applicable herein to any computation of the Total Leverage Ratio and the First Lien Senior Secured Leverage Ratio) so as to reflect equitably the Accounting Changes with the desired result that the criteria for evaluating the Parent Borrower’s financial condition shall be substantially the same after such change as if such change had not been made. Until such time as such an amendment shall have been executed and delivered by the Parent Borrower, the Administrative Agent and the Required Lenders, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed in accordance with GAAP (as determined in good faith by a Responsible Officer of the Parent Borrower) (it being agreed that the reconciliation between GAAP and IFRS used in such determination shall be made available to Lenders) as if such change had not occurred.

Section 1.04 Rounding. Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).

Section 1.05 References to Agreements, Laws, Etc. Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

Section 1.06 Times of Day. Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.07 Timing of Payment or Performance. When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

Section 1.08 Currency Equivalents Generally.

(a) The Administrative Agent or the L/C Issuer, as applicable, shall determine the Dollar Equivalent of any Alternative Currency Letter of Credit as of each date (with such date to be reasonably determined by the Administrative Agent) that is on or about the date of each request for the issuance, amendment, renewal or extension of such Alternative Currency Letter of Credit, using the

Exchange Rate for the applicable currency in relation to Dollars in effect on the date of determination, and each such amount shall be the Dollar Equivalent of such Letter of Credit until the next required calculation thereof pursuant to this Section 1.08(a).

(b) The Administrative Agent shall determine the Dollar Equivalent of any Borrowing denominated in any Revolving Alternative Currency as of each date (with such date to be reasonably determined by the Administrative Agent) that is on or about the date of a Committed Loan Notice with respect to such Borrowing, in each case using the Exchange Rate for the applicable currency in relation to Dollars in effect on the date of determination, and each such amount shall be the Dollar Equivalent of such Borrowing until the next required calculation thereof pursuant to this Section 1.08(b).

(c) The Dollar Equivalent of any L/C Borrowing made by any L/C Issuer in any Revolving Alternative Currency and not reimbursed by the Borrowers shall be determined as set forth in Section 2.03(c). In addition, the Dollar Equivalent of the L/C Exposure shall be determined as set forth in Section 2.03(f), at the time and in the circumstances specified therein.

(d) The Administrative Agent or the L/C Issuer, as applicable, shall notify the Borrower, the applicable Lenders and the applicable L/C Issuer of each calculation of the Dollar Equivalent of each Letter of Credit denominated in any Revolving Alternative Currency and each Borrowing in any Revolving Alternative Currency.

(e) Notwithstanding the foregoing, for purposes of determining compliance with Sections 7.01, 7.02 and 7.03 with respect to any amount of Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Lien, Indebtedness or Investment is incurred; provided that, for the avoidance of doubt, the foregoing provisions of this Section 1.08 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be incurred at any time under such Sections.

(f) For purposes of determining compliance under Sections 7.02, 7.05 and 7.06, any amount in a currency other than Dollars will be converted to Dollars in a manner consistent with that used in calculating net income in the Parent Borrower's annual financial statements delivered pursuant to Section 6.01(a); provided, however, that the foregoing shall not be deemed to apply to the determination of any amount of Indebtedness.

(g) For purposes of determining compliance with any restriction on the incurrence of Indebtedness, the Dollar Equivalent of the principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the Exchange Rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; provided that if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease other Indebtedness denominated in a foreign currency, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased.

Section 1.09 Certain Calculations and Tests.

(a) Notwithstanding anything in this Agreement or any Loan Document to the contrary, when calculating any applicable ratio or determining other compliance with this Agreement

(including the determination of compliance with any provision of this Agreement which requires that no Default or Event of Default has occurred, is continuing or would result therefrom) in connection with a Specified Transaction undertaken in connection with the consummation of a Limited Condition Acquisition, the date of determination of such ratio and determination of whether any Default or Event of Default has occurred, is continuing or would result therefrom or other applicable covenant shall, at the option of the Parent Borrower (the Parent Borrower's election to exercise such option in connection with any Limited Condition Acquisition, an "LCA Election"), be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "LCA Test Date") and if, after such ratios and other provisions are measured on a Pro Forma Basis after giving effect to such Limited Condition Acquisition and the other Specified Transactions to be entered into in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) as if they occurred at the beginning of the four consecutive fiscal quarter period being used to calculate such financial ratio ending prior to the LCA Test Date, the Parent Borrower could have taken such action on the relevant LCA Test Date in compliance with such ratios and provisions, such provisions shall be deemed to have been complied with. For the avoidance of doubt, (x) if any of such ratios are exceeded as a result of fluctuations in such ratio (including due to fluctuations in Consolidated EBITDA of the Parent Borrower) at or prior to the consummation of the relevant Limited Condition Acquisition, such ratios and other provisions will not be deemed to have been exceeded as a result of such fluctuations solely for purposes of determining whether the Limited Condition Acquisition is permitted hereunder and (y) such ratios and other provisions shall not be tested at the time of consummation of such Limited Condition Acquisition or related Specified Transactions. If the Parent Borrower has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio (excluding, for the avoidance of doubt, any ratio contained in Section 7.09) or basket availability with respect to any other Specified Transaction on or following the relevant LCA Test Date and prior to the earlier of the date on which such Limited Condition Acquisition is consummated or the date that the definitive agreement for such Limited Condition Acquisition is terminated or expires without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a Pro Forma Basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated.

(b) Notwithstanding anything to the contrary herein, with respect to any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that does not require compliance with a financial ratio or test (including, without limitation, pro forma compliance with Section 7.09 hereof, any First Lien Senior Secured Leverage Ratio test, any Total Leverage Ratio test and/or any Fixed Charge Coverage Ratio test) (any such amounts, the "Fixed Amounts") substantially concurrently with any amounts incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that requires compliance with any such financial ratio or test (any such amounts, the "Incurrence Based Amounts"), it is understood and agreed that the Fixed Amounts (and any cash proceeds thereof) shall be disregarded in the calculation of the financial ratio or test applicable to the Incurrence-Based Amounts in connection with such substantially concurrent incurrence, except that incurrences of Indebtedness and Liens constituting Fixed Amounts shall be taken into account for purposes of Incurrence Based Amounts other than Incurrence Based Amounts contained in Section 7.01 or Section 7.03.

ARTICLE II

The Commitments and Credit Extensions

Section 2.01 The Loans. Subject to the terms and conditions set forth herein:

(a) The Term B Borrowings. Each Term B Lender severally agrees to make to the Borrowers a single loan denominated in Dollars in a principal amount equal to such Term B Lender's Term B Commitment on the Escrow Closing Date. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may not be reborrowed. Term B Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein.

(b) The Revolving Credit Borrowings. Subject to the terms and conditions set forth herein, each Revolving Credit Lender severally agrees to make (or cause its Applicable Lending Office to make) Revolving Credit Loans from time to time during the Availability Period in Dollars or in any Revolving Alternative Currency in an aggregate principal amount that will not result in such Lender's Revolving Credit Exposure exceeding such Lender's Revolving Credit Commitment. Within the limits of each Lender's Revolving Credit Commitment, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.01(b), prepay under Section 2.05, and reborrow under this Section 2.01(b). Revolving Credit Loans denominated in Dollars or Canadian Dollars may be Base Rate Loans or Eurocurrency Rate Loans, and Revolving Credit Loans denominated in Euro shall be Eurocurrency Rate Loans, as further provided herein.

Section 2.02 Borrowings, Conversions and Continuations of Loans.

(a) Each Term Borrowing, each Revolving Credit Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurocurrency Rate Loans shall be made upon the Parent Borrower's irrevocable notice, on behalf of the Borrowers, to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent substantially in the form attached hereto as Exhibit A (a) with respect to Revolving Credit Loans or Term Loans denominated in Dollars, (i) in the case of a Eurocurrency Rate Loan, not later than 1:00 p.m., Local Time, three (3) Business Days before the date of the proposed Borrowing (or, in the case of a continuation following the Escrow Closing Date and prior to the Closing Date, eleven (11) Business Days before the date of the proposed Borrowing), or (ii) in the case of a Base Rate Loan, not later than 1:00 p.m., Local Time, on the Business Day immediately preceding the proposed Borrowing and (b) with respect to Revolving Credit Loans denominated in any currency other than Dollars, not later than 1:00 p.m., Local Time, three (3) Business Days before the date of the proposed Borrowing. Each telephonic notice by the Parent Borrower pursuant to this Section 2.02(a) must be confirmed promptly by hand delivery, telecopy or electronic transmission to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Parent Borrower. Each Borrowing of, conversion to or continuation of Eurocurrency Rate Loans shall be in a principal amount of the Borrowing Minimum or a whole multiple of the Borrowing Multiple in excess thereof. Except as provided in Section 2.03(c) and Section 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of the Borrowing Minimum or a whole multiple of the Borrowing Multiple in excess thereof. Each Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrowers are requesting a Term Borrowing, a Revolving Credit Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurocurrency Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the Class, currency and principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be

converted, (v) if applicable, the duration of the Interest Period with respect thereto and (vi) the location and number of the Borrower's account to which funds are to be disbursed, which shall comply with the requirements of Section 2.02(b). If no currency is specified with respect to any Eurocurrency Rate Revolving Credit Borrowing, then the Borrowers shall be deemed to have selected Dollars; provided that the Borrowers may not elect to convert any Borrowing denominated in a Revolving Alternative Currency (other than Canadian Dollars) to a Base Rate Loan and may not change the currency in which any Borrowing is denominated. If the Borrowers fail to specify a Type of Loan in a Committed Loan Notice or fail to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made or continued as, or converted to (x) with respect to Loans denominated in Dollars or Canadian Dollars, Base Rate Loans and (y) with respect to Loans denominated in any Revolving Alternative Currency (other than Canadian Dollars), Eurocurrency Rate Loans with an Interest Period of one month. Any such automatic conversion or continuation shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans. If the Borrowers request a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any such Committed Loan Notice, but fail to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month. For the avoidance of doubt, the Borrowers and Lenders acknowledge and agree that any conversion or continuation of an existing Loan shall be deemed to be a continuation of that Loan with a converted interest rate methodology and not a new Loan.

(b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Appropriate Lender of the amount of its Applicable Percentage of the applicable Class of Loans, and if no timely notice of a conversion or continuation is provided by the Borrowers, the Administrative Agent shall notify each Appropriate Lender of the details of any automatic conversion or continuation described in Section 2.02(a). In the case of each Borrowing, each Appropriate Lender shall make (or cause its Applicable Lending Office to make) the amount of its Loan available to the Administrative Agent by wire transfer in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m., Local Time on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Credit Extension, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrowers designated in the Committed Loan Notice in like funds as received by the Administrative Agent either by (i) crediting the account of the Parent Borrower maintained with the Administrative Agent and designated by the Parent Borrower in the Committed Loan Notice with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Parent Borrower; provided that if, on the date the Committed Loan Notice with respect to such Borrowing is given by the Parent Borrower, there are Swing Line Loans or L/C Borrowings outstanding, then the proceeds of such Borrowing shall be applied first, to the payment in full of any such L/C Borrowings, second, to the payment in full of any such Swing Line Loans, and third, to the Parent Borrower as provided above.

(c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan unless the Borrowers pay the amount due, if any, under Section 3.04 in connection therewith. During the existence of an Event of Default, the Administrative Agent or the Required Lenders may require that (i) no Loans denominated in Dollars or Canadian Dollars may be converted to or continued as Eurocurrency Rate Loans, (ii) no outstanding Loans denominated in any currency other than Dollars or Canadian Dollars may be continued for an Interest Period of more than one month's duration and (iii) unless repaid, each Eurocurrency Rate Loan denominated in Dollars or Canadian Dollars shall be converted to a Base Rate Loan at the end of the Interest Period applicable thereto.

(d) The Administrative Agent shall promptly notify the Parent Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans upon determination of such interest rate. The determination of the Eurocurrency Rate by the Administrative Agent shall be conclusive in the absence of manifest error.

(e) Anything in clauses (a) to (d) above to the contrary notwithstanding, after giving effect to all Term Borrowings and Revolving Credit Borrowings, all conversions of Term Loans and Revolving Credit Loans from one Type to the other, and all continuations of Term Loans and Revolving Credit Loans as the same Type, there shall not be more than fifteen (15) Interest Periods in effect at any time for all Borrowings of Eurocurrency Rate Loans.

(f) Notwithstanding the foregoing or anything in this Agreement to the contrary, the Term Loans shall at all times be Eurocurrency Rate Loans prior to the Closing Date and may not be converted to Base Rate Loans until the Closing Date has occurred.

Section 2.03 Letters of Credit.

(a) The Letter of Credit Commitments.

(i) Subject to the terms and conditions set forth herein, (1) each L/C Issuer agrees, in reliance upon the agreements of the other Revolving Credit Lenders set forth in this Section 2.03, (x) from time to time on any Business Day during the Availability Period for the Revolving Credit Facility, to issue Letters of Credit denominated in Dollars or any Revolving Alternative Currency, in each case for the account of the Borrowers (provided that any Letter of Credit may be for the benefit of any Subsidiary of the Parent Borrower) and to amend or renew Letters of Credit previously issued by it, in accordance with Section 2.03(b), and (y) to honor drafts under the Letters of Credit and (2) the Revolving Credit Lenders severally agree to participate in Letters of Credit issued pursuant to this Section 2.03; provided that no L/C Issuer shall be obligated to make any L/C Credit Extension with respect to any Letter of Credit, and, except in the case of the following clause (w), no Lender shall be obligated to participate in any Letter of Credit if immediately after giving effect to such L/C Credit Extension, (w) the aggregate L/C Exposure in respect of Letters of Credit issued by such L/C Issuer would exceed such L/C Issuer's L/C Issuer Sublimit, (x) the aggregate L/C Exposure would exceed the Letter of Credit Sublimit or (y) the Revolving Credit Exposure of any Lender would exceed such Lender's Revolving Credit Commitment. Within the foregoing limits, and subject to the terms and conditions hereof, the Borrowers' ability to obtain Letters of Credit shall be fully revolving, and accordingly the Borrowers may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. It is hereby acknowledged and agreed that each of the letters of credit described on Schedule 2.03(a) (the "Existing Letters of Credit") shall constitute a "Letter of Credit" for all purposes of this Agreement and shall be deemed issued under this Agreement on the Closing Date.

(ii) An L/C Issuer shall be under no obligation to issue any Letter of Credit (and, in the case of clauses (B) and (C), shall not issue any Letter of Credit) if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any Law applicable to such L/C Issuer or any directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or direct that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or shall impose upon such L/C Issuer with respect to such Letter of Credit any restriction, reserve or capital requirement (for which such L/C Issuer is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such L/C Issuer any unreimbursed loss, cost or expense which was not applicable on the Closing Date (for which such L/C Issuer is not otherwise compensated hereunder);

(B) subject to Section 2.03(b)(iii), the expiry date of such requested Letter of Credit would occur more than twelve months after the date of issuance or last renewal, unless the relevant L/C Issuer has approved such expiry date;

(C) the expiry date of such requested Letter of Credit would occur after the Letter of Credit Expiration Date, unless the relevant L/C Issuer has approved such expiry date (it being understood that the participations of the Revolving Credit Lenders in any undrawn Letter of Credit shall in any event terminate on the Letter of Credit Expiration Date);

(D) the issuance of such Letter of Credit would violate any Laws binding upon such L/C Issuer;

(E) the Letter of Credit is to be denominated in a currency other than Dollars or any Revolving Alternative Currency unless otherwise agreed by the applicable L/C Issuer and the Administrative Agent; or

(F) the Letter of Credit is in an initial amount less than the Dollar Equivalent of \$100,000.

(iii) An L/C Issuer shall be under no obligation to amend any Letter of Credit if (A) such L/C Issuer would have no obligation at such time to issue such Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of such Letter of Credit does not accept the proposed amendment to such Letter of Credit.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto Renewal Letters of Credit.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon the request of the Parent Borrower hand delivered or telecopied (or transmitted by electronic communication, if arrangements for doing so have been approved by the L/C Issuer) to the L/C Issuer (with a copy to the Administrative Agent) in the form of a Letter of Credit Application, appropriately completed and signed by a Responsible Officer of the Parent Borrower. Such Letter of Credit Application must be received by the relevant L/C Issuer and the Administrative Agent not later than 1:00 p.m., Local Time, at least three (3) Business Days prior to the proposed issuance date or date of amendment, as the case may be; or, in each case, such later date and time as the relevant L/C Issuer may agree in a particular instance in its sole discretion. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the relevant L/C Issuer: (a) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (b) the amount and currency thereof; (c) the expiry date thereof; (d) the name and address of the beneficiary thereof; (e) the documents to be presented by such beneficiary in case of any drawing thereunder; (f) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; and (g) such other matters as the relevant L/C Issuer may reasonably request. If requested by the L/C Issuer, the Parent Borrower also shall submit a letter of credit application on the L/C Issuer's standard form in connection with any request for a Letter of Credit. In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Application shall specify in form and detail reasonably satisfactory to the relevant L/C Issuer (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the relevant L/C Issuer may reasonably request.

(ii) Promptly after receipt of any Letter of Credit Application, the relevant L/C Issuer will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received a copy of such Letter of Credit Application from the Parent Borrower and, if not, such L/C Issuer will provide the Administrative Agent with a copy thereof. Upon receipt by the relevant L/C Issuer of confirmation from the Administrative Agent that the requested issuance or amendment is permitted in accordance with the terms hereof, then, subject to the terms and conditions hereof, such L/C Issuer shall, on the requested date, issue a Letter of Credit for the account of the Borrowers or enter into the applicable amendment, as the case may be. Immediately upon the issuance of each Letter of Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, acquire from the relevant L/C Issuer a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Credit Lender's Applicable Percentage times the amount of such Letter of Credit.

(iii) With respect to standby Letters of Credit only, if the Parent Borrower so requests in any applicable Letter of Credit Application, the relevant L/C Issuer shall agree to issue a Letter of Credit that has automatic renewal provisions (each, an “Auto-Renewal Letter of Credit”); provided that any such Auto-Renewal Letter of Credit must permit the relevant L/C Issuer to prevent any such renewal at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the “Nonrenewal Notice Date”) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the relevant L/C Issuer, the Borrowers shall not be required to make a specific request to the relevant L/C Issuer for any such renewal. Once an Auto-Renewal Letter of Credit has been issued, the applicable Lenders shall be deemed to have authorized (but may not require) the relevant L/C Issuer to permit the renewal of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date; provided that the relevant L/C Issuer shall not permit any such renewal if (A) the relevant L/C Issuer has determined that it would have no obligation at such time to issue such Letter of Credit in its renewed form under the terms hereof (by reason of the provisions of Section 2.03(a)(ii) or otherwise), or (B) it has received notice (which may be by telephone, followed promptly in writing, or in writing) on or before the day that is five (5) Business Days before the Nonrenewal Notice Date from the Administrative Agent or any Revolving Credit Lender, as applicable, or the Parent Borrower that one or more of the applicable conditions specified in Section 4.02 is not then satisfied.

(iv) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the relevant L/C Issuer will also deliver to the Parent Borrower and the Administrative Agent a true and complete copy of such Letter of Credit or amendment.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the relevant L/C Issuer shall notify promptly the Parent Borrower and the Administrative Agent thereof. On the Business Day immediately following the Business Day on which the Parent Borrower shall have received notice of any payment by an L/C Issuer under a Letter of Credit (or, if the Parent Borrower shall have received such notice later than 1:00 p.m. on any Business Day, on the second succeeding Business Day) (such date of payment, an “Honor Date”), the Borrowers shall reimburse such L/C Issuer through the Administrative Agent in Dollars in an amount equal to the Dollar Equivalent of such drawing using the Exchange Rate in relation to Dollars in effect on the Honor Date. If the Borrowers fail to so reimburse such L/C Issuer on the Honor Date (or if any such reimbursement payment is required to be refunded to the Borrowers for any reason), then (A) if such payment relates to an Alternative Currency Letter of Credit, automatically and with no further action required, the Borrowers' or such other Person's obligation to reimburse the applicable L/C Borrowing shall be permanently converted into an obligation to reimburse in Dollars the Dollar Equivalent,

calculated using the Exchange Rate on the Honor Date, of such L/C Borrowing and (B) in the case of each L/C Borrowing, the Administrative Agent shall promptly notify the applicable L/C Issuer and each Appropriate Lender of the Honor Date, the amount of the unreimbursed drawing in Dollars (in the case of an Alternative Currency Letter of Credit, using the Exchange Rate for the applicable Alternative Currency in relation to Dollars in effect on the date of determination) (the “Unreimbursed Amount”), and the amount of such Appropriate Lender’s Applicable Percentage thereof. In the event that the Borrowers do not reimburse the L/C Issuer on the Business Day following the date it receives notice of the Honor Date (or, if the Borrowers shall have received such notice later than 1:00 p.m. on any Business Day, on the second succeeding Business Day), the Borrowers shall be deemed to have requested a Revolving Credit Borrowing denominated in Dollars of Base Rate Loans to be disbursed on such date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of Base Rate Loans but subject to the amount of the unutilized portion of the Revolving Credit Commitments, and subject to the conditions set forth in Section 4.02 (other than the delivery of a Committed Loan Notice). Any notice given by an L/C Issuer or the Administrative Agent pursuant to this Section 2.03(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice. For the avoidance of doubt, if any drawing occurs under a Letter of Credit and such drawing is not reimbursed on the same day, such drawing shall, without duplication, accrue interest at the rate applicable to Base Rate Loans under the Revolving Credit Facility until the date of reimbursement.

(ii) Each Revolving Credit Lender (including any such Lender acting as an L/C Issuer) shall upon any notice pursuant to Section 2.03(c)(i) make funds available to the Administrative Agent in Dollars for the account of the relevant L/C Issuer at the Administrative Agent’s Office for payments in an amount equal to its Applicable Percentage of any Unreimbursed Amount in respect of a Letter of Credit not later than 1:00 p.m., New York City time, on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.04(c)(iii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrowers in such amount. The Administrative Agent shall remit the funds so received to the relevant L/C Issuer.

(iii) With respect to any Unreimbursed Amount in respect of a Letter of Credit that is not fully refinanced by a Revolving Credit Borrowing of Base Rate Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the Borrowers shall be deemed to have incurred from the relevant L/C Issuer an L/C Borrowing in Dollars in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the Default Rate. In such event, each Revolving Credit Lender’s payment to the Administrative Agent for the account of the relevant L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.03.

(iv) Until each Revolving Credit Lender funds its Revolving Credit Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the relevant L/C Issuer for any amount drawn under any Letter of Credit, interest in respect of such Revolving Credit Lender’s Applicable Percentage of such amount shall be solely for the account of the relevant L/C Issuer.

(v) Each Revolving Credit Lender’s obligation to make Revolving Credit Loans or L/C Advances to reimburse an L/C Issuer for amounts drawn under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the relevant L/C Issuer, a Borrower or any other Person for any reason whatsoever; (B) the

occurrence or continuance of a Default; or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Revolving Credit Lender's obligation to make Revolving Credit Loans (but not L/C Advances) pursuant to this Section 2.03(c) is subject to the conditions set forth in Section 4.02 (other than delivery by the Parent Borrower of a Committed Loan Notice). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrowers to reimburse the relevant L/C Issuer for the amount of any payment made by such L/C Issuer under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the relevant L/C Issuer any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.03(c) by the time specified in Section 2.03(c)(ii), such L/C Issuer shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such L/C Issuer at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. A certificate of the relevant L/C Issuer submitted to any Revolving Credit Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.03(c)(vi) shall be conclusive absent demonstrable error.

(vii) If, at any time after an L/C Issuer has made a payment under any Letter of Credit and has received from any Revolving Credit Lender such Lender's L/C Advance in respect of such payment in accordance with this Section 2.03(c), the Administrative Agent receives for the account of such L/C Issuer any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrowers or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to each Revolving Credit Lender its Applicable Percentage thereof (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's L/C Advance was outstanding) in the same funds as those received by the Administrative Agent.

(viii) If any payment received by the Administrative Agent for the account of an L/C Issuer pursuant to Section 2.03(c)(i) is required to be returned under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by such L/C Issuer in its discretion), each Revolving Credit Lender shall pay to the Administrative Agent for the account of such L/C Issuer its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate.

(d) Obligations Absolute. The obligation of the Borrowers to reimburse the relevant L/C Issuer for each drawing under each Letter of Credit issued by it and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other agreement or instrument relating thereto;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that any Loan Party may have at any time against any beneficiary or any transferee of such Letter of Credit (or any Person for whom any such beneficiary or any such transferee may be acting), the relevant L/C Issuer or any other Person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) any payment by the relevant L/C Issuer under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by the relevant L/C Issuer under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(v) any exchange, release or nonperfection of any Collateral, or any release or amendment or waiver of or consent to departure from the Guaranty or any other guarantee, for all or any of the Obligations of any Loan Party in respect of such Letter of Credit; or

(vi) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Loan Party;

provided that the foregoing shall not excuse any L/C Issuer from liability to the Borrowers to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are waived by the Borrowers to the extent permitted by applicable Law) suffered by the Borrowers that are caused by such L/C Issuer's gross negligence or willful misconduct when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof.

(e) Role of L/C Issuers. Each Lender and the Borrowers agree that, in paying any drawing under a Letter of Credit, the relevant L/C Issuer shall not have any responsibility to obtain any document (other than any sight draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the L/C Issuers, any Agent-Related Person nor any of the respective correspondents, participants or assignees of any L/C Issuer shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Required Lenders or the Required Revolving Credit Lenders, as applicable; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Letter of Credit Application. The Borrowers hereby assume all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided that this assumption is not intended to, and shall not, preclude the Borrowers' pursuing such rights and remedies as they may have against the beneficiary or transferee at law or under any other agreement. None of the L/C Issuers, any Agent-Related Person, nor any of the respective correspondents, participants or assignees of any L/C Issuer, shall be liable or responsible for any of the matters described in clauses (i) through (iii) of this Section 2.03(e); provided that anything in such clauses to the contrary notwithstanding, the Borrowers may have a claim against an L/C Issuer, and such L/C Issuer may be liable to the Borrowers, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrowers caused by such L/C Issuer's willful misconduct or gross negligence or such L/C Issuer's willful or grossly negligent failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, each L/C Issuer may accept documents that appear on their face to be in order, without responsibility for further investigation,

regardless of any notice or information to the contrary, and no L/C Issuer shall be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason.

(f) Cash Collateral. (i) If any Event of Default occurs and is continuing and the Administrative Agent or the Required Revolving Credit Lenders or Required Lenders, as applicable, require the Borrowers to Cash Collateralize the L/C Obligations pursuant to Section 8.02(a)(iii) or (ii) an Event of Default set forth under Section 8.01(f) (with respect to the Borrowers) or (g) occurs and is continuing, then the Borrowers shall Cash Collateralize the then Outstanding Amount of all L/C Obligations (in an amount equal to such Outstanding Amount plus any accrued or unpaid fees thereon determined as of the date such Cash Collateral is provided). For purposes hereof, "Cash Collateralize" means to pledge and deposit with or deliver to the Administrative Agent, for the benefit of the relevant L/C Issuer and the Revolving Credit Lenders, as collateral for the L/C Obligations, cash or deposit account balances in the relevant currencies in an amount equal to the L/C Exposure (determined as of the date of such Event of Default) ("Cash Collateral") pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and the relevant L/C Issuer (which documents are hereby consented to by the Lenders). Derivatives of such term have corresponding meanings. The Borrowers hereby grant to the Administrative Agent, for the benefit of the L/C Issuers and the Revolving Credit Lenders, a security interest in all such cash, deposit accounts and all balances therein and all proceeds of the foregoing. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Interest or profits, if any, on such investments shall accumulate in such account. Cash Collateral shall be maintained in accounts satisfactory to the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Credit Lenders and may be invested in readily available Cash Equivalents at its sole discretion. If at any time the Administrative Agent determines that any funds held as Cash Collateral are subject to any right or claim of any Person other than the Administrative Agent (on behalf of the Secured Parties) or that the total amount of such funds is less than the L/C Exposure, the Borrowers will, forthwith upon demand by the Administrative Agent, pay to the Administrative Agent, as additional funds to be deposited and held in the deposit accounts specified by the Administrative Agent, an amount equal to the excess of (a) such L/C Exposure over (b) the total amount of funds, if any, then held as Cash Collateral that the Administrative Agent reasonably determines to be free and clear of any such right and claim. Upon the drawing of any Letter of Credit for which funds are on deposit as Cash Collateral, such funds shall be applied, to the extent permitted under applicable Law, to reimburse the relevant L/C Issuer. To the extent the amount of any Cash Collateral exceeds the L/C Exposure plus costs incidental thereto and so long as no other Event of Default has occurred and is continuing, the excess shall be refunded to the Borrowers. If such Event of Default is cured or waived and no other Event of Default is then occurring and continuing, the amount of any Cash Collateral (including any accrued interest thereon) shall be refunded to the Borrowers.

(g) Letter of Credit Fees. The Borrowers shall pay to the Administrative Agent in Dollars for the account of each Revolving Credit Lender in accordance with its Applicable Percentage, a Letter of Credit fee for each Letter of Credit issued pursuant to this Agreement equal to the product of (i) Applicable Rate for Letter of Credit fees and (ii) the Dollar Equivalent of the daily maximum amount then available to be drawn under such Letter of Credit. Such letter of credit fees shall be computed on a quarterly basis in arrears. Such letter of credit fees shall be due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. If there is any change in the Applicable Rate during any quarter, the daily maximum amount of each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(h) Fronting Fee and Documentary and Processing Charges Payable to L/C Issuers. The Borrowers shall pay directly to each L/C Issuer for its own account a fronting fee (a “Fronting Fee”) in Dollars with respect to each Letter of Credit issued by it equal to 0.125% per annum of the Dollar Equivalent of the daily maximum amount then available to be drawn under such Letter of Credit. Such fronting fees shall be computed on a quarterly basis in arrears. Such fronting fees shall be due and payable on the first Business Day after the end of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Letter of Credit Expiration Date and thereafter on demand. In addition, the Borrowers shall pay directly to each L/C Issuer for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of such L/C Issuer relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable within ten (10) Business Days of demand and are nonrefundable.

(i) Conflict with Letter of Credit Application. Notwithstanding anything else to the contrary in any Letter of Credit Application, in the event of any conflict between the terms hereof and the terms of any Letter of Credit Application, the terms hereof shall control.

(j) Addition of an L/C Issuer. A Revolving Credit Lender (or any of its Subsidiaries or affiliates) may become an additional L/C Issuer hereunder pursuant to a written agreement among the Borrowers, the Administrative Agent and such Revolving Credit Lender. The Administrative Agent shall notify the Revolving Credit Lenders of any such additional L/C Issuer.

(k) Applicability of ISP and UCP. Unless otherwise expressly agreed by the L/C Issuer and the Borrowers when a Letter of Credit is issued (i) the rules of the ISP shall apply to each standby Letter of Credit, and (ii) the rules of the UCP shall apply to each commercial Letter of Credit.

Section 2.04 Swing Line Loans.

(a) The Swing Line. Subject to the terms and conditions set forth herein, the Swing Line Lender agrees to make Swing Line Loans to the Borrowers from time to time on any Business Day during the Availability Period for the Revolving Credit Facility in Dollars, notwithstanding the fact that such Swing Line Loans, when aggregated with the Revolving Credit Exposure of the Lender acting as Swing Line Lender, may exceed the amount of such Lender’s Revolving Credit Commitment; provided that after giving effect to any Swing Line Loan (x) the aggregate Outstanding Amount of the Revolving Credit Loans of any Lender, plus such Lender’s Applicable Percentage of the Outstanding Amount of all L/C Obligations, plus such Lender’s Applicable Percentage of the Outstanding Amount of all Swing Line Loans shall not exceed such Lender’s Revolving Credit Commitment then in effect and (y) the aggregate Outstanding Amount of Swing Line Loans shall not exceed the Swing Line Sublimit; provided, further, that the Borrowers shall not use the proceeds of any Swing Line Loan to refinance any outstanding Swing Line Loan. Within the foregoing limits, and subject to the other terms and conditions hereof, the Borrowers may borrow under this Section 2.04, prepay under Section 2.05, and reborrow under this Section 2.04. Each Swing Line Loan shall be a Base Rate Loan. Immediately upon the making of a Swing Line Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swing Line Lender a risk participation in such Swing Line Loan in an amount equal to the product of such Lender’s Applicable Percentage times the amount of such Swing Line Loan.

(b) Borrowing Procedures. Each Swing Line Borrowing shall be made upon the Parent Borrower’s irrevocable notice to the Swing Line Lender, which may be given by telephone. Each such notice must be received by the Swing Line Lender not later than 1:00 p.m., New York City time, on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a

minimum of \$1,000,000, and (ii) the requested borrowing date, which shall be a Business Day. Each such telephonic notice must be confirmed promptly by delivery to the Swing Line Lender of a written Swing Line Loan Notice, appropriately completed and signed by a Responsible Officer of the Parent Borrower. Promptly after receipt by the Swing Line Lender of any telephonic Swing Line Loan Notice, the Swing Line Lender will, provided that all applicable conditions in Section 4.02 are satisfied, not later than 3:00 p.m., New York City time, on the borrowing date specified in such Swing Line Loan Notice, make the amount of its Swing Line Loan available to the Borrowers.

(c) Refinancing of Swing Line Loans.

(i) The Swing Line Lender at any time in its sole and absolute discretion may request, on behalf of the Borrowers (which hereby irrevocably authorizes the Swing Line Lender to so request on its behalf), that each Revolving Credit Lender make a Base Rate Loan in Dollars in an amount equal to such Lender's Applicable Percentage of the amount of Swing Line Loans then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Committed Loan Notice for purposes hereof) and in accordance with the requirements of Section 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Loans, but subject to the unutilized portion of the aggregate Revolving Credit Commitments and the conditions set forth in Section 4.02. The Swing Line Lender shall furnish the Parent Borrower with a copy of the applicable Committed Loan Notice promptly after delivering such notice to the Administrative Agent. Each Revolving Credit Lender shall make an amount equal to its Applicable Percentage of the amount specified in such Committed Loan Notice available to the Administrative Agent in immediately available funds in Dollars for the account of the Swing Line Lender at the Administrative Agent's Office for payments not later than 1:00 p.m. on the day specified in such Committed Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Revolving Credit Lender that so makes funds available shall be deemed to have made a Base Rate Loan to the Borrowers in such amount. The Administrative Agent shall remit the funds so received to the Swing Line Lender.

(ii) If for any reason any Swing Line Loan cannot be refinanced by such a Revolving Credit Borrowing in accordance with Section 2.04(c)(i), the request for Base Rate Loans submitted by the Swing Line Lender as set forth herein shall be deemed to be a request by the Swing Line Lender that each of the Revolving Credit Lenders fund its risk participation in the relevant Swing Line Loan in Dollars and each Revolving Credit Lender's payment to the Administrative Agent for the account of the Swing Line Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.

(iii) If any Revolving Credit Lender fails to make available to the Administrative Agent for the account of the Swing Line Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swing Line Lender shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swing Line Lender at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. A certificate of the Swing Line Lender submitted to any Lender (through the Administrative Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent demonstrable error.

(iv) Each Revolving Credit Lender's obligation to make Revolving Credit Loans or to purchase and fund risk participations in Swing Line Loans pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swing Line Lender, the Borrowers or any other Person for any reason whatsoever, (B) the occurrence or continuance

of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided that each Revolving Credit Lender's obligation to make Revolving Credit Loans (but not to purchase and fund risk participations in Swing Line Loans) pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 4.02. No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrowers to repay Swing Line Loans, together with interest as provided herein.

(d) Repayment of Participations.

(i) At any time after any Revolving Credit Lender has purchased and funded a risk participation in a Swing Line Loan, if the Swing Line Lender receives any payment on account of such Swing Line Loan, the Swing Line Lender will distribute to such Lender its Applicable Percentage of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Lender's risk participation was funded) in the same funds as those received by the Swing Line Lender.

(ii) If any payment received by the Swing Line Lender in respect of principal or interest on any Swing Line Loan is required to be returned by the Swing Line Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the Swing Line Lender in its discretion), each Revolving Credit Lender shall pay to the Swing Line Lender its Applicable Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Administrative Agent will make such demand upon the request of the Swing Line Lender.

(e) Interest for Account of Swing Line Lender. The Swing Line Lender shall be responsible for invoicing the Borrowers for interest on the Swing Line Loans. Until each Revolving Credit Lender funds its Base Rate Loan or risk participation pursuant to this Section 2.04 to refinance such Lender's Applicable Percentage of any Swing Line Loan, interest in respect of such Applicable Percentage shall be solely for the account of the Swing Line Lender.

(f) Payments Directly to Swing Line Lender. The Borrowers shall make all payments of principal and interest in respect of the Swing Line Loans directly to the Swing Line Lender.

Section 2.05 Prepayments.

(a) Optional Prepayments. (i) The Borrowers may, upon notice to the Administrative Agent by the Parent Borrower, at any time or from time to time voluntarily prepay any Borrowing of any Class in whole or in part without premium or penalty (except as set forth in Section 2.05(a)(iv)); provided that (1) such notice must be received by the Administrative Agent not later than 1:00 p.m., New York City time (A) three (3) Business Days prior to any date of prepayment of Eurocurrency Rate Loans (or, in the case of a Eurocurrency Rate Loan denominated in a Revolving Alternative Currency, not later than 1:00 p.m., Local Time, three (3) Business Days before any date of prepayment) and (B) on the date of prepayment of Base Rate Loans and (2) any prepayment of Eurocurrency Rate Loans shall be in a principal amount of the Borrowing Minimum or a whole multiple of the Borrowing Multiple in excess thereof, in each case, the entire principal amount thereof then outstanding; provided, further, that prior to the Closing Date the Borrowers may not prepay Term B Loans from Escrow Property unless, after giving effect to the release of Escrow Property to fund such prepayment, the remaining Escrow Property would be sufficient (without reinvestment) to pay all scheduled interest on the remaining Term B Loans on the next scheduled Interest Payment Date and, without duplication, the prepayment price of the remaining Term B Loans on such Interest Payment Date pursuant to Section 2.09(b)(ix), (it being understood that, if the Borrowers deliver evidence to the

Administrative Agent that such condition would be satisfied after giving effect to a release of Escrow Property pursuant to a Partial Prepayment Notice (as defined in the Escrow Agreement) and the Borrowers request that the Administrative Agent deliver such Partial Prepayment Notice to the Escrow Agent, the Administrative Agent shall deliver such Partial Prepayment Notice to the Escrow Agent and shall apply the Escrow Property received in connection therewith to prepay Term B Loans pursuant to this Section 2.05(a). Each such notice shall specify the date and amount of such prepayment and the Class(es) and Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Appropriate Lender of its receipt of each such notice, and of the amount of such Lender's Applicable Percentage of such prepayment. If such notice is given by the Parent Borrower, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurocurrency Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.04. Each prepayment of the Loans pursuant to this Section 2.05(a) shall be applied to the installments thereof as directed by the Parent Borrower (it being understood and agreed that if the Parent Borrower does not so direct at the time of such prepayment, such prepayment shall be applied against the scheduled repayments of Term Loans of the relevant Class under Section 2.07 in direct order of maturity) and shall be paid to the Appropriate Lenders in accordance with their respective Applicable Percentages.

(i) The Borrowers may, upon notice to the Swing Line Lender (with a copy to the Administrative Agent), at any time or from time to time, voluntarily prepay Swing Line Loans in whole or in part without premium or penalty; provided that (1) such notice must be received by the Swing Line Lender and the Administrative Agent not later than 1:00 p.m., New York City time, on the date of the prepayment and (2) any such prepayment shall be in a minimum principal amount of \$1,000,000 or the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment. If such notice is given by the Parent Borrower, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein.

(ii) Notwithstanding anything to the contrary contained in this Agreement, the Parent Borrower may rescind any notice of prepayment under Section 2.05(a) if such prepayment would have resulted from a refinancing of all of the Facilities, which refinancing shall not be consummated or shall otherwise be delayed.

(iii) In the event that the Borrowers (x) make any prepayment of Term B Loans in connection with any Repricing Transaction or (y) effect any amendment of this Agreement resulting in a Repricing Transaction with respect to Term B Loans, in each case prior to the twelve (12) month anniversary of the Escrow Closing Date, the Borrowers shall pay a premium in an amount equal to 1.00% of (A) in the case of clause (x), the amount of the Term B Loan being prepaid or (B) in the case of clause (y), the aggregate amount of the applicable Term B Loans outstanding immediately prior to such amendment, in each case to the Administrative Agent, for the ratable account of each of the Term B Lenders.

(b) Mandatory Prepayments.

(i) Within five (5) Business Days after financial statements have been delivered pursuant to Section 6.01(a) and the related Compliance Certificate has been delivered pursuant to Section 6.02(a), the Borrowers shall cause to be prepaid an aggregate principal amount of Term Loans equal to (A) 50% (such percentage as it may be reduced as described below, the "ECF Percentage") of Excess Cash Flow, if any, for the fiscal year covered by such financial statements (commencing with the first full fiscal year ending after the Closing Date), minus (B) the sum of (i) all voluntary prepayments of Term Loans during such fiscal year and (ii) all voluntary prepayments of Revolving Credit Loans and

Swing Line Loans during such fiscal year to the extent the Revolving Credit Commitments are permanently reduced by the amount of such payments, in the case of each of the immediately preceding clauses (i) and (ii), to the extent such prepayments are not funded with the proceeds of Indebtedness or any Cure Amount; provided that (x) the ECF Percentage shall be 25% if the First Lien Senior Secured Leverage Ratio as of the last day of the fiscal year covered by such financial statements was less than 3.75:1.00 and greater than or equal to 3.50:1.00 and (y) the ECF Percentage shall be 0% if the First Lien Senior Secured Leverage Ratio as of the last day of the fiscal year covered by such financial statements was less than 3.50:1.00.

(ii) (A) Subject to Section 2.05(b)(ii)(B), if following the Closing Date (x) the Parent Borrower or any Restricted Subsidiary Disposes of any property or assets (other than any Disposition of any property or assets permitted by Section 7.05(a), (b), (c), (d) (to the extent constituting a Disposition to a Loan Party, by a Restricted Subsidiary that is not a Loan Party or pursuant to clause (iv) of the proviso thereto), (e), (f), (g), (i) (except as set forth in the proviso thereto), (j), (k), (n), (o), (p), (q), (r), (s) and (u), or (y) any Casualty Event occurs, which in the aggregate results in the realization or receipt by the Parent Borrower or such Restricted Subsidiary of Net Cash Proceeds, the Borrowers shall make a prepayment, in accordance with Section 2.05(b)(ii)(C), of an aggregate principal amount of Term Loans equal to the percentage represented by the quotient of (x) the Outstanding Amount of Term Loans at such time divided by (y) the sum of the Outstanding Amount of the Term Loans at such time and the amount of any other Indebtedness outstanding at such time that is secured by a Lien ranking pari passu with the Liens securing the Term Loans and requiring a prepayment from such Net Cash Proceeds (such percentage, the “Asset Percentage”) of all such Net Cash Proceeds realized or received; provided that no such prepayment shall be required pursuant to this Section 2.05(b)(ii)(A) (I) with respect to such portion of such Net Cash Proceeds that the Parent Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest in accordance with Section 2.05(b)(ii)(B) (which notice may only be provided if no Event of Default has occurred and is then continuing) or (II) until the aggregate amount of Net Cash Proceeds not reinvested in accordance with Section 2.05(b)(ii)(B) within the time periods set forth therein and not previously applied to such a prepayment exceeds \$100,000,000 for any single Disposition or series of related Dispositions.

(B) With respect to any Net Cash Proceeds realized or received with respect to any Disposition (other than any Disposition specifically excluded from the application of Section 2.05(b)(ii)(A)) or any Casualty Event, at the option of the Borrowers, the Borrowers may reinvest an amount equal to all or any portion of such Net Cash Proceeds in assets useful for its business (other than working capital, except for short-term capital assets) within (x) twelve (12) months following receipt of such Net Cash Proceeds or (y) if the Borrowers enter into a legally binding commitment to reinvest such Net Cash Proceeds within twelve (12) months following receipt thereof, one hundred eighty (180) days after the twelve (12) month period that follows receipt of such Net Cash Proceeds; provided that (i) so long as an Event of Default shall have occurred and be continuing, the Borrowers shall not be permitted to make any such reinvestments (other than pursuant to a legally binding commitment that the Borrowers entered into at a time when no Event of Default is continuing) and (ii) if any Net Cash Proceeds are not so reinvested by the deadline specified in clause (x) or (y) above, as applicable, or if any such Net Cash Proceeds are no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, an amount equal to the Asset Percentage of any such Net Cash Proceeds shall be applied, in accordance with Section 2.05(b)(ii)(C), to the prepayment of the Term Loans as set forth in this Section 2.05.

(C) On each occasion that the Borrowers must make a prepayment of the Term Loans pursuant to this Section 2.05(b)(ii), the Borrowers shall, within five (5) Business Days after the date of realization or receipt of such Net Cash Proceeds in the minimum amount specified above (or, in the case of prepayments required pursuant to Section 2.05(b)(ii)(B), within five (5) Business Days of the deadline

specified in clause (x) or (y) thereof, as applicable, or of the date the Borrowers reasonably determine that such Net Cash Proceeds are no longer intended to be or cannot be so reinvested, as the case may be), make a prepayment, in accordance with Section 2.05(b)(v) below, of the principal amount of Term Loans in an amount equal to the Asset Percentage of such Net Cash Proceeds realized or received.

(iii) If, following the Closing Date, the Parent Borrower or any Restricted Subsidiary incurs or issues any (A) Refinancing Term Loans, (B) Indebtedness pursuant to Section 7.03(w) or (C) Indebtedness not expressly permitted to be incurred or issued pursuant to Section 7.03, the Borrowers shall cause to be prepaid an aggregate principal amount of Term Loans equal to 100% of all Net Cash Proceeds received therefrom on or prior to the date which is five (5) Business Days after the receipt of such Net Cash Proceeds. If the Borrowers obtain any Refinancing Revolving Credit Commitments, the Borrowers shall, concurrently with the receipt thereof, terminate Revolving Credit Commitments in an equivalent amount pursuant to Section 2.06.

(iv) Each prepayment of Term Loans pursuant to this Section 2.05(b) shall be applied, first, to the installments thereof pro rata in direct order of maturity for the next four scheduled payments pursuant to Section 2.07(a) following the applicable prepayment event and, second, to the remaining installments thereof pro rata; provided that any mandatory prepayment pursuant to Section 2.05 shall be applied on a pro rata basis to the Term B Loans and, except to the extent a lesser prepayment is required pursuant to the applicable Incremental Facility Amendment or Extension Offer with respect to any applicable Class of Incremental Term Loans or Extended Term Loans, any Incremental Term Loans and Extended Term Loans. Each such prepayment of any Class of Term Loans shall be paid to the Lenders in accordance with their respective Applicable Percentages subject to clause (v) of this Section 2.05(b).

(v) The Parent Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to clauses (i), (ii), and (iii) of this Section 2.05(b) prior to 1:00 p.m. at least five (5) Business Days on the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent will promptly notify each Appropriate Lender of the contents of the Parent Borrower's prepayment notice and of such Appropriate Lender's Applicable Percentage of the prepayment with respect to any Class of Term Loans. Each Appropriate Lender may reject all or a portion of its Applicable Percentage of any mandatory prepayment (such declined amounts, the "Declined Proceeds") of Term Loans required to be made pursuant to clauses (i) or (ii) of this Section 2.05(b) by providing written notice (each, a "Rejection Notice") to the Administrative Agent and the Parent Borrower no later than 5:00 p.m. three (3) Business Days after the date of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory prepayment of Term Loans to be rejected by such Lender. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance of the total amount of such mandatory repayment of Term Loans. Any Declined Proceeds shall be retained by the Borrowers ("Retained Declined Proceeds").

(vi) Notwithstanding any other provision of this Section 2.05(b), (i) to the extent that any or all of the Net Cash Proceeds of any Disposition by a Restricted Subsidiary otherwise giving rise to a prepayment pursuant to Section 2.05(b)(ii) (a "Restricted Disposition"), the Net Cash Proceeds of any Casualty Event of a Restricted Subsidiary (a "Restricted Casualty Event"), or Excess Cash Flow would be prohibited or delayed by applicable local law from being distributed or otherwise transferred to the Parent Borrower, the realization or receipt of the portion of such Net Cash Proceeds or Excess Cash Flow so affected will not be taken into account in measuring the Borrowers' obligation to repay Term Loans at the

times provided in Section 2.05(b)(i), or the Borrowers shall not be required to make a prepayment at the time provided in Section 2.05(b)(ii), as the case may be, for so long, but only so long, as the applicable local law will not permit such distribution or transfer (the Parent Borrower hereby agreeing to cause the applicable Restricted Subsidiary to promptly take all commercially reasonable actions available under the applicable local law to permit such repatriation), and once distribution or transfer of any of such affected Net Cash Proceeds or Excess Cash Flow is permitted under the applicable local law, the amount of such Net Cash Proceeds or Excess Cash Flow permitted to be distributed or transferred (net of additional taxes payable or reserved against as a result thereof) will be promptly (and in any event not later than three (3) Business Days after such distribution or transfer is permitted) taken into account in measuring the Borrowers' obligation to repay the Term Loans pursuant to this Section 2.05(b) to the extent provided herein and (ii) to the extent that the Parent Borrower has determined in good faith (as set forth in a written notice delivered to the Administrative Agent) that distribution or other transfer of any or all of the Net Cash Proceeds of any Restricted Disposition or any Restricted Casualty Event or Excess Cash Flow would have a material adverse tax consequence (taking into account any foreign tax credit or benefit received in connection with such repatriation) with respect to such Net Cash Proceeds or Excess Cash Flow, the amount of the Net Cash Proceeds or Excess Cash Flow so affected shall not be taken into account in measuring the Borrowers' obligation to repay Term Loans pursuant to this Section 2.05(b).

(vii) If for any reason the aggregate Revolving Credit Exposures of all Lenders at any time exceeds the aggregate Revolving Credit Commitments then in effect (including, for the avoidance of doubt, as a result of currency fluctuations or the termination of such Revolving Credit Commitments on the Maturity Date with respect thereto), the Borrowers shall promptly prepay or cause to be promptly prepaid Revolving Credit Loans and Swing Line Loans and/or Cash Collateralize the L/C Obligations in an aggregate amount equal to such excess; provided that the Borrowers shall not be required to Cash Collateralize the L/C Obligations pursuant to this Section 2.05(b)(vii) unless after the prepayment in full of the Revolving Credit Loans and Swing Line Loans the aggregate Revolving Credit Exposures exceed the aggregate Revolving Credit Commitments.

(viii) Not later than the 90th day following the Closing Date, the Borrower shall prepay a principal amount of Term B Loans equal to the Dollar Equivalent principal amount of Ratably Secured Existing Notes that will remain outstanding following the 90th day after the Closing Date with each such prepayment to be applied pro rata to the Term B Loans of each Lender and first to reduce the next four scheduled amortization payments with respect to the Term B Loans and thereafter, pro rata to remaining scheduled amortization of the Term B Loans.

(ix) In the event the Escrow Property is released to the Administrative Agent pursuant Section 3(b) of the Escrow Agreement, the Administrative Agent shall apply such funds when and as received to pay in full the outstanding Term B Loans at a prepayment price equal to 99.0% of the principal amount thereof, together with all accrued interest thereon and all other Obligations then due and payable and, thereafter, shall remit any remaining amounts to the Parent Borrower.

(c) Interest, Funding Losses, Etc. All prepayments under this Section 2.05 shall be accompanied by all accrued interest thereon in the currency in which such Loan is denominated, together with, in the case of any such prepayment of a Eurocurrency Rate Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such Eurocurrency Rate Loan pursuant to Section 3.04.

Notwithstanding any of the other provisions of this Section 2.05, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurocurrency Rate Loans is required to be made under this Section 2.05, prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.05 in respect of any such Eurocurrency Rate Loan prior to the last

day of the Interest Period therefor, the Borrowers may, in their sole discretion, deposit with the Administrative Agent in the currency in which such Loan is denominated the amount of any such prepayment otherwise required to be made hereunder until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Parent Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.05. Such deposit shall constitute cash collateral for the Eurocurrency Rate Loans to be so prepaid, provided that the Borrowers may at any time direct that such deposit be applied to make the applicable payment required pursuant to this Section 2.05.

(d) Discounted Voluntary Prepayments.

(i) Notwithstanding anything to the contrary set forth in this Agreement (including Section 2.13) or any other Loan Document, the Borrowers shall have the right at any time and from time to time to prepay one or more Classes of Term Loans to the Lenders at a discount to the par value of such Loans and on a non pro rata basis (each, a “Discounted Voluntary Prepayment”) pursuant to the procedures described in this Section 2.05(d), provided that (A) no proceeds from Revolving Credit Loans shall be used to consummate any such Discounted Voluntary Prepayment, (B) any Discounted Voluntary Prepayment shall be offered to all Term Lenders of such Class on a pro rata basis, (C) after giving effect to the Discounted Voluntary Prepayment, the aggregate Outstanding Amount of all Term Loans that are held by Sponsor Affiliated Lenders (other than Affiliated Debt Funds) shall not exceed 25% of the aggregate Outstanding Amount of the Term Loans then outstanding and (D) the Parent Borrower shall deliver to the Administrative Agent, together with each Discounted Prepayment Option Notice, a certificate of a Responsible Officer of the Parent Borrower (1) stating that no Event of Default under Section 8.01(a) or under Section 8.01(f) or (g) (in each case, with respect to the Borrowers) has occurred and is continuing or would result from the Discounted Voluntary Prepayment, (2) stating that each of the conditions to such Discounted Voluntary Prepayment contained in this Section 2.05(d) has been satisfied and (3) specifying the aggregate principal amount of Term Loans of any Class offered to be prepaid pursuant to such Discounted Voluntary Prepayment.

(ii) To the extent the Borrowers seek to make a Discounted Voluntary Prepayment, the Parent Borrower will provide written notice to the Administrative Agent substantially in the form of Exhibit H hereto (each, a “Discounted Prepayment Option Notice”) that the Borrowers desire to prepay Term Loans of one or more specified Classes in an aggregate principal amount specified therein by the Borrowers (each, a “Proposed Discounted Prepayment Amount”), in each case at a discount to the par value of such Loans as specified below. The Proposed Discounted Prepayment Amount of any Loans shall not be less than \$10,000,000. The Discounted Prepayment Option Notice shall further specify with respect to the proposed Discounted Voluntary Prepayment (A) the Proposed Discounted Prepayment Amount for Loans to be prepaid, (B) a discount range (which may be a single percentage) selected by the Borrowers with respect to such proposed Discounted Voluntary Prepayment equal to a percentage of par of the principal amount of the Loans to be prepaid (the “Discount Range”), and (C) the date by which Lenders are required to indicate their election to participate in such proposed Discounted Voluntary Prepayment, which shall be at least five Business Days from and including the date of the Discounted Prepayment Option Notice (the “Acceptance Date”).

(iii) Upon receipt of a Discounted Prepayment Option Notice, the Administrative Agent shall promptly notify each applicable Lender thereof. On or prior to the Acceptance Date, each such Lender may specify by written notice substantially in the form of Exhibit I hereto (each, a “Lender Participation Notice”) to the Administrative Agent (A) a maximum discount to par (the “Acceptable Discount”) within the Discount Range (for example, a Lender specifying a discount to par of 20% would accept a purchase price of 80% of the par value of the Loans to be prepaid) and (B) a maximum principal amount (subject to rounding requirements specified by the Administrative Agent) of the Term Loans to be

prepaid held by such Lender with respect to which such Lender is willing to permit a Discounted Voluntary Prepayment at the Acceptable Discount (“Offered Loans”). Based on the Acceptable Discounts and principal amounts of the Term Loans to be prepaid specified by the Lenders in the applicable Lender Participation Notice, the Administrative Agent, in consultation with the Borrowers, shall determine the applicable discount for such Term Loans to be prepaid (the “Applicable Discount”), which Applicable Discount shall be (A) the percentage specified by the Borrowers if the Borrowers have selected a single percentage pursuant to Section 2.05(d)(ii) for the Discounted Voluntary Prepayment or (B) otherwise, the highest Acceptable Discount at which the Borrowers can pay the Proposed Discounted Prepayment Amount in full (determined by adding the Outstanding Amount of Offered Loans commencing with the Offered Loans with the highest Acceptable Discount); provided, however, that in the event that such Proposed Discounted Prepayment Amount cannot be repaid in full at any Acceptable Discount, the Applicable Discount shall be the lowest Acceptable Discount specified by the Lenders that is within the Discount Range. The Applicable Discount shall be applicable for all Lenders who have offered to participate in the Discounted Voluntary Prepayment and have Qualifying Loans. Any Lender with outstanding Term Loans to be prepaid whose Lender Participation Notice is not received by the Administrative Agent by the Acceptance Date shall be deemed to have declined to accept a Discounted Voluntary Prepayment of any of its Loans at any discount to their par value within the Applicable Discount.

(iv) The Borrowers shall make a Discounted Voluntary Prepayment by prepaying those Term Loans to be prepaid (or the respective portions thereof) offered by the Lenders (“Qualifying Lenders”) that specify an Acceptable Discount that is equal to or greater than the Applicable Discount (“Qualifying Loans”) at the Applicable Discount, provided that if the aggregate proceeds required to prepay all Qualifying Loans (disregarding any interest payable at such time) would exceed the amount of aggregate proceeds required to prepay the Proposed Discounted Prepayment Amount, such amounts in each case calculated by applying the Applicable Discount, the Borrowers shall prepay such Qualifying Loans ratably among the Qualifying Lenders based on their respective principal amounts of such Qualifying Loans (subject to rounding requirements specified by the Administrative Agent). If the aggregate proceeds required to prepay all Qualifying Loans (disregarding any interest payable at such time) would be less than the amount of aggregate proceeds required to prepay the Proposed Discounted Prepayment Amount, such amounts in each case calculated by applying the Applicable Discount, the Borrowers shall prepay all Qualifying Loans.

(v) Each Discounted Voluntary Prepayment shall be made within five (5) Business Days of the Acceptance Date (or such later date as the Administrative Agent shall reasonably agree, given the time required to calculate the Applicable Discount and determine the amount and holders of Qualifying Loans), without premium or penalty (but subject to Section 3.04), upon irrevocable notice substantially in the form of Exhibit J hereto (each a “Discounted Voluntary Prepayment Notice”), delivered to the Administrative Agent no later than 1:00 p.m., New York City time, three (3) Business Days prior to the date of such Discounted Voluntary Prepayment, which notice shall specify the date and amount of the Discounted Voluntary Prepayment and the Applicable Discount determined by the Administrative Agent. Upon receipt of any Discounted Voluntary Prepayment Notice, the Administrative Agent shall promptly notify each relevant Lender thereof. If any Discounted Voluntary Prepayment Notice is given, the amount specified in such notice shall be due and payable to the applicable Lenders, subject to the Applicable Discount on the applicable Loans, on the date specified therein together with accrued interest (on the par principal amount) to but not including such date on the amount prepaid. The par principal amount of each Discounted Voluntary Prepayment of a Term Loan shall be applied ratably to reduce the remaining installments of such Class of Term Loans (as applicable).

(vi) To the extent not expressly provided for herein, each Discounted Voluntary Prepayment shall be consummated pursuant to procedures (including as to timing, rounding, minimum

amounts, Type and Interest Periods and calculation of Applicable Discount in accordance with Section 2.05(d)(ii) above) established by the Administrative Agent and the Parent Borrower, each acting reasonably.

(vii) Prior to the delivery of a Discounted Voluntary Prepayment Notice, (A) upon written notice to the Administrative Agent, the Parent Borrower may withdraw or modify its offer to make a Discounted Voluntary Prepayment pursuant to any Discounted Prepayment Option Notice and (B) no Lender may withdraw its offer to participate in a Discounted Voluntary Prepayment pursuant to any Lender Participation Notice unless the terms of such proposed Discounted Voluntary Prepayment have been modified by the Parent Borrower after the date of such Lender Participation Notice.

(viii) Nothing in this Section 2.05(d) shall require the Borrowers to undertake any Discounted Voluntary Prepayment.

Section 2.06 Termination or Reduction of Commitments.

(a) Optional. The Borrowers may, upon written notice to the Administrative Agent, terminate the unused Commitments of any Class, or from time to time permanently reduce the unused Commitments of any Class; provided that (i) any such notice shall be received by the Administrative Agent three (3) Business Days prior to the date of termination or reduction, (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$100,000 in excess thereof, and (iii) the Borrowers shall not terminate or reduce any Class of Revolving Credit Commitments if, after giving effect to any concurrent repayment of the Revolving Credit Loans and Swing Line Loans of such Class, the aggregate Revolving Credit Exposure of all Lenders in respect of the Revolving Credit Facility (excluding the portion of such Class of Revolving Credit Exposures attributable to outstanding Letters of Credit if and to the extent that the Borrowers have made arrangements satisfactory to the Administrative Agent and the applicable L/C Issuer with respect to such Letters of Credit and such L/C Issuer has released the Revolving Credit Lenders from their participation obligations with respect to such Letters of Credit) would exceed the aggregate Revolving Credit Commitments. The amount of any such Commitment reduction shall not be applied to the Letter of Credit Sublimit or the Swing Line Sublimit unless, after giving effect to any reduction of the Commitments, the Letter of Credit Sublimit or the Swing Line Sublimit exceeds the amount of the Revolving Credit Facility, in which case such sublimit shall be automatically reduced by the amount of such excess. Notwithstanding the foregoing, the Borrowers may rescind or postpone any notice of termination of the Commitments if such termination would have resulted from a refinancing, which refinancing shall not be consummated or otherwise shall be delayed.

(b) Mandatory. The Term B Commitment of each Term Lender shall be automatically and permanently reduced to \$0 upon the making of such Term B Lender's Term Loans pursuant to Section 2.01(a). The Revolving Credit Commitments shall terminate on the Maturity Date thereof. The Extended Revolving Credit Commitments and any Additional Revolving Credit Commitments shall terminate on the respective maturity dates applicable thereto. Notwithstanding the foregoing, if (i) the Closing Date has not occurred at or prior to 11:59 p.m., New York City time, on May 26, 2015 or (ii) the Escrow Property is distributed to the Administrative Agent pursuant to Section 3 of the Escrow Agreement, then all Commitments shall terminate at such time.

(c) Application of Commitment Reductions; Payment of Fees. The Administrative Agent will promptly notify the Lenders of any termination or reduction of unused Commitments of any Class under this Section 2.06. Upon any reduction of unused Commitments of any Class, the Commitment of each Lender of such Class shall be reduced by such Lender's Applicable Percentage of the amount by which such Commitments are reduced (other than the termination of the Commitment of

any Lender as provided in Section 3.06). All Commitment Fees accrued until the effective date of any termination of the Revolving Credit Commitments shall be paid on the effective date of such termination.

Section 2.07 Repayment of Loans.

(a) Term Loans. The Borrowers shall repay to the Administrative Agent for the ratable account of the Term Lenders holding each Class of Term B Loans in Dollars (i) on the last Business Day of each March, June, September and December, commencing with the second such date to occur after the Closing Date, an aggregate principal amount equal to 0.25% of the aggregate principal amount of the Term B Loans funded on the Closing Date and (ii) on the Maturity Date for the Term B Loans, the aggregate principal amount of all Term B Loans outstanding on such date; provided that payments required by Section 2.07(a)(i) above shall be reduced as a result of the application of prepayments in accordance with Section 2.05. In the event any Incremental Term Loans or Extended Term Loans are made, such Incremental Term Loans or Extended Term Loans, as applicable, shall be repaid by the Borrowers in the amounts and on the dates set forth in the definitive documentation with respect thereto and on the applicable Maturity Date thereof.

(b) Revolving Credit Loans. The Borrowers shall repay to the Administrative Agent for the ratable account of the Appropriate Lenders on the Maturity Date for the Revolving Credit Facility the principal amount of each of its Revolving Credit Loans outstanding on such date in the currency in which such Revolving Credit Loan is denominated.

(c) Swing Line Loans. The Borrowers shall repay its Swing Line Loans on the earlier to occur of (i) the date five (5) Business Days after such Loan is made and (ii) the Maturity Date for the Revolving Credit Facility.

Section 2.08 Interest.

(a) Subject to the provisions of Section 2.08(b), (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable Rate; (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate; and (iii) each Swing Line Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the relevant Applicable Rate for Revolving Credit Loans that are Base Rate Loans.

(b) The Borrowers shall pay interest on past due amounts under this Agreement at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand to the fullest extent permitted by and subject to applicable Laws, including in relation to any required additional agreements.

(c) Interest on each Loan shall be due and payable in the currency in which such Loan is denominated in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law. The Administrative Agent shall apply all Escrow Property released pursuant to Section 3(d) of the Escrow Agreement as and when received to pay interest due on the Term B Loans on the applicable Interest Payment Date.

Section 2.09 Fees. In addition to certain fees described in Sections 2.03(g) and (h):

(a) Commitment Fee. The Parent Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender under the Revolving Credit Facility a commitment fee in Dollars (the “Commitment Fee”) at a per annum rate equal to the Applicable Rate on the actual daily amount by which the Revolving Credit Commitment of such Revolving Credit Lender exceeds the Revolving Credit Exposure of such Lender. The Commitment Fee for the Revolving Credit Facility shall accrue at all times from the Closing Date until the Maturity Date for the Revolving Credit Facility, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the second such date to occur after the Closing Date, and on the Maturity Date for the Revolving Credit Facility.

(b) Other Fees. The Parent Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrowers and the applicable Agent).

Section 2.10 Computation of Interest and Fees.

(a) All computations of interest for (i) Base Rate Loans when the Base Rate is determined by the Prime Rate and (ii) Loans denominated in Canadian Dollars shall be made on the basis of a year of three hundred sixty-five (365) days or three hundred sixty-six (366) days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a three hundred sixty (360) day year and actual days elapsed. Interest shall accrue on each Loan for the day on which such Loan is made, and shall not accrue on such Loan, or any portion thereof, for the day on which such Loan or such portion is paid; provided that any such Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

(b) For the purposes of this Agreement, whenever interest is to be calculated on the basis of a period of time other than a calendar year, the annual rate of interest to which each rate of interest determined pursuant to such calculation is equivalent for the purposes of the *Interest Act* (Canada) is such rate as so determined multiplied by the actual number of days in the calendar year in which the same is to be ascertained and divided by the number of days used in the basis of such determination.

(c) The parties acknowledge and agree that all calculations of interest under the Loan Documents are to be made on the basis of the nominal interest rate described herein and not on the basis of effective yearly rates or on any other basis which gives effect to the principle of deemed reinvestment of interest. The parties acknowledge that there is a material difference between the stated nominal interest rates and the effective yearly rates of interest and that they are capable of making the calculations required to determine such effective yearly rates of interest.

(d) Notwithstanding any provision herein to the contrary, in no event will the aggregate “interest” (as defined in section 347 of the Criminal Code (Canada)) payable by a Loan Party under any Loan Document exceed the maximum effective annual rate of interest on the “credit advanced” (as defined in that section 347) permitted under that section and, if any payment, collection or demand pursuant to such Loan Document in respect of “interest” (as defined in that section 347) is determined to be contrary to the provisions of such section 347, such payment, collection or demand will

be deemed to have been made by mutual mistake of such Loan Party, the Administrative Agent and the applicable Lender or Lenders and the amount of such payment or collection will be refunded to such Loan Party only to the extent of the amount which is greater than the maximum effective annual rate permitted by such laws and only to the extent such laws are applicable. For purposes of determining compliance with such section 347, the effective annual rate of interest will be determined in accordance with generally accepted actuarial practices and principles over the term commencing on the Closing Date and ending on the Maturity Date and, in the event of dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Administrative Agent will be prima facie evidence for the purposes of such determination.

(e) Notwithstanding anything to the contrary contained in the Agreement if the amount of interest paid by a Loan Party to the Lenders is reduced through the application of Section 2.10(d) and, if, as a result of any restatement or other adjustment to the financial statements of such Loan Party (including any adjustment to unaudited financial statements as a result of subsequent audited financial statements) or for any other reason, the Loan Parties or the Administrative Agent determines that the basis upon which such amounts and such interest were reduced as aforesaid was inaccurate and, as a result of such occurrence the Applicable Rates or any fees for any period were lower than would otherwise be the case as a result of the application of Section 2.10(d), then the Loan Parties shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the Lenders, promptly on demand by the Administrative Agent an amount equal to the excess of the amount of interest and fees that should have been paid by the Loan Parties for such period had the same not been reduced through the application of Section 2.10(d) over the amount of interest and fees actually paid by the Loan Parties for such period.

Section 2.11 Evidence of Indebtedness .

(a) The Credit Extensions made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by one or more entries in the Register. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrowers hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the Register, the Register shall be conclusive in the absence of demonstrable error. Upon the request of any Lender made through the Administrative Agent, the Borrowers shall execute and deliver to such Lender (through the Administrative Agent) a Note payable to such Lender or its registered assigns, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

(b) In addition to the accounts and records referred to in Section 2.11(a), each Lender and the Administrative Agent shall maintain in accordance with its usual practice accounts or records and, in the case of the Administrative Agent, entries in the Register, evidencing the purchases and sales by such Lender of participations in Letters of Credit and Swing Line Loans. In the event of any conflict between the Register and the accounts and records of any Lender in respect of such matters, the Register shall be conclusive in the absence of demonstrable error.

Section 2.12 Payments Generally .

(a) All payments to be made by the Borrowers shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrowers hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative

Agent's Office and in immediately available funds not later than 2:00 p.m., Local Time, on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Applicable Lending Office. All payments received by the Administrative Agent after 2:00 p.m., Local Time, shall (in the sole discretion of the Administrative Agent) be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. All payments under each Loan Document of principal or interest in respect of any Loan (or of any breakage indemnity in respect of any Loan) shall be made in the currency of such Loan, and, except as otherwise expressly set forth in any Loan Document, all other payments under each Loan Document shall be made in Dollars.

(b) If any payment to be made by the Borrowers shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be; provided that, if such extension would cause payment of interest on or principal of Eurocurrency Rate Loans to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.

(c) Unless the Parent Borrower or any Lender has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrowers or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrowers or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:

(i) if the Borrowers failed to make such payment, then the applicable Lender agrees to pay to the Administrative Agent forthwith on demand the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds at (A) if such payment is denominated in Canadian Dollars, the annual rate of interest announced from time to time by JPMorgan Chase Bank, N.A., Toronto Branch as being its reference rate then in effect for determining interest rates on Canadian Dollar-denominated commercial loans made by it in Canada and (B) if such payment is denominated in any other currency, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, it being understood that nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrowers may have against any Lender as a result of any default by such Lender hereunder; and

(ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrowers to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at (A) if such payment is denominated in Canadian Dollars, the annual rate of interest announced from time to time by JPMorgan Chase Bank, N.A., Toronto Branch as being its reference rate then in effect for determining interest rates on Canadian Dollar-denominated commercial loans made by it in Canada and (B) if such payment is denominated in any other currency, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. When such Lender makes payment to the Administrative Agent (together with all

accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender's Loan included in the applicable Borrowing. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the Borrowers, and the Borrowers shall pay such amount to the Administrative Agent, together with interest thereon for the Compensation Period at the interest rate applicable to such Loan. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the Borrowers may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Parent Borrower with respect to any amount owing under this Section 2.12 (c) shall be conclusive, absent demonstrable error.

(d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrowers by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(e) The obligations of the Lenders hereunder to make Loans and to fund participations in Letters of Credit and Swing Line Loans are several and not joint. The failure of any Lender to make any Loan or to fund any such participation on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan or purchase its participation.

(f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.

(g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 8.04. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Applicable Percentage of the sum of (a) the Outstanding Amount of all Loans outstanding at such time and (b) the Outstanding Amount of all L/C Obligations outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

Section 2.13 Sharing of Payments. If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it, or its participations in L/C Obligations or Swing Line Loans, any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them and/or such subparticipations in the participations in L/C Obligations or Swing Line Loans held by them, as the case may be, as shall be necessary to cause such purchasing Lender to share the excess payment in respect of such Loans or such

participations, as the case may be, pro rata with each of them; provided that (x) if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon and (y) the provisions of this Section 2.13 shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in L/C Obligations to any assignee or participant. The Borrowers agree that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 10.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrowers in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of demonstrable error) of participations purchased under this Section 2.13 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.13 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Section 2.14 Incremental Credit Extensions.

(a) At any time and from time to time, subject to the terms and conditions set forth herein, the Borrowers may, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders), request to increase the amount of Term B Loans or add one or more additional tranches of term loans (any such Term B Loans or additional tranche of term loans, the "Incremental Term Loans") and/or one or more increases in the Revolving Credit Commitments (a "Revolving Credit Commitment Increase") and/or the establishment of one or more new revolving credit commitments (an "Additional Revolving Credit Commitment" and, together any Revolving Credit Commitment Increases, the "Incremental Revolving Credit Commitments"; together with the Incremental Term Loans, the "Incremental Facilities"). Notwithstanding anything to contrary herein, the aggregate Dollar Equivalent amount of all Incremental Facilities (other than Refinancing Term Loans and Refinancing Revolving Credit Commitments) (determined at the time of incurrence), together with the aggregate principal amount of all Permitted Credit Facilities Acquisition Debt and Permitted Alternative Incremental Facilities Debt, shall not exceed the sum of (i) the greater of (x) \$1,600,000,000 and (y) Consolidated EBITDA for the most recently ended Test Period prior to such date plus (ii) the amount of any voluntary prepayments of the Term Loans and voluntary permanent reductions of the Revolving Credit Commitments effected after the Closing Date (it being understood that any prepayment of Term Loans with the proceeds of substantially concurrent borrowings of new Loans hereunder or any reduction of Revolving Credit Commitments in connection with a substantially concurrent issuance of new revolving commitments hereunder shall not increase the calculation of the amount under this clause (ii)) plus (iii) unlimited additional Incremental Facilities, Permitted Credit Facilities Acquisition Debt and Permitted Alternative Incremental Facilities Debt so long as, after giving Pro Forma Effect thereto (assuming that any such Incremental Revolving Credit Commitments are drawn in full) and after giving effect to any Permitted Acquisition consummated in connection therewith and all other appropriate Pro Forma Adjustments (but excluding the cash proceeds of any such Incremental Term Loans or Incremental Revolving Credit Commitments), the First Lien Senior Secured Leverage Ratio shall not exceed 4.00:1.00; provided, for the avoidance of doubt, that Incremental

Facilities, Permitted Credit Facilities Acquisition Debt and Permitted Alternative Incremental Facilities Debt may be incurred pursuant to this clause (iii) prior to utilization of the amount set forth in clause (i) above. Each Incremental Facility shall be in an integral multiple of \$5,000,000 and be in an aggregate principal amount that is not less than \$25,000,000 in case of Incremental Term Loans or \$15,000,000 in case of Incremental Revolving Credit Commitments, provided that such amount may be less than the applicable minimum amount if such amount represents all the remaining availability hereunder as set forth above. Each Incremental Facility shall have the same guarantees as, and be secured on a pari passu basis by the same Collateral securing, all of the other Obligations under this Agreement.

(b) Any Incremental Term Loans (i) for purposes of prepayments, shall be treated substantially the same as (and in any event no more favorably than) the Term B Loans, (ii) shall have interest rate margins and (subject to clauses (iii) and (iv)) amortization schedule as determined by the Borrowers and the lenders thereunder (provided that, except in the case of Refinancing Term Loans, if the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees or original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) payable to all lenders providing such Incremental Term Loans (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith)) relating to any Incremental Term Loan exceeds the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees or original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) payable to all Lenders providing the Term B Loans (but excluding customary arrangement or commitment fees payable to any arranger, bookrunner or agent or their Affiliates in connection therewith)) relating to any Term B Loans as such Incremental Term Loans immediately prior to the effectiveness of the applicable Incremental Facility Amendment by more than 0.50%, the Applicable Rate relating to such Term B Loans shall be adjusted to be equal to the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees or original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) payable to all lenders providing such Incremental Term Loans (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith)) relating to such Incremental Term Loans minus 0.50%; provided that, if the Incremental Term Loans include an interest rate floor greater than the applicable interest rate floor under such Term B Loans, such differential between interest rate floors shall be equated to the Applicable Rate for purposes of determining whether an increase to the Applicable Rate under such Term B Loans shall be required, but only to the extent an increase in the interest rate floor in such Term B Loans would cause an increase in the interest rate then in effect thereunder, and in such case the interest rate floor (but not the Applicable Rate) applicable to such Term B Loans shall be increased to the extent of such differential between interest rate floors), (iii) any Incremental Term Loan shall not have a final maturity date earlier than the Maturity Date applicable to the Term B Loans, (iv) any Incremental Term Loan shall not have a Weighted Average Life to Maturity that is shorter than the Weighted Average Life to Maturity of the Term B Loans and (v) shall have the same terms as the Term B Loans or such terms as are reasonably satisfactory to the Administrative Agent.

(c) Any Revolving Credit Commitment Increase shall (i) have the same maturity date as the Revolving Credit Commitments, (ii) require no scheduled amortization or mandatory commitment reduction prior to the final maturity of the Revolving Credit Commitments and (iii) be on the same terms and pursuant to the same documentation applicable to the Revolving Credit Commitments. Any Additional Revolving Credit Commitments (i) shall have interest rate margins and amortization schedule as determined by the Borrowers and the lenders thereunder (provided that, if such Additional Revolving Credit Commitments are incurred prior to the first anniversary of the Closing Date, except in the case of Refinancing Revolving Credit Commitments, if the Applicable Rate for Loans thereunder (which, for such purposes only, shall be deemed to include all upfront or similar fees

or original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) payable to all lenders providing such Additional Revolving Credit Commitments (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith)) relating to any Additional Revolving Credit Commitments exceeds the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees or original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) payable to all Lenders for Revolving Credit Loans (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith)) relating to the Revolving Credit Loans immediately prior to the effectiveness of the applicable Incremental Facility Amendment by more than 0.50%, the Applicable Rate relating to the Revolving Credit Loans shall be adjusted to be equal to the Applicable Rate (which, for such purposes only, shall be deemed to include all upfront or similar fees or original issue discount (with original issue discount being equated to interest based on an assumed four-year life to maturity) payable to all lenders providing such Additional Revolving Credit Commitments (but excluding customary arrangement or commitment fees payable to any arranger or bookrunner or their Affiliates in connection therewith)) relating to such Additional Revolving Credit Commitments minus 0.50%; provided that, if the Additional Revolving Credit Commitments include an interest rate floor greater than the applicable interest rate floor under the Revolving Credit Loans, such differential between interest rate floors shall be equated to the Applicable Rate for purposes of determining whether an increase to the Applicable Rate under the Revolving Credit Loans shall be required, but only to the extent an increase in the interest rate floor in the Revolving Credit Loans would cause an increase in the interest rate then in effect thereunder, and in such case the interest rate floor (but not the Applicable Rate) applicable to the Revolving Credit Loans shall be increased to the extent of such differential between interest rate floors), (ii) which are Refinancing Revolving Credit Commitments shall not have a final maturity date earlier than the Maturity Date applicable to the Revolving Credit Commitments being refinanced thereby and (iii) shall have the same terms as the Revolving Credit Commitments or such terms as are reasonably satisfactory to the Administrative Agent.

(d) Each notice from the Borrowers pursuant to this Section 2.14 shall set forth the requested amount and proposed terms of the relevant Incremental Term Loans and/or Incremental Revolving Credit Commitments. Any additional bank, financial institution, existing Lender or other Person that elects to extend Incremental Term Loans or Incremental Revolving Credit Commitments shall be reasonably satisfactory to the Borrowers and the Administrative Agent (any such bank, financial institution, existing Lender or other Person being called an “ Additional Lender ”) and, if not already a Lender, shall become a Lender under this Agreement pursuant to an amendment (an “ Incremental Facility Amendment ”) to this Agreement and, as appropriate, the other Loan Documents, executed by Holdings, the Borrowers, such Additional Lender, the Administrative Agent and, in the case of any Incremental Revolving Credit Commitments, each L/C Issuer and the Swing Line Lender; provided that no Incremental Term Loans may be provided by a Sponsor Affiliated Lender unless, after giving effect to such Incremental Term Loans, the aggregate Outstanding Amount of all Term Loans that are held by Sponsor Affiliated Lenders (other than Affiliated Debt Funds) does not exceed 25% of the aggregate Outstanding Amount of the Term Loans then outstanding. For the avoidance of doubt, no L/C Issuer or Swing Line Lender is required to act as such for any Additional Revolving Credit Commitments unless they so consent. No Incremental Facility Amendment shall require the consent of any Lenders other than the Additional Lenders with respect to such Incremental Facility Amendment. No Lender shall be obligated to provide any Incremental Term Loans or Incremental Revolving Credit Commitments, unless it so agrees. Commitments in respect of any Incremental Term Loans or Incremental Revolving Credit Commitments may become Commitments under this Agreement. An Incremental Facility Amendment may, without the consent of any other Lenders, effect such amendments to any Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.14. The effectiveness of any Incremental Facility Amendment shall, unless otherwise agreed

to by the Administrative Agent and the Additional Lenders, be subject to the satisfaction on the date thereof (each, an “Incremental Facility Closing Date”) of each of the conditions set forth in Section 4.02 (it being understood that (x) all references to “the date of such Credit Extension” in Section 4.02 shall be deemed to refer to the Incremental Facility Closing Date and (y) if the proceeds of such Incremental Facility are to be used, in whole or in part, to finance a Limited Condition Acquisition, (1) the only representations and warranties that will be required to be true and correct in all material respects as of the applicable Incremental Facility Closing Date shall be the Specified Representations and (2) Section 4.02(b) shall not apply). The proceeds of any Incremental Term Loans will be used only for general corporate purposes (including, without limitation, Permitted Acquisitions). Upon each increase in the Revolving Credit Commitments pursuant to this Section 2.14, each Revolving Credit Lender immediately prior to such increase will automatically and without further act be deemed to have assigned to each Lender providing a portion of the Incremental Revolving Credit Commitment (each, an “Incremental Revolving Lender”) in respect of such increase, and each such Incremental Revolving Lender will automatically and without further act be deemed to have assumed, a portion of such Revolving Credit Lender’s participations hereunder in outstanding Letters of Credit and Swing Line Loans such that, after giving effect to each such deemed assignment and assumption of participations, the percentage of the aggregate outstanding (i) participations hereunder in Letters of Credit and (ii) participations hereunder in Swing Line Loans held by each Revolving Credit Lender (including each such Incremental Revolving Lender) will equal the percentage of the aggregate Revolving Credit Commitments of all Revolving Credit Lenders represented by such Revolving Credit Lender’s Revolving Credit Commitment. Additionally, if any Revolving Credit Loans are outstanding at the time any Incremental Revolving Credit Commitments are established, the Revolving Credit Lenders immediately after effectiveness of such Incremental Revolving Credit Commitments shall purchase and assign at par such amounts of the Revolving Credit Loans outstanding at such time as the Administrative Agent may require such that each Revolving Credit Lender holds its Applicable Percentage of all Revolving Credit Loans outstanding immediately after giving effect to all such assignments. The Administrative Agent and the Lenders hereby agree that the minimum borrowing, pro rata borrowing and pro rata payment requirements contained elsewhere in this Agreement shall not apply to the transactions effected pursuant to the immediately preceding sentence.

Section 2.15 Extensions of Term Loans and Revolving Credit Commitments.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers (each, an “Extension Offer”) made from time to time by the Borrowers to all Lenders of any Class of Term Loans or any Class of Revolving Credit Commitments, in each case on a pro rata basis (based on the aggregate outstanding principal amount of the respective Term Loans or Revolving Credit Commitments of the applicable Class) and on the same terms to each such Lender, the Borrowers are hereby permitted to consummate from time to time transactions with individual Lenders that accept the terms contained in such Extension Offers to extend the maturity date of each such Lender’s Term Loans and/or Revolving Credit Commitments of the applicable Class and otherwise modify the terms of such Term Loans and/or Revolving Credit Commitments pursuant to the terms of the relevant Extension Offer (including, without limitation, by increasing the interest rate or fees payable in respect of such Term Loans and/or Revolving Credit Commitments (and related outstandings) and/or modifying the amortization schedule in respect of such Lender’s Term Loans) (each, an “Extension,” and each group of Term Loans or Revolving Credit Commitments, as applicable, in each case as so extended, as well as the original Term Loans and the original Revolving Credit Commitments (in each case not so extended), being a separate Class of Term Loans from the Class of Term Loans from which they were converted, and any Extended Revolving Credit Commitments (as defined below) shall constitute a separate Class of Revolving Credit Commitments from the Class of Revolving Credit Commitments from which they were converted, it being understood that an Extension may be in the form of an increase in the amount of any other then outstanding Class of Term Loans or Revolving Credit Commitments otherwise satisfying the

criteria set forth below), so long as the following terms are satisfied: (i) except as to interest rates, fees and final maturity (which shall be determined by the Borrowers and set forth in the relevant Extension Offer), the Revolving Credit Commitment of any Revolving Credit Lender that agrees to an extension with respect to such Revolving Credit Commitment extended pursuant to an Extension (an “Extended Revolving Credit Commitment”), and the related outstandings, shall be a Revolving Credit Commitment (or related outstandings, as the case may be) with the same terms as the original Class of Revolving Credit Commitments (and related outstandings); provided that at no time shall there be Revolving Credit Commitments hereunder (including Extended Revolving Credit Commitments and any original Revolving Credit Commitments) which have more than three different maturity dates, (ii) except as to interest rates, fees, amortization, final maturity date, premium, required prepayment dates and participation in prepayments (which shall, subject to immediately succeeding clauses (iii), (iv) and (v), be determined between the Borrowers and set forth in the relevant Extension Offer), the Term Loans of any Term Lender that agrees to an extension with respect to such Term Loans extended pursuant to any Extension (“Extended Term Loans”) shall have the same terms as the Class of Term Loans subject to such Extension Offer, (iii) the final maturity date of any Extended Term Loans shall be no earlier than the then latest maturity date hereunder and the amortization schedule applicable to Term Loans pursuant to Section 2.07(a) for periods prior to the Maturity Date for Term B Loans may not be increased, (iv) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans extended thereby, (v) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not greater than a pro rata basis) in any voluntary or mandatory repayments or prepayments hereunder, in each case as specified in the respective Extension Offer, (vi) if the aggregate principal amount of the Class of Term Loans (calculated on the face amount thereof) or Revolving Credit Commitments, as the case may be, in respect of which Term Lenders or Revolving Credit Lenders, as the case may be, shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Term Loans or Revolving Credit Commitments of such Class, as the case may be, offered to be extended by the Borrowers pursuant to such Extension Offer, then the Term Loans or Revolving Credit Commitments of such Class, as the case may be, of such Term Lenders or Revolving Credit Lenders, as the case may be, shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Term Lenders or Revolving Credit Lenders, as the case may be, have accepted such Extension Offer, (vii) all documentation in respect of such Extension shall be consistent with the foregoing, (viii) any applicable Minimum Extension Condition shall be satisfied unless waived by the Borrowers and (ix) the Minimum Tranche Amount shall be satisfied unless waived by the Administrative Agent. No Lender shall be obligated to extend its Term Loans or Revolving Credit Commitments unless it so agrees.

(b) With respect to all Extensions consummated by the Borrowers pursuant to this Section 2.15, (i) such Extensions shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.05 and (ii) no Extension Offer is required to be in any minimum amount or any minimum increment, provided that (x) the Parent Borrower may at its election specify as a condition (a “Minimum Extension Condition”) to consummating any such Extension that a minimum amount (to be determined and specified in the relevant Extension Offer in the Parent Borrower’s sole discretion and may be waived by the Parent Borrower) of Term Loans or Revolving Credit Commitments (as applicable) of any or all applicable Classes be tendered, (y) no Class of Extended Term Loans shall be in a Dollar Equivalent amount of less than \$25,000,000 and (z) no Class of Extended Revolving Credit Commitments shall be in a Dollar Equivalent amount of less than \$10,000,000 (each amount in clause (y) and (z) above, the “Minimum Tranche Amount”), unless such Minimum Tranche Amount is waived by the Administrative Agent. The Administrative Agent and the Lenders hereby consent to the transactions contemplated by this Section 2.15 (including, for the avoidance of doubt, payment of any interest, fees or premium in respect of any Extended Term Loans and/or Extended Revolving Credit Commitments on the such terms as may be set forth in the relevant Extension Offer) and hereby waive

the requirements of any provision of this Agreement (including, without limitation, Sections 2.05, 2.12 and 2.13) or any other Loan Document that may otherwise prohibit any such Extension or any other transaction contemplated by this Section 2.15.

(c) No consent of any Lender or the Administrative Agent shall be required to effectuate any Extension, other than (A) the consent of each Lender agreeing to such Extension with respect to one or more of its Term Loans and/or Revolving Credit Commitments (or a portion thereof) and (B) with respect to any Extension of any Class of Revolving Credit Commitments, the consent of the relevant L/C Issuer and Swing Line Lender (if such L/C Issuer or Swing Line Lender is being requested to issue letters of credit or make swing line loans with respect to the Class of Extended Revolving Credit Commitments). All Extended Term Loans, Extended Revolving Credit Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that are secured by the Collateral on a pari passu basis with all other applicable Obligations under this Agreement and the other Loan Documents. The Lenders hereby irrevocably authorize the Administrative Agent to enter into amendments to this Agreement and the other Loan Documents with the Borrowers as may be necessary in order to establish new Classes in respect of Revolving Credit Commitments or Term Loans so extended and such technical amendments as may be necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrowers in connection with the establishment of such new Classes, in each case on terms consistent with this Section 2.15. Without limiting the foregoing, in connection with any Extensions the respective Loan Parties shall (at their expense) amend (and the Administrative Agent is hereby directed to amend) any Mortgage that has a maturity date prior to the then Latest Maturity Date so that such maturity date is extended to the then Latest Maturity Date (or such later date as may be advised by local counsel to the Administrative Agent).

(d) In connection with any Extension, the Parent Borrower shall provide the Administrative Agent at least five (5) Business Days' (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and shall agree to such procedures (including, without limitation, regarding timing, rounding and other adjustments and to ensure reasonable administrative management of the credit facilities hereunder after such Extension), if any, as may be established by, or acceptable to, the Administrative Agent, in each case acting reasonably to accomplish the purposes of this Section 2.15.

Section 2.16 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) The Commitment Fee shall cease to accrue on any of the Revolving Credit Commitments of such Defaulting Lender pursuant to Section 2.09(a);

(b) the Commitment, Outstanding Amount of Term Loans and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether all Lenders, the Required Lenders or the Required Revolving Credit Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 10.01); provided that any waiver, amendment or modification of a type described in clause (a), (b) or (c) of the first proviso in Section 10.01 that would apply to the Commitments or Obligations owing to such Defaulting Lender shall require the consent of such Defaulting Lender with respect to the effectiveness of such waiver, amendment or modification with respect to the Commitments or Obligations owing to such Defaulting Lender;

(c) if any Swing Line Exposure or L/C Exposure exists at the time a Lender under the Revolving Credit Facility becomes a Defaulting Lender then:

(i) all or any part of the Swing Line Exposure or L/C Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent the sum of all non-Defaulting Lenders' Revolving Credit Exposures plus such Defaulting Lender's Swing Line Exposure and L/C Exposure does not exceed the total of all non-Defaulting Lenders' Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrowers shall within three (3) Business Days following notice by the Administrative Agent (x) first, prepay such Swing Line Exposure and (y) second, Cash Collateralize for the benefit of the L/C Issuer only the Borrowers' obligations corresponding to such Defaulting Lender's L/C Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.03(f) for so long as such L/C Exposure is outstanding;

(iii) if the Borrowers Cash Collateralize any portion of such Defaulting Lender's L/C Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.03(h) with respect to such Defaulting Lender's L/C Exposure during the period such Defaulting Lender's L/C Exposure is Cash Collateralized;

(iv) if the L/C Exposures of the non-Defaulting Lenders are increased pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Sections 2.09(a) and 2.03(h) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's L/C Exposure is neither reallocated nor Cash Collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the L/C Issuer or any other Lender hereunder, all letter of credit fees payable under Section 2.03(h) with respect to such portion of such Defaulting Lender's L/C Exposure shall be payable to the L/C Issuer until and to the extent that such L/C Exposure is reallocated and/or Cash Collateralized; and

(d) so long as such Lender is a Defaulting Lender under the Revolving Credit Facility, the Swing Line Lender shall not be required to fund any Swing Line Loan and the L/C Issuer shall not be required to issue, amend or increase any Letter of Credit, unless it has received assurances satisfactory to it that non-Defaulting Lenders will cover the related exposure and/or cash collateral will be provided by the Borrowers in accordance with Section 2.16(c), and participating interests in any newly made Swing Line Loan or any newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.16(c)(i) (and such Defaulting Lender shall not participate therein).

In the event that the Administrative Agent, the Borrowers, the Swing Line Lender and the L/C Issuer each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swing Line Exposures and L/C Exposures of the Revolving Credit Lenders shall be readjusted to reflect the inclusion of such Lender's Revolving Credit Commitment and on such date such Lender shall purchase at par such of the Revolving Credit Loans of the other Revolving Credit Lenders as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Revolving Credit Loans in accordance with its Applicable Percentage.

Section 2.17 Permitted Debt Exchanges.

(a) Notwithstanding anything to the contrary contained in this Agreement, pursuant to one or more offers (each, a “Permitted Debt Exchange Offer”) made from time to time by the Parent Borrower to all Lenders (other than, with respect to any Permitted Debt Exchange Offer that constitutes an offering of securities, any Lender that, if requested by the Borrower, is unable to certify that it is (i) a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act), (ii) an institutional “accredited investor” (as defined in Rule 501 under the Securities Act) or (iii) not a “U.S. person” (as defined in Rule 902 under the Securities Act)) with outstanding Term Loans of a particular Class, the Borrowers may from time to time consummate one or more exchanges of such Term Loans for Indebtedness (in the form of senior secured, senior unsecured, senior subordinated, or subordinated notes or loans) (such Indebtedness, “Permitted Debt Exchange Notes” and each such exchange, a “Permitted Debt Exchange”), so long as the following conditions are satisfied:

(i) each such Permitted Debt Exchange Offer shall be made on a pro rata basis to the Term Lenders (other than, with respect to any Permitted Debt Exchange Offer that constitutes an offering of securities, any Lender that, if requested by the Borrower, is unable to certify that it is (i) a “qualified institutional buyer” (as defined in Rule 144A under the Securities Act), (ii) an institutional “accredited investor” (as defined in Rule 501 under the Securities Act) or (iii) not a “U.S. person” (as defined in Rule 902 under the Securities Act)) of each applicable Class based on their respective aggregate principal amounts of outstanding Term Loans under each such Class;

(ii) the aggregate principal amount (calculated on the face amount thereof) of such Permitted Debt Exchange Notes shall not exceed the aggregate principal amount (calculated on the face amount thereof) of Term Loans so refinanced, except by an amount equal to any fees, expenses, commissions, underwriting discounts and premiums payable in connection with such Permitted Debt Exchange;

(iii) the stated final maturity of such Permitted Debt Exchange Notes is not earlier than the latest Maturity Date for the Class or Classes of Term Loans being exchanged, and such stated final maturity is not subject to any conditions that could result in such stated final maturity occurring on a date that precedes such latest maturity date (it being understood that acceleration or mandatory repayment, prepayment, redemption or repurchase of such Permitted Debt Exchange Notes upon the occurrence of an event of default, a change in control, an event of loss or an asset disposition shall not be deemed to constitute a change in the stated final maturity thereof);

(iv) such Permitted Debt Exchange Notes are not required to be repaid, prepaid, redeemed, repurchased or defeased, whether on one or more fixed dates, upon the occurrence of one or more events or at the option of any holder thereof (except, in each case, upon the occurrence of an event of default, a change in control, an event of loss or an asset disposition) prior to the latest Maturity Date for the Class or Classes of Term Loans being exchanged, provided that, notwithstanding the foregoing, scheduled amortization payments (however denominated, including scheduled offers to repurchase) of such Permitted Debt Exchange Notes shall be permitted so long as the Weighted Average Life to Maturity of such Indebtedness shall be longer than the remaining Weighted Average Life to Maturity of the Class or Classes of Term Loans being exchanged;

(v) no Restricted Subsidiary is a borrower or guarantor with respect to such Indebtedness unless such Restricted Subsidiary is or substantially concurrently becomes a Loan Party;

(vi) if such Permitted Debt Exchange Notes are secured, such Permitted Debt Exchange Notes are secured on a pari passu basis or junior priority basis to the Obligations and (A) such Permitted Debt Exchange Notes are not secured by any assets not securing the Obligations unless such assets substantially concurrently secure the Obligations and (B) the beneficiaries thereof (or an agent on their behalf) shall have (1) become party to the Notes Intercreditor Agreement pursuant to the terms thereof or (2) entered into a Customary Intercreditor Agreement with the Administrative Agent;

(vii) the terms and conditions of such Permitted Debt Exchange Notes (excluding pricing and optional prepayment or redemption terms or covenants or other provisions applicable only to periods after the Maturity Date of the Class or Classes of Term Loans being exchanged) reflect market terms and conditions at the time of incurrence or issuance; provided that if such Permitted Debt Exchange Notes contain any financial maintenance covenants, such covenants shall not be more restrictive than (or in addition to) those contained in this Agreement (unless such covenants are also added for the benefit of the Lenders under this Agreement, in which case any requirement to so comply shall not require the consent of any Lender or Agent hereunder);

(viii) all Term Loans exchanged under each applicable Class by the Borrowers pursuant to any Permitted Debt Exchange shall automatically be cancelled and retired by the Borrowers on date of the settlement thereof (and, if requested by the Administrative Agent, any applicable exchanging Lender shall execute and deliver to the Administrative Agent an Assignment and Assumption, or such other form as may be reasonably requested by the Administrative Agent, in respect thereof pursuant to which the respective Lender assigns its interest in the Term Loans being exchanged pursuant to the Permitted Debt Exchange to the Parent Borrower for immediate cancellation), and accrued and unpaid interest on such Term Loans shall be paid to the exchanging Lenders on the date of consummation of such Permitted Debt Exchange, or, if agreed to by the Parent Borrower and the Administrative Agent, the next scheduled Interest Payment Date with respect to such Term Loans (with such interest accruing until the date of consummation of such Permitted Debt Exchange);

(ix) if the aggregate principal amount of all Term Loans (calculated on the face amount thereof) of a given Class tendered by Lenders in respect of the relevant Permitted Debt Exchange Offer (with no Lender being permitted to tender a principal amount of Term Loans which exceeds the principal amount thereof of the applicable Class actually held by it) shall exceed the maximum aggregate principal amount of Term Loans of such Class offered to be exchanged by the Parent Borrower pursuant to such Permitted Debt Exchange Offer, then the Borrowers shall exchange Term Loans under the relevant Class tendered by such Lenders ratably up to such maximum based on the respective principal amounts so tendered, or, if such Permitted Debt Exchange Offer shall have been made with respect to multiple Classes without specifying a maximum aggregate principal amount offered to be exchanged for each Class, and the aggregate principal amount of all Term Loans (calculated on the face amount thereof) of all Classes tendered by Lenders in respect of the relevant Permitted Debt Exchange Offer (with no Lender being permitted to tender a principal amount of Term Loans which exceeds the principal amount thereof actually held by it) shall exceed the maximum aggregate principal amount of Term Loans of all relevant Classes offered to be exchanged by the Parent Borrower pursuant to such Permitted Debt Exchange Offer, then the Borrowers shall exchange Term Loans across all Classes subject to such Permitted Debt Exchange Offer tendered by such Lenders ratably up to such maximum amount based on the respective principal amounts so tendered;

(x) all documentation in respect of such Permitted Debt Exchange shall be consistent with the foregoing, and all written communications generally directed to the Lenders in connection therewith shall be in form and substance consistent with the foregoing and made in consultation with the Parent Borrower and the Administrative Agent; and

(xi) any applicable Minimum Tender Condition or Maximum Tender Condition, as the case may be, shall be satisfied or waived by the Borrower.

Notwithstanding anything to the contrary herein, no Lender shall have any obligation to agree to have any of its Loans or Commitments exchanged pursuant to any Permitted Debt Exchange Offer.

(b) With respect to all Permitted Debt Exchanges effected by the Borrowers pursuant to this Section 2.17, such Permitted Debt Exchange Offer shall be made for not less than \$25,000,000 in aggregate principal amount of Term Loans, provided that subject to the foregoing the Parent Borrower may at its election specify (A) as a condition (a “ Minimum Tender Condition ”) to consummating any such Permitted Debt Exchange that a minimum amount (to be determined and specified in the relevant Permitted Debt Exchange Offer in the Borrower’s discretion) of Term Loans of any or all applicable Classes be tendered and/or (B) as a condition (a “ Maximum Tender Condition ”) to consummating any such Permitted Debt Exchange that no more than a maximum amount (to be determined and specified in the relevant Permitted Debt Exchange Offer in the Borrower’s discretion) of Term Loans of any or all applicable Classes will be accepted for exchange. The Administrative Agent and the Lenders hereby acknowledge and agree that the provisions of Sections 2.05, 2.06 and 2.13 do not apply to the Permitted Debt Exchange and the other transactions contemplated by this Section 2.17 and hereby agree not to assert any Default or Event of Default in connection with the implementation of any such Permitted Debt Exchange or any other transaction contemplated by this Section 2.17.

(c) In connection with each Permitted Debt Exchange, the Parent Borrower shall provide the Administrative Agent at least five (5) Business Days’ (or such shorter period as may be agreed by the Administrative Agent) prior written notice thereof, and the Parent Borrower and the Administrative Agent, acting reasonably, shall mutually agree to such procedures as may be necessary or advisable to accomplish the purposes of this Section 2.17; provided that the terms of any Permitted Debt Exchange Offer shall provide that the date by which the relevant Lenders are required to indicate their election to participate in such Permitted Debt Exchange shall be not less than five (5) Business Days following the date on which the Permitted Debt Exchange Offer is made. The Parent Borrower shall provide the final results of such Permitted Debt Exchange to the Administrative Agent no later than three (3) Business Days prior to the proposed date of effectiveness for such Permitted Debt Exchange (or such shorter period agreed to by the Administrative Agent in its sole discretion) and the Administrative Agent shall be entitled to conclusively rely on such results.

(d) The Borrowers shall be responsible for compliance with, and hereby agrees to comply with, all applicable securities and other laws in connection with each Permitted Debt Exchange, it being understood and agreed that (i) neither the Administrative Agent nor any Lender assumes any responsibility in connection with the Borrower’s compliance with such laws in connection with any Permitted Debt Exchange and (ii) each Lender shall be solely responsible for its compliance with any applicable “insider trading” laws and regulations to which such Lender may be subject under the Exchange Act.

Section 2.18 Loan Funding. On the Closing Date, all proceeds of Loans shall be funded to or at the direction of the Parent Borrower (and not the Subsidiary Borrower) in the form of (i) Term B Loans in an initial aggregate principal amount equal to \$6,750,000,000 and (ii) any Revolving Credit Loans actually funded on the Closing Date. After the Closing Date, any and all additional credit amounts advanced pursuant to this Article II shall be funded to or at the direction of the Parent Borrower (and not the Subsidiary Borrower).

ARTICLE III

Taxes, Increased Costs Protection and Illegality

Section 3.01 Taxes.

(a) Except as provided in this Section 3.01, any and all payments by the Borrowers (the term Borrowers under this Article III being deemed to include any Subsidiary for whose account a Letter of Credit is issued) or any Guarantor to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any Taxes unless required by applicable Law; provided that the parties agree that, for purposes of FATCA, the Administrative Agent may in its sole discretion treat (and the Lenders hereby authorize the Administrative Agent to treat) the Parent Borrower, and deduct any amounts (and the Lenders hereby authorize the Administrative Agent to so deduct), as if the Parent Borrower were a “United States person” (as defined in Section 7701(a)(30) of the Code). If any applicable withholding agent shall be required by any Laws to deduct any Taxes from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) if such Taxes are Indemnified Taxes or Other Taxes, the sum payable by the applicable Borrower or applicable Guarantor shall be increased as necessary so that after all required deductions have been made (including deductions applicable to additional sums payable under this Section 3.01), each of such Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) such applicable withholding agent shall make such deductions, (iii) such applicable withholding agent shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within thirty (30) days after the date of such payment by such applicable withholding agent (or, if receipts or evidence are not available within thirty (30) days, as soon as possible thereafter), such applicable withholding agent shall furnish to the Parent Borrower and such Agent or Lender (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt is issued therefor, or other written proof of payment thereof that is reasonably satisfactory to the Administrative Agent.

(b) In addition, the Borrowers agree to pay all Other Taxes.

(c) Without duplication of any amounts payable pursuant to Section 3.01(a) or Section 3.01(b), the Borrowers agree to indemnify each Agent and each Lender for (i) the full amount of Indemnified Taxes and Other Taxes (including any Indemnified Taxes or Other Taxes imposed or asserted by any jurisdiction in respect of amounts payable under this Section 3.01) payable by such Agent and such Lender and (ii) any reasonable expenses arising therefrom or with respect thereto, in each case whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Such Agent or Lender, as the case may be, will, at the Parent Borrower’s request, (A) provide the Parent Borrower with a written statement thereof setting forth in reasonable detail the basis and calculation of such amounts or (B) have the amount of such Indemnified Taxes or Other Taxes verified by an independent accountant selected by such Agent or Lender. Payment under this Section 3.01(c) shall be made within ten (10) days after the date such Lender or such Agent makes a demand therefor.

(d) If any Lender or Agent determines, in its reasonable discretion, that it has received a refund in respect of any Indemnified Taxes or Other Taxes as to which indemnification or additional amounts have been paid to it by a Borrower or any Guarantor pursuant to this Section 3.01, it shall promptly remit an amount equal to such refund as soon as practicable after it is determined that such refund pertains to Indemnified Taxes or Other Taxes (but only to the extent of indemnity payments made, or additional amounts paid, by a Borrower or any Guarantor under this Section 3.01 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund plus any interest included in such refund by the relevant taxing authority attributable thereto) to the Borrowers, net of all reasonable out-of-pocket expenses (including any Taxes) of the Lender or Agent, as the case may be and without interest (other than any interest paid by the relevant taxing authority with respect to such refund); provided that the Borrowers, upon the request of the Lender or Agent, as the case may be, agrees promptly to return an amount equal to such refund (plus any applicable interest, additions to tax or penalties) to such party in the event such party is required to repay such refund to the relevant taxing authority. Such Lender or Agent, as the case may be, shall, at the Parent Borrower's request, provide the Parent Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (provided that such Lender or Agent may delete any information therein that such Lender or Agent deems confidential). Nothing herein contained shall interfere with the right of a Lender or Agent to arrange its Tax affairs in whatever manner it thinks fit nor oblige any Lender or Agent to claim any Tax refund or to make available its Tax returns or disclose any information relating to its Tax affairs or any computations in respect thereof or require any Lender or Agent to do anything that would prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

(e) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (c) with respect to such Lender it will, if requested by the Borrowers, use commercially reasonable efforts (subject to legal and regulatory restrictions), at Borrowers' expense, to designate another Applicable Lending Office for any Loan or Letter of Credit affected by such event; provided that such efforts are made on terms that, in the judgment of such Lender, cause such Lender and its Applicable Lending Office(s) to suffer no material economic, legal or regulatory disadvantage, and provided further that nothing in this Section 3.01(e) shall affect or postpone any of the Obligations of the Borrowers or the rights of such Lender pursuant to Section 3.01(a) or (c).

(f) Each Lender shall, at such times as are reasonably requested by the Borrowers or the Administrative Agent, provide the Parent Borrower and the Administrative Agent with any documentation prescribed by law, or reasonably requested by the Parent Borrower or the Administrative Agent, certifying as to any entitlement of such Lender to an exemption from, or reduction in, any withholding Tax with respect to any payments to be made to such Lender under any Loan Document. Each such Lender shall, whenever a lapse in time or change in circumstances renders such documentation (including any documentation specifically referenced below) expired, obsolete or inaccurate in any material respect, deliver promptly to the Parent Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the applicable withholding agent) or promptly notify the Parent Borrower and the Administrative Agent in writing of its inability to do so.

Without limiting the generality of the foregoing:

(i) Each Lender that is a "United States person" (as defined in Section 7701(a)(30) of the Code) shall deliver to the Parent Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement two properly completed and duly signed original copies of Internal Revenue Service Form W-9 (or any successor form) certifying that such Lender is exempt from U.S. federal backup withholding;

(ii) Each Lender that is not a “United States person” (as defined in Section 7701(a)(30) of the Code) shall deliver to the Parent Borrower and the Administrative Agent on or before the date on which it becomes a party to this Agreement (and from time to time thereafter when required by law or upon the reasonable request of the Parent Borrower or the Administrative Agent) whichever of the following is applicable:

(A) two duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable (or any successor forms) claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(B) two duly completed copies of Internal Revenue Service Form W-8ECI (or any successor forms),

(C) in the case of a Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) or the Code, (x) a certificate, in substantially the form of Exhibit L (any such certificate a “United States Tax Compliance Certificate”), or any other form approved by the Administrative Agent, to the effect that such Lender is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Subsidiary Borrower within the meaning of Section 881(c)(3)(B) of the Code or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code, and that no payments in connection with the Loan Documents are effectively connected with such Lender’s conduct of a U.S. trade or business and (y) two duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable (or any successor forms),

(D) to the extent a Lender is not the beneficial owner (for example, where the Lender is a partnership, or is a Lender that has granted a participation), Internal Revenue Service Form W-8IMY (or any successor forms) of the Lender, accompanied by a Form W-8ECI, W-8BEN or W-8BEN-E, as applicable (or any successor forms), United States Tax Compliance Certificate, Form W-9, Form W-8IMY (or other successor forms) or any other required information from each beneficial owner, as applicable (provided that, if the Lender is a partnership (and not a participating Lender) and one or more direct or indirect partners are claiming the portfolio interest exemption, the United States Tax Compliance Certificate may be provided by such Lender on behalf of such direct or indirect partner(s)), or

(E) two duly completed copies of any other form prescribed by applicable U.S. federal income tax laws (including the Treasury regulations) as a basis for claiming a complete exemption from, or a reduction in, U.S. federal withholding tax on any payments to such Lender under the Loan Documents.

(iii) If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if the Parent Borrower were treated as a “United States person “ (as defined in Section 7701(a)(30) of the Code) for U.S. federal income tax purposes, and such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Parent Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Parent Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Parent Borrower or the Administrative Agent as may be necessary

for the Borrowers and the Administrative Agent to comply with their FATCA obligations, to determine whether such Lender has or has not complied with such Lender's FATCA obligations and to determine the amount, if any, to deduct and withhold from such payment.

Notwithstanding any other provision of this clause (f), a Lender shall not be required to deliver any form that such Lender is not legally eligible to deliver.

(g) The Administrative Agent shall provide the Parent Borrower with two duly completed original copies of, if it is a United States person (as defined in Section 7701(a)(30) of the Code), Internal Revenue Service Form W-9 certifying that it is exempt from U.S. federal backup withholding, and, if it is not a United States person, (1) Internal Revenue Service Form W-8ECI with respect to payments to be received by it as a beneficial owner and (2) Internal Revenue Service Form W-8IMY (together with required accompanying documentation) with respect to payments to be received by it on behalf of the Lenders, and shall update such forms periodically upon the reasonable request of the Parent Borrower. Notwithstanding any other provision of this clause (g), the Administrative Agent shall not be required to deliver any form that such Administrative Agent is not legally eligible to deliver.

(h) For the avoidance of doubt, the term "Lender" shall, for purposes of this Section 3.01, include any L/C Issuer and any Swing Line Lender.

Section 3.02 Inability to Determine Rates. If the Administrative Agent or the Required Lenders determine that for any reason adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan denominated in any currency, or the Required Lenders (excluding for all purposes of this Section 3.02 only, the portion of the Total Outstandings and unused Commitments that are not available for Loans in such currency) determine that the Eurocurrency Rate for any currency requested Interest Period with respect to such proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, or that deposits in the currency of such Eurocurrency Rate Loan are not being offered to banks in the applicable London or other relevant interbank market for the applicable amount and the Interest Period of such Eurocurrency Rate Loan, the Administrative Agent will promptly so notify the Parent Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Eurocurrency Rate Loans in such currency shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Parent Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans or, failing that, (i) in the case of Loans denominated in Dollars, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein and (ii) in the case of a Revolving Credit Loan to be denominated in a currency other than Dollars, unless the Administrative Agent, the relevant Revolving Credit Lenders and the Borrowers otherwise agree to a substitute rate that is selected to reflect such Revolving Credit Lenders' cost of funding such Revolving Credit Loan (in which case, such substitute rate shall be deemed to be the "Eurocurrency Rate" for the applicable Borrowing), such Revolving Credit Loan shall be made in Dollars in the Dollar Equivalent amount of the requested Borrowing (and all Revolving Credit Loans then outstanding that are denominated in such currency shall be repaid at the end of the then current Interest Period).

Section 3.03 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurocurrency Rate Loans.

(a) If any Lender determines that as a result of any Change in Law, or such Lender's compliance therewith, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any Loan or issuing or participating in Letters of Credit, or a

reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this Section 3.03(a) any such increased costs or reduction in amount resulting from (i) Indemnified Taxes or Other Taxes indemnifiable under Section 3.01, (ii) Excluded Taxes described in clauses (b) through (e) of the definition of Excluded Taxes, (iii) Excluded Taxes described in clause (a) of the definition of Excluded Taxes to the extent such Taxes are imposed on or measured by such Lender's net income or profits (or are franchise Taxes imposed in lieu thereof) or (iv) reserve requirements contemplated by Section 3.03(c)), then from time to time within fifteen (15) days after demand by such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent given in accordance with Section 3.05), the Borrowers shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.

(b) If any Lender determines that as a result of any Change in Law regarding capital adequacy or any change therein or in the interpretation thereof, in each case after the date hereof, or compliance by such Lender (or its Applicable Lending Office) therewith, has the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and such Lender's desired return on capital), then from time to time upon demand of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.05), the Borrowers shall pay to such Lender such additional amounts as will compensate such Lender for such reduction within fifteen (15) days after receipt of such demand.

(c) The Borrowers shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits, additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive in the absence of demonstrable error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent demonstrable error) which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Parent Borrower shall have received at least fifteen (15) days' prior notice (with a copy to the Administrative Agent) of such additional interest or cost from such Lender. If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable fifteen (15) days after receipt of such notice.

(d) Subject to Section 3.05(b), failure or delay on the part of any Lender to demand compensation pursuant to this Section 3.03 shall not constitute a waiver of such Lender's right to demand such compensation.

(e) If any Lender requests compensation under this Section 3.03, then such Lender will, if requested by the Borrowers, use commercially reasonable efforts to designate another Applicable Lending Office for any Loan or Letter of Credit affected by such event; provided that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Applicable Lending Office(s) to suffer no material economic, legal or regulatory disadvantage; and provided, further, that nothing in this Section 3.03(e) shall affect or postpone any of the Obligations of the Borrowers or the rights of such Lender pursuant to Section 3.03(a), (b), (c) or (d).

Section 3.04 Funding Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrowers shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

(a) any continuation, conversion, payment or prepayment of any Eurocurrency Rate Loan on a day other than the last day of the Interest Period for such Loan; or

(b) any failure by the Borrowers (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan (other than a Base Rate Loan) on the date or in the amount notified by the Borrowers;

including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 3.04, each Lender shall be deemed to have funded each Eurocurrency Rate Loan made by it at the Eurocurrency Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Loan was in fact so funded.

Section 3.05 Matters Applicable to All Requests for Compensation.

(a) Any Agent or any Lender claiming compensation under this Article III shall deliver a certificate to the Borrowers setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of demonstrable error. In determining such amount, such Agent or such Lender may use any reasonable averaging and attribution methods.

(b) With respect to any Lender's claim for compensation under Section 3.01, Section 3.02, Section 3.03 or Section 3.04, the Borrowers shall not be required to compensate such Lender for any amount incurred more than one hundred and eighty (180) days prior to the date that such Lender notifies the Parent Borrower of the event that gives rise to such claim; provided that, if the circumstance giving rise to such claim is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof. If any Lender requests compensation by the Borrowers under Section 3.03, the Parent Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue Eurocurrency Rate Loans from one Interest Period to another, or to convert Base Rate Loans into Eurocurrency Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.05(c) shall be applicable); provided that such suspension shall not affect the right of such Lender to receive the compensation so requested.

(c) If the obligation of any Lender to make or continue any Eurocurrency Rate Loan from one Interest Period to another, or to convert Base Rate Loans into Eurocurrency Rate Loans shall be suspended pursuant to Section 3.05(b) hereof, such Lender's Eurocurrency Rate Loans denominated in Dollars shall be automatically converted into Base Rate Loans on the last day(s) of the then current Interest Period(s) for such Eurocurrency Rate Loans (or, in the case of an immediate conversion required by Section 3.02, on such earlier date as required by Law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.01, Section 3.02, Section 3.03 or Section 3.04 hereof that gave rise to such conversion no longer exist:

(i) to the extent that such Lender's Eurocurrency Rate Loans denominated in Dollars have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Eurocurrency Rate Loans shall be applied instead to its Base Rate Loans; and

(ii) all Loans denominated in Dollars that would otherwise be made or continued from one Interest Period to another by such Lender as Eurocurrency Rate Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Eurocurrency Rate Loans shall remain as Base Rate Loans.

(d) If any Lender gives notice to the Parent Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.01, Section 3.02, Section 3.03 or Section 3.04 hereof that gave rise to the conversion of such Lender's Eurocurrency Rate Loans denominated in Dollars pursuant to this Section 3.05 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted to Eurocurrency Rate Loans, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurocurrency Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurocurrency Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Commitments.

Section 3.06 Replacement of Lenders under Certain Circumstances .

(a) If at any time (i) any Lender requests reimbursement for amounts owing pursuant to Section 3.01 or Section 3.03 as a result of any condition described in such Sections or any Lender ceases to make Eurocurrency Rate Loans as a result of any condition described in Section 3.02 or Section 3.03, (ii) any Lender becomes a Defaulting Lender or (iii) any Lender becomes a Non-Consenting Lender, then the Parent Borrower may, on prior written notice to the Administrative Agent and such Lender, replace such Lender by requiring such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07(b) (with the assignment fee to be paid by the Borrowers in such instance) all of its rights and obligations under this Agreement (or, with respect to clause (iii) above, all of its rights and obligations with respect to the Class of Loans or Commitments that is the subject of the related consent, waiver or amendment) to one or more Eligible Assignees; provided that neither the Administrative Agent nor any Lender shall have any obligation to the Borrowers to find a replacement Lender or other such Person; and provided, further, that (A) in the case of any such assignment resulting from a claim for compensation under Section 3.03 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments and (B) in the case of any such assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable Eligible Assignees shall have agreed to the applicable departure, waiver or amendment of the Loan Documents.

(b) Any Lender being replaced pursuant to Section 3.06(a) above shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans and participations in L/C Obligations and Swing Line Loans, as applicable (provided that the failure of any such Lender to execute an Assignment and Assumption shall not render such assignment invalid and such assignment shall be recorded in the Register) and (ii) deliver Notes, if any, evidencing such Loans to the Borrowers or Administrative Agent. Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's Commitments and outstanding Loans and participations in L/C Obligations and Swing Line Loans, as applicable, (B) all obligations of the Loan Parties owing to the assigning Lender relating to the Loan Documents and participations so assigned shall be paid in full by the assignee Lender or the Loan Parties (as applicable) to such assigning Lender concurrently with such assignment and assumption, any

amounts owing to the assigning Lender (other than a Defaulting Lender) under Section 3.04 as a consequence of such assignment and, in the case of an assignment of Term Loans in connection with a Repricing Transaction, the premium, if any, that would have been payable by the Borrowers on such date pursuant to Section 2.05(a)(iv) if such Lender's Term Loans subject to such assignment had been prepaid on such date shall have been paid by the Borrowers to the assigning Lender and (C) upon such payment and, if so requested by the assignee Lender, the assignor Lender shall deliver to the assignee Lender the appropriate Note or Notes executed by the Borrowers, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans, Commitments and participations, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender.

(c) Notwithstanding anything to the contrary contained above, any Lender that acts as an L/C Issuer may not be replaced hereunder at any time that it has any Letter of Credit outstanding hereunder unless arrangements reasonably satisfactory to such L/C Issuer (including the furnishing of a back-up standby letter of credit in form and substance, and issued by an issuer reasonably satisfactory to such L/C Issuer, or the depositing of cash collateral into a cash collateral account in amounts and pursuant to arrangements reasonably satisfactory to such L/C Issuer) have been made with respect to each such outstanding Letter of Credit and the Lender that acts as the Administrative Agent may not be replaced hereunder except in accordance with the terms of Section 9.09.

(d) In the event that (i) the Borrowers or the Administrative Agent have requested that the Lenders (A) consent to an extension of the Maturity Date of any Class of Loans as permitted by Section 2.15, (B) consent to a departure or waiver of any provisions of the Loan Documents or (C) agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of all affected Lenders in accordance with the terms of Section 10.01 or all the Lenders with respect to a certain Class of the Loans and (iii) the Required Lenders have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a "Non-Consenting Lender."

Section 3.07 Survival. All of the Borrowers' obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder and any assignment of rights by or replacement of a Lender or L/C Issuer.

ARTICLE IV

Conditions Precedent to Credit Extensions

Section 4.01 Conditions to Closing Date. The release of the Escrow Property to the Parent Borrower on the Closing Date is subject to satisfaction of the following conditions precedent:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each in form and substance reasonably satisfactory to the Administrative Agent and its legal counsel:

- (i) executed counterparts of the Guaranty from each of the parties listed on the signature pages hereto and thereto;
- (ii) a Note executed by the Borrowers in favor of each Lender that has requested a Note at least five (5) Business Days in advance of the Closing Date;

(iii) each Collateral Document set forth on Schedule 1.01A required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party thereto, together with (except as provided in such Collateral Documents);

(A) certificates, if any, representing the pledged equity referred to therein accompanied by undated stock powers executed in blank and (if applicable) instruments evidencing the pledged debt referred to therein endorsed in blank;

(B) evidence that all other actions, recordings and filings that the Administrative Agent or Collateral Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent and Collateral Agent; and

(C) evidence that all insurance required to be maintained pursuant to the Loan Documents has been obtained and is in effect and that the Administrative Agent and Collateral Agent has been named as loss payee and additional insured under each United States insurance policy with respect to such insurance as to which the Administrative Agent shall have requested to be so named;

provided that if, notwithstanding the Parent Borrower's use of commercially reasonable efforts without undue burden or expense to cause this clause (iii) to be satisfied on the Closing Date, the requirements hereof (other than (a) the execution of each Collateral Document set forth on Schedule 1.01A required to be executed on the Closing Date as indicated on such schedule by each Loan Party thereto, (b) the pledge and perfection of security interests in the Equity Interests of (i) the Parent Borrower and (ii) each direct Wholly-Owned Subsidiary of the Parent Borrower that is organized in the United States or Canada (provided that such Equity Interests are not Excluded Equity and, in the case of THI and its subsidiaries, solely to the extent received by the Parent Borrower after use of commercially reasonable efforts) and (c) delivery of Uniform Commercial Code financing statements and/or PPSA registration statements with respect to perfection of security interests in the assets of the Loan Parties that may be perfected by the filing of a financing statement under the Uniform Commercial Code or PPSA, as applicable) are not satisfied as of the Closing Date, the satisfaction of such requirements shall not be a condition to the release of the Escrow Property to the Parent Borrower on the Closing Date (but shall be required to be satisfied as promptly as practicable after the Closing Date and in any event within the period specified therefor in Schedule 6.12);

(iv) such certificates, copies of Organization Documents of the Loan Parties, resolutions or other action and incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date;

(v) an opinion from each of (A) Kirkland & Ellis LLP, New York counsel to the Loan Parties, (B) Davies Ward Phillips & Vineberg LLP, Canadian counsel to the Loan Parties, (C) Lawson Lundell LLP, British Columbia counsel to the Loan Parties and (D) Greenberg Traurig, LLP, Florida counsel to the Loan Parties;

(vi) a certificate signed by a Responsible Officer of the Borrower certifying that (A) between December 29, 2013 and August 26, 2014, there has not been any fact, circumstance, change, effect, event or occurrence that has had or would reasonably be expected to have a Company Material Adverse Effect, (B) since August 26, 2014, no fact, circumstance, change, effect, event or occurrence has occurred that has had or would reasonably be expected to have, individually or in the aggregate, a Company Material Adverse Effect and (C) the condition set forth in clause (f)(ii) below is satisfied;

(vii) a certificate attesting to the Solvency of the Parent Borrower and its Subsidiaries (on a consolidated basis) on the Closing Date after giving effect to the Transaction, from the Parent Borrower's chief financial officer or other officer with equivalent duties;

(viii) if any Credit Extension is being made on the Closing Date, a Committed Loan Notice or Letter of Credit Application, as applicable, relating to such Credit Extension; and

(ix) if available in the relevant jurisdiction, good standing certificates or certificates of status, as applicable and bring down telegrams or facsimiles, for each Loan Party.

(b) All fees and expenses required to be paid hereunder or pursuant to the Fee Letter, to the extent invoiced at least three (3) Business Days prior to the Closing Date shall have been paid in full in cash or will be paid on the Closing Date out of the proceeds of the Escrow Property released to the Parent Borrower on the Closing Date.

(c) Prior to or substantially simultaneously with the release of the Escrow Property to the Parent Borrower on the Closing Date, (i) the Equity Contribution shall have been consummated, (ii) the Acquisition shall be consummated in all material respects in accordance with the terms of the Acquisition Agreement, without giving effect to any amendments, consents or waivers of the Acquisition Agreement by the Parent Borrower that are materially adverse to the Lenders or the Lead Arrangers, without the prior consent of the Lead Arrangers (such consent not to be unreasonably withheld, delayed or conditioned) (it being understood that any amendment to the definition of "Company Material Adverse Effect" is materially adverse to the interests of the Lenders and Lead Arrangers) and (iii) the Senior Secured Notes shall have been issued.

(d) The Lead Arrangers shall have received (i) the Audited Financial Statements, (ii) the Unaudited Financial Statements and (iii) the Pro Forma Financial Statements; provided that the filing of the required financial statements on Form 10-K and Form 10-Q with the SEC within the required time periods by BKW or THI will constitute receipt by the Lead Arrangers of the Audited Financial Statements and the Unaudited Financial Statements.

(e) Prior to or substantially simultaneously with the release of the Escrow Property to the Parent Borrower on the Closing Date, the Refinancing shall have been consummated.

(f) (i) The Specified Acquisition Agreement Representations shall be true and correct in all material respects on and as of the Closing Date and (ii) the Specified Representations shall be true and correct in all material respects on and as of the Closing Date; provided that, in each case, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(g) The Administrative Agent and the Lead Arrangers shall have received at least two (2) Business Days prior to the Closing Date all documentation and other information about the Borrowers and the Guarantors as has been reasonably requested in writing at least ten (10) Business Days prior to the Closing Date by the Administrative Agent and the Lead Arrangers that they reasonably determine is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act.

(h) The Acknowledgement of the Notes Intercreditor Agreement shall have been duly executed and delivered by each Loan Party party thereto, substantially in the form of Exhibit K, and shall be in full force and effect.

For purposes of determining whether the Closing Date has occurred, each Lender that has executed this Agreement shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or such Lender, as the case may be, unless such Lender has notified the Administrative Agent of any disagreement prior to the release of the Escrow Property to the Parent Borrower on the Closing Date.

Section 4.02 Conditions to Subsequent Credit Extensions. The obligation of each Lender to honor any Request for Credit Extension after the Closing Date (other than (x) a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurocurrency Rate Loans or (y) a Credit Extension of Incremental Term Loans in connection with a Limited Condition Acquisition) is subject to the following conditions precedent:

(a) The representations and warranties of the Borrowers and each other Loan Party contained in Article V or any other Loan Document shall be true and correct in all material respects on and as of the date of such Credit Extension; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that any representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(b) No Default shall exist, or would result from such proposed Credit Extension or from the application of the proceeds therefrom.

(c) The Administrative Agent and, if applicable, the relevant L/C Issuer or the Swing Line Lender shall have received a Request for Credit Extension in accordance with the requirements hereof.

Each Request for Credit Extension (other than (i) a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurocurrency Rate Loans or (ii) a Credit Extension of Incremental Term Loans in connection with a Limited Condition Acquisition) submitted by the Borrowers shall be deemed to be a representation and warranty that the applicable conditions specified in Sections 4.02(a) and, if applicable, (b) have been satisfied on and as of the date of the applicable Credit Extension.

Section 4.03. Conditions to Escrow Closing Date. The obligations of the Term B Lenders to make Term B Loans on the Escrow Closing Date and the effectiveness of the Commitments hereunder are subject to the following conditions:

(a) The Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each in form and substance reasonably satisfactory to the Administrative Agent and its legal counsel:

(i) executed counterparts of this Agreement from each of the parties listed on the signature pages hereto;

(ii) a Note executed by the Borrowers in favor of each Lender that has requested a Note at least five (5) Business Days in advance of the Escrow Closing Date;

(iii) an executed copy of the Escrow Agreement countersigned by each of the parties listed on the signature page thereto together with evidence satisfactory to the Administrative Agent that, substantially concurrently with the funding of the Term B Loans on the Escrow Closing Date, all amounts required to be deposited in the Escrow Account on the Escrow Closing Date pursuant to the terms thereof shall have been so deposited;

(iv) such certificates, copies of Organization Documents of Holdings and the Borrowers, resolutions or other action and incumbency certificates and/or other certificates of Responsible Officers of Holdings and the Borrowers as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which Holdings or the Borrowers is a party or is to be a party on the Escrow Closing Date;

(v) an opinion from each of (A) Kirkland & Ellis LLP, New York counsel to the Loan Parties and (B) Lawson Lundell LLP, British Columbia counsel to the Loan Parties;

(vi) a Committed Loan Notice, as applicable, relating to the initial Credit Extension; and

(vii) if available in the relevant jurisdiction, good standing certificates or certificates of status, as applicable and bring down telegrams or facsimiles, for each of Holdings and the Borrowers; and

(viii) a certificate of a Responsible Officer of the Parent Borrower stating that the Specified Representations with respect to Holdings and the Borrowers are true and correct as of the Escrow Closing Date.

(b) The Administrative Agent and the Lead Arrangers shall have received at least two (2) Business Days prior to the Escrow Closing Date all documentation and other information about Holdings and the Borrowers as has been reasonably requested in writing at least ten (10) Business Days prior to the Escrow Closing Date by the Administrative Agent and the Lead Arrangers that they reasonably determine is required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act.

For purposes of determining whether the Escrow Closing Date has occurred, each Lender that has executed this Agreement shall be deemed to have consented to, approved or accepted, or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or such Lender, as the case may be, unless such Lender has notified the Administrative Agent of any disagreement prior to the initial Credit Extensions hereunder.

ARTICLE V

Representations and Warranties

The Borrowers represent and warrant to the Agents and the Lenders that:

Section 5.01 Existence, Qualification and Power; Compliance with Laws. Each Loan Party and each other Restricted Subsidiary (a) is a Person duly incorporated, organized or formed, and validly existing and, where applicable, in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and, where applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, (d) is in compliance with all Laws (including the USA PATRIOT Act, anti-money laundering laws and OFAC), orders, writs, injunctions and orders and (e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; except in each case referred to in clause (a) (other than with respect to Holdings and the Borrowers), (b)(i), (c), (d) or (e), to the extent that failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.02 Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, and the consummation of the Transaction, (a) have been duly authorized by all necessary corporate or other organizational action and (b) do not and will not (i) contravene the terms of any of such Person’s Organization Documents, (ii) conflict with or result in any breach or contravention of, or require any payment to be made under (A) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (B) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject, (iii) result in the creation of any Lien (other than under the Loan Documents and Liens subject to the Notes Intercreditor Agreement) or (iv) violate any material Law; except (in the case of clauses (b)(ii) and (b)(iv)), to the extent that such conflict, breach, contravention, payment or violation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.03 Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance

by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, or for the consummation of the Transaction, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except for (i) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect and (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 5.04 Binding Effect. This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

Section 5.05 Financial Statements; No Material Adverse Effect.

(a) (i) The Audited Financial Statements and Unaudited Financial Statements fairly present in all material respects the consolidated financial condition of THI and BKW, as applicable, as of the dates thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, except as otherwise disclosed to the Administrative Agent prior to the Closing Date.

(ii) The unaudited pro forma consolidated balance sheet of the Parent Borrower and its Subsidiaries as at June 30, 2014 (including the notes thereto) (the “Pro Forma Balance Sheet”) and the unaudited pro forma consolidated statement of income of the Parent Borrower and its Subsidiaries for the six month period ending on June 30, 2014 (together with the Pro Forma Balance Sheet, the “Pro Forma Financial Statements”), copies of which have heretofore been furnished to the Administrative Agent, have been prepared giving effect (as if such events had occurred on such date or at the beginning of such periods, as the case may be) to the Transaction. The Pro Forma Financial Statements have been prepared in good faith, based on assumptions believed by the Parent Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the estimated financial position of the Parent Borrower and its Subsidiaries as at June 30, 2014 and their estimated results of operations for the periods covered thereby, assuming that the events specified in the preceding sentence had actually occurred at such date or at the beginning of the periods covered thereby.

(b) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.

Each Lender and the Administrative Agent hereby acknowledges and agrees that Holdings and its Subsidiaries may be required to restate historical financial statements as the result of the implementation of changes in GAAP or IFRS, or the respective interpretation thereof, and that such restatements will not result in a Default under the Loan Documents.

Section 5.06 Litigation. Except as set forth on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Parent Borrower, threatened in writing or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or

against the Parent Borrower or any Restricted Subsidiary or against any of their properties or revenues that either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07 Ownership of Property; Liens. Each Loan Party and each of its Subsidiaries has good and valid title to, or valid leasehold interests in, or easements or other limited property interests in, all property necessary in the ordinary conduct of its business, free and clear of all Liens except for minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes, Permitted Liens and any Liens and privileges arising mandatorily by Law and, in each case, except where the failure to have such title or other interest could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.08 Environmental Compliance. Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) there are no pending or, to the knowledge of the Parent Borrower, threatened claims, actions, suits, notices of violation, notices of potential responsibility or proceedings by or against the Parent Borrower or any Subsidiary alleging potential liability or responsibility for violation of, or otherwise relating to, any Environmental Law;

(b) (i) there is no asbestos or asbestos-containing material on any property currently owned or operated by any Loan Party or any other Subsidiary; and (ii) there has been no Release of Hazardous Materials by any of the Loan Parties or any other Subsidiary at, on, under or from any location in a manner which would reasonably be expected to give rise to liability under Environmental Laws;

(c) neither the Parent Borrower nor any of its Subsidiaries is undertaking, or has completed, either individually or together with other persons, any investigation or response action relating to any actual or threatened Release of Hazardous Materials at any location, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any Environmental Law;

(d) all Hazardous Materials transported from any property currently or, to the knowledge of the Parent Borrower or its Subsidiaries, formerly owned or operated by any Loan Party or any other Subsidiary for off-site disposal have been disposed of in compliance with all Environmental Laws;

(e) none of the Loan Parties nor any other Subsidiary has contractually assumed any liability or obligation under or relating to any Environmental Law; and

(f) the Loan Parties and each other Subsidiary and their respective businesses, operations and properties are and have been in compliance with all Environmental Laws.

Section 5.09 Taxes. The Parent Borrower and each Restricted Subsidiary have timely filed all federal, provincial, state, municipal, foreign and other Tax returns and reports required to be filed, and have timely paid all federal, provincial, state, municipal, foreign and other Taxes levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP and, except for failures to file or pay as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect. There are no Tax audits, deficiencies, assessments or other claims with respect to the Parent Borrower or any Restricted Subsidiary that could, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

Section 5.10 Compliance with ERISA.

(a) Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state Laws and applicable foreign laws, respectively.

(b) (i) No ERISA Event or similar event with respect to a Foreign Plan has occurred or is reasonably expected to occur; (ii) neither any Loan Party nor any ERISA Affiliate has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 *et seq.* or 4243 of ERISA with respect to a Multiemployer Plan; and (iii) neither any Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or 4212(c) of ERISA, except, with respect to each of the foregoing clauses of this Section 5.10, as could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.11 Subsidiaries; Equity Interests. As of the Closing Date, neither the Parent Borrower nor any other Loan Party has any Subsidiaries other than those specifically disclosed in Schedule 5.11, and all of the outstanding Equity Interests in the Parent Borrower and its Subsidiaries have been validly issued, are fully paid and, in the case of Equity Interests representing corporate interests, nonassessable and, on the Closing Date, all Equity Interests owned directly or indirectly by Holdings or any other Loan Party are owned free and clear of all Liens except (i) those created under the Collateral Documents, (ii) those Liens permitted under Sections 7.01(b), (o), (w) (solely with respect to modifications, replacements, renewals or extensions of Liens permitted by Sections 7.01(b) and (o)) and (ff) and (iii) any nonconsensual Lien that is permitted under Section 7.01. As of the Closing Date, Schedule 5.11 (a) sets forth the name and jurisdiction of organization or incorporation of each Subsidiary, (b) sets forth the ownership interest of Holdings, the Parent Borrower and any of their Subsidiaries in each of their Subsidiaries, including the percentage of such ownership and (c) identifies each Person the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

Section 5.12 Margin Regulations; Investment Company Act.

(a) No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Borrowings or drawings under any Letter of Credit will be used for any purpose that violates Regulation U or Regulation X of the FRB.

(b) None of the Parent Borrower, any Person Controlling the Parent Borrower or any Subsidiary is or is required to be registered as an “investment company” under the Investment Company Act of 1940, as amended.

Section 5.13 Disclosure. No report, financial statement, certificate or other written information furnished by or on behalf of any Loan Party to any Agent, any Lead Arranger or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) when taken as a whole contains when furnished any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under

which they were made, not materially misleading; provided that, with respect to projected financial information, the Borrowers represent only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results and that such variances may be material.

Section 5.14 Intellectual Property; Licenses, Etc. . Each of the Loan Parties and the other Restricted Subsidiaries own, license or possess the right to use, all of the trademarks, service marks, trade names, domain names, copyrights, patents, patent rights, technology, software, know-how database rights, design rights and other intellectual property rights (collectively, “ IP Rights ”) that are used in or reasonably necessary for the operation of their respective businesses as currently conducted, and, to the knowledge of the Parent Borrower, without violation of the rights of any Person, except to the extent such failures or violations, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any such IP Rights, is pending or, to the knowledge of the Parent Borrower, threatened against any Loan Party or Subsidiary, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.15 Solvency . On the Closing Date after giving effect to the Transaction, the Parent Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

Section 5.16 Collateral Documents . The Collateral Documents are effective to create in favor of the Collateral Agent for the benefit of the Secured Parties legal, valid and enforceable Liens on and security interests in, the Collateral described therein and to the extent intended to be created thereby, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity, and (i) when all appropriate filings or recordings are made in the appropriate offices as may be required under applicable Laws (which filings or recordings shall be made to the extent required by any Collateral Document) and (ii) upon the taking of possession or control by the Collateral Agent of such Collateral with respect to which a security interest may be perfected only by possession or control (which possession or control shall be given to the Collateral Agent to the extent required by any Collateral Document), the Liens created by such Collateral Documents will constitute so far as possible under relevant Law fully perfected first-priority Liens on, and security interests in, all right, title and interest of the Loan Parties in such Collateral, in each case subject to no Liens other than Permitted Liens.

Section 5.17 Use of Proceeds . The proceeds of the Term B Loans and the Revolving Credit Loans shall be used in a manner consistent with the uses set forth in the Preliminary Statements to this Agreement.

Section 5.18 Anti-Terrorism Laws; OFAC and Anti-Corruption Laws .

(a) Each of the Borrowers and their Subsidiaries is in compliance, in all material respects, with the Sanctions Laws and Regulations. No Borrowing or Letter of Credit, or use of proceeds, will violate or result in the violation of any Sanctions Laws and Regulations applicable to any party hereto.

(b) None of (I) the Borrowers or any other Loan Party and (II) the Restricted Subsidiaries that are not Loan Parties or, to the knowledge of the Parent Borrower, any director, manager, officer, agent or employee of the Borrowers or any of their Restricted Subsidiaries, in each case, is a Person (under the Control of a Person) on the list of “Specially Designated Nationals and Blocked Persons” or the target of the limitations or prohibitions under any other Sanctions Laws and Regulations.

(c) No part of the proceeds of any Loan will be used for any improper payments, directly or, to the knowledge of the Parent Borrower, indirectly, to any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, or any other party (if applicable) in order to obtain, retain or direct business or obtain any improper advantage, in material violation of the United States Foreign Corrupt Practices Act of 1977, as amended and any similar laws, rules or regulations issued, administered or enforced by any Governmental Authority having jurisdiction over any of the Borrowers.

Section 5.19 Senior Indebtedness. The Obligations constitute “Senior Indebtedness” (or similar term), “Guarantor Senior Debt” (or similar term) and “Designated Senior Indebtedness” (or similar term) of the Borrowers under their Subordinated Debt Documents (if any).

ARTICLE VI

Affirmative Covenants

From and after the Closing Date and for so long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding, the Parent Borrower shall, and shall (except in the case of the covenants set forth in Section 6.01, Section 6.02 and Section 6.03) cause each Restricted Subsidiary to:

Section 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) as soon as available, but in any event within ninety (90) days after the end of each fiscal year of the Parent Borrower, a consolidated balance sheet of the Parent Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, stockholders’ equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any “going concern” or like qualification or exception (other than with respect to, or resulting from, the regularly scheduled maturity of the Revolving Credit Commitments) or any qualification or exception as to the scope of such audit;

(b) as soon as available, but in any event, within forty-five (45) days after the end of each of the first three (3) fiscal quarters of each fiscal year of the Parent, a consolidated balance sheet of the Parent Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related (i) consolidated statements of income or operations for such fiscal quarter and for the portion of the fiscal year then ended and (ii) consolidated statements of cash flows for the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Parent Borrower as fairly presenting in all material respects the financial condition, results of operations, stockholders’ equity and cash flows of the Parent Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end adjustments and the absence of footnotes; and

(c) simultaneously with the delivery of each set of consolidated financial statements referred to in Section 6.01(a) and (b) above the related consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of the Parent Borrower and its Subsidiaries by furnishing (A) the applicable consolidated financial statements of any direct or indirect parent of the Parent Borrower that, directly or indirectly, holds all of the Equity Interests of the Borrower, (B) the Parent Borrower's (or any direct or indirect parent thereof, as applicable) Form 10-K or 10-Q, as applicable, filed with the SEC or (C) following an election by the Parent Borrower pursuant to the definition of "GAAP," the applicable financial statements determined in accordance with IFRS; provided that, with respect to each of clauses (A) and (B), (i) to the extent such information relates to a parent of the Parent Borrower, such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to the Parent Borrower (or such parent), on the one hand, and the information relating to the Parent Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand and (ii) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of an independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards.

Section 6.02 Certificates; Other Information . Deliver to the Administrative Agent for prompt further distribution to each Lender:

(a) no later than five (5) days after the delivery of the financial statements referred to in Section 6.01(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Parent Borrower;

(b) promptly after the same are publicly available, copies of all annual, regular, periodic and special reports and registration statements which the Parent Borrower files with the SEC or with any Governmental Authority that may be substituted therefor (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered), exhibits to any registration statement and, if applicable, any registration statement on Form S-8) and in any case not otherwise required to be delivered to the Administrative Agent pursuant hereto;

(c) promptly after the furnishing thereof, copies of any material requests or material notices received by any Loan Party or any of its Subsidiaries (other than in the ordinary course of business) that could reasonably be expected to result in a Material Adverse Effect;

(d) together with the delivery of the financial statements pursuant to Section 6.01(a) and each Compliance Certificate pursuant to Section 6.02(a), (i) a report setting forth the information required by Section 3.03 of the U.S. Security Agreement or confirming that there has been no change in such information since the Closing Date or the date of the last Compliance Certificate, (ii) a description of each event, condition or circumstance during the last fiscal quarter covered by such Compliance Certificate requiring a prepayment under Section 2.05(b), (iii) a list of Subsidiaries that identifies each Subsidiary as a Material Subsidiary or an Immaterial Subsidiary as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date or the date of the last such list and (iv) such other information required by the Compliance Certificate;

(e) no later than ninety (90) days (or, with respect to the first fiscal year ended after the Closing Date, one hundred twenty (120) days) following the first day of each fiscal year of the

Parent Borrower (commencing with the first day of the first fiscal year of the Parent Borrower ended after the Closing Date), an annual budget (on a quarterly basis) for such fiscal year in form customarily prepared by the Parent Borrower; and

(f) promptly, such additional information regarding the business, legal, financial or corporate affairs of any Loan Party or any Material Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) and (b), Section 6.02(a), or Section 6.02(c) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Parent Borrower posts such documents, or provides a link thereto on the Parent Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Parent Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that: (i) upon written request by the Administrative Agent, the Parent Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Parent Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Each Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

The Parent Borrower hereby acknowledges that (a) the Administrative Agent and/or the Lead Arranger will make available to the Lenders and the L/C Issuer materials and/or information provided by or on behalf of the Parent Borrower hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks or another similar electronic system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Parent Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. The Parent Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (w) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Parent Borrower shall be deemed to have authorized the Administrative Agent, the Lead Arrangers, the L/C Issuer and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Parent Borrower or its Affiliates or any of their respective securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.08); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Lead Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

Section 6.03 Notices. Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent for prompt further distribution to each Lender:

(a) of the occurrence of any Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Parent Borrower proposes to take with respect thereto;

(b) any litigation or governmental proceeding (including, without limitation, pursuant to any Environmental Laws) pending against the Parent Borrower or any of the Subsidiaries that could reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect; and

(c) of the occurrence of any ERISA Event or similar event with respect to a Foreign Plan that could reasonably be expected to have a Material Adverse Effect.

Section 6.04 Maintenance of Existence. (a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization or incorporation and (b) take all reasonable action to maintain all rights, privileges (including its good standing), permits, licenses and franchises necessary or desirable in the normal conduct of its business, except in the case of clauses (a) (other than with respect to the Parent Borrower) and (b), (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect or (ii) pursuant to a transaction permitted by Section 7.04 or Section 7.05.

Section 6.05 Maintenance of Properties. Except if the failure to do so could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted, and (b) make all necessary renewals, replacements, modifications, improvements, upgrades, extensions and additions thereof or thereto in accordance with prudent industry practice.

Section 6.06 Maintenance of Insurance. Maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Parent Borrower and its Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons. If any portion of any Mortgaged Property is at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the National Flood Insurance Act of 1968 (as now or hereafter in effect or successor act thereto), then, to the extent required by applicable Laws, the Parent Borrower shall, or shall cause each Loan Party to, (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws and (ii) deliver to the Administrative Agent evidence of such compliance in form reasonably acceptable to the Administrative Agent. Any such insurance (excluding business interruption insurance) maintained in the United States or Canada shall name the Collateral Agent as additional insured or loss payee, as applicable.

Section 6.07 Compliance with Laws. Comply in all respects with the requirements of all Laws and all orders, writs, injunctions, decrees and judgments applicable to it or to its business or property (including without limitation Environmental Laws, ERISA and Sanctions Laws and Regulations), except if the failure to comply therewith could not, individually or in the aggregate reasonably be expected to have a Material Adverse Effect.

Section 6.08 Books and Records. Maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Parent Borrower or such Subsidiary, as the case may be.

Section 6.09 Inspection Rights. Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties and to discuss its affairs, finances and accounts with its directors, managers, officers, and independent public accountants, all at the reasonable expense of the Parent Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Parent Borrower; provided that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 6.09 and the Administrative Agent shall not exercise such rights more often than two (2) times during any calendar year absent the existence of an Event of Default and only one (1) such time shall be at the Parent Borrower's expense; provided, further, that when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Parent Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders shall give the Parent Borrower the opportunity to participate in any discussions with the Parent Borrower's independent public accountants. Notwithstanding anything to the contrary in this Section 6.09, none of the Parent Borrower or any Restricted Subsidiary will be required to disclose or permit the inspection or discussion of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (iii) that is subject to attorney client or similar privilege or constitutes attorney work product.

Section 6.10 Covenant to Guarantee Obligations and Give Security. At the Parent Borrower's expense, take all action necessary or reasonably requested by the Administrative Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

(a) upon the formation or acquisition of any new direct or indirect Wholly-Owned Subsidiary (in each case, other than an Excluded Subsidiary) by any Loan Party, the designation in accordance with Section 6.13 of any existing direct or indirect Wholly-Owned Subsidiary as a Restricted Subsidiary or any Excluded Subsidiary ceasing to be an Excluded Subsidiary:

(i) within forty-five (45) days after such formation, acquisition, designation or occurrence or such longer period as the Administrative Agent may agree in its reasonable discretion:

(A) cause each such Restricted Subsidiary to furnish to the Administrative Agent a description of the Material Real Properties owned by such Restricted Subsidiary in detail reasonably satisfactory to the Administrative Agent;

(B) cause each such Restricted Subsidiary to duly execute and deliver to the Administrative Agent or the Collateral Agent (as appropriate) Mortgages, pledges, guarantees, assignments, Security Agreement Supplements and other security agreements and documents or joinders or supplements thereto (including without limitation, with respect to Mortgages, the documents listed in paragraph (f) of the definition of Collateral and Guarantee Requirement), as

reasonably requested by and in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent (consistent with the Mortgages, Security Agreement and other Collateral Documents in effect on the Closing Date), in each case granting Liens required by the Collateral and Guarantee Requirement;

(C) cause each such Restricted Subsidiary to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank and (if applicable) instruments evidencing the Indebtedness held by such Restricted Subsidiary and required to be pledged pursuant to the Collateral Documents, indorsed in blank to the Collateral Agent; and

(D) take and cause such Restricted Subsidiary and each direct or indirect parent of such Restricted Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to take whatever action (including the recording of Mortgages, the filing of financing statements and delivery of stock and membership interest certificates) may be necessary in the reasonable opinion of the Collateral Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid and perfected first priority Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law); and

(ii) as promptly as practicable after the request therefor by the Collateral Agent and to the extent in the Parent Borrower's possession, deliver to the Collateral Agent with respect to each Material Real Property, any existing title reports, title insurance policies and surveys or environmental assessment reports; and

(b) after the Closing Date, promptly after the acquisition of any Material Real Property by any Loan Party, if such Material Real Property shall not already be subject to a perfected first priority Lien (subject to Permitted Liens) under the Collateral Documents pursuant to the Collateral and Guarantee Requirement and is required to be, the Parent Borrower shall give notice thereof to the Administrative Agent and promptly thereafter shall cause such real property to be subjected to a Lien to the extent required by the Collateral and Guarantee Requirement and will take, or cause the relevant Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent or the Collateral Agent to grant and perfect or record such Lien, including, as applicable, the actions referred to in paragraph (f) of the definition of "Collateral and Guarantee Requirement" and shall, within forty-five (45) days after the request therefor by the Administrative Agent or the Collateral Agent (or such longer period as the Administrative Agent may agree in its reasonable discretion), deliver to the Administrative Agent and the Collateral Agent signed copies of opinions, addressed to the Administrative Agent, the Collateral Agent and the other Secured Parties regarding the due execution and delivery and enforceability of each such Mortgage, the corporate formation, existence and good standing of the applicable mortgagor, and such other matters as may be reasonably requested by the Administrative Agent or the Collateral Agent, and each such opinion shall be in form and substance reasonably acceptable to the Administrative Agent.

Section 6.11 Use of Proceeds. Use the proceeds of any Credit Extension, whether directly or indirectly, in a manner consistent with the uses set forth in the Preliminary Statements to this Agreement.

Section 6.12 Further Assurances and Post-Closing Covenants.

(a) Promptly upon reasonable request by the Administrative Agent or the Collateral Agent (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or the Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of this Agreement and the Collateral Documents;

(b) Within 90 days after the Closing Date (or such longer period as the Administrative Agent may agree in its sole discretion), the Parent Borrower shall cause each Material Real Property to be subjected to a first priority Lien (subject to Permitted Liens) to the extent required by the Collateral and Guarantee Requirement and will take, or cause the relevant Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent or the Collateral Agent to grant and perfect or record such Lien, including, as applicable, the actions referred to in paragraph (f) of the definition of "Collateral and Guarantee Requirement" and shall deliver to the Administrative Agent and the Collateral Agent signed copies of opinions, addressed to the Administrative Agent, the Collateral Agent and the other Secured Parties, of local counsel for the Loan Parties in each jurisdiction where a Mortgaged Property is located, regarding the due execution and delivery and enforceability of each such Mortgage, the corporate formation, existence and good standing of the applicable mortgagor, and such other matters as may be reasonably requested by the Administrative Agent or the Collateral Agent, and each such local counsel opinion shall be in form and substance reasonably acceptable to the Administrative Agent; and

(c) Within the time periods specified on Schedule 6.12 hereto (as each may be extended by the Administrative Agent in its reasonable discretion), complete such undertakings as are set forth on Schedule 6.12 hereto.

Section 6.13 Designation of Subsidiaries.

(a) Subject to Section 6.13(b) below, the Parent Borrower may at any time designate any Restricted Subsidiary (other than the Subsidiary Borrower) as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary. The designation of any Restricted Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Parent Borrower therein at the date of designation in an amount equal to the fair market value of the Parent Borrower's investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time.

(b) The Parent Borrower may not (x) designate any Restricted Subsidiary as an Unrestricted Subsidiary, or (y) designate an Unrestricted Subsidiary as a Restricted Subsidiary, in each case unless:

(i) no Default or Event of Default exists or would result therefrom; and

(ii) in the case of clause (x) only, (A) the Subsidiary to be so designated does not (directly, or indirectly through its Subsidiaries) own any Equity Interests or Indebtedness of, or

own or hold any Lien on any property of, the Parent Borrower or any Restricted Subsidiary, and (B) neither the Parent Borrower nor any Restricted Subsidiary shall at any time be directly or indirectly liable for any Indebtedness that provides that the holder thereof may (with the passage of time or notice or both) declare a default thereon or cause the payment thereof to be accelerated or payable prior to its stated maturity upon the occurrence of a default with respect to any Indebtedness, Lien or other obligation of any Unrestricted Subsidiary (including any right to take enforcement action against such Unrestricted Subsidiary).

Section 6.14 Payment of Taxes. The Parent Borrower will pay and discharge, and will cause each of the Restricted Subsidiaries to pay and discharge, all Taxes imposed upon it or upon its income or profits, or upon any properties belonging to it, in each case on a timely basis, and all lawful claims which, if unpaid, may reasonably be expected to become a lien or charge upon any properties of the Parent Borrower or any of the Restricted Subsidiaries not otherwise permitted under this Agreement; provided that neither the Parent Borrower nor any of the Restricted Subsidiaries shall be required to pay any such Tax or claim which is being contested in good faith and by proper proceedings if it has maintained adequate reserves with respect thereto in accordance with GAAP or which would not reasonably be expected, individually or in the aggregate, to constitute a Material Adverse Effect.

Section 6.15 Nature of Business. The Parent Borrower and its Restricted Subsidiaries will engage only in material lines of business substantially similar to those lines of business conducted by the Parent Borrower and its Restricted Subsidiaries on the Closing Date or any business reasonably related, complementary or ancillary thereto.

ARTICLE VII

Negative Covenants

In the case of Section 7.11, from the Escrow Closing Date until the earlier of the Closing Date and the date on which all Loans have been repaid and all Commitments have been terminated and, in the case of Section 7.01 through Section 7.10, from the Closing Date and so long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, or any Letter of Credit shall remain outstanding (other than Letters of Credit that have been Cash Collateralized or as to which other arrangements reasonably satisfactory to the Administrative Agent and the applicable L/C Issuer have been made), the Parent Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, directly or indirectly:

Section 7.01 Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

- (a) Liens pursuant to any Loan Document (and equal and ratable Liens securing the Ratably Secured Existing Notes);
- (b) Liens existing on the date hereof and set forth on Schedule 7.01(b);
- (c) Liens for taxes, assessments or governmental charges (i) which are not overdue for a period of more than thirty (30) days or (ii) which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP;

(d) statutory or common law Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens arising in the ordinary course of business (i) which secure amounts not overdue for a period of more than thirty (30) days or if more than thirty (30) days overdue, are unfiled (or if filed have been discharged or stayed) and no other action has been taken to enforce such Lien or (ii) which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP;

(e) (i) pledges, deposits or Liens arising as a matter of law in the ordinary course of business in connection with workers' compensation, payroll taxes, unemployment insurance and other social security legislation and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Parent Borrower or any Restricted Subsidiary;

(f) Liens to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

(g) easements, rights-of-way, restrictions, covenants, conditions, encroachments, protrusions and other similar encumbrances and minor title defects affecting real property which, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Parent Borrower or any Restricted Subsidiary and any exception on the Mortgage Policies issued in connection with the Mortgage Property;

(h) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);

(i) Liens securing Indebtedness permitted under Section 7.03(f); provided that (i) such Liens attach concurrently with or within two hundred and seventy (270) days after the acquisition, construction, repair, replacement or improvement (as applicable) of the property subject to such Liens, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, replacements thereof and additions and accessions to such property and the proceeds and the products thereof and customary security deposits, and (iii) with respect to Capitalized Leases, such Liens do not at any time extend to or cover any assets (except for additions and accessions to such assets, replacements and products thereof and customary security deposits) other than the assets subject to such Capitalized Leases; provided that individual financings of equipment provided by one lender may be cross-collateralized to other financings of equipment provided by such lender;

(j) leases, licenses, subleases or sublicenses and Liens on the property covered thereby, in each case, granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Parent Borrower or any Restricted Subsidiary, taken as a whole, or (ii) secure any Indebtedness;

(k) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;

(l) Liens (i) of a collection bank (including those arising under Section 4-210 of the Uniform Commercial Code) on the items in the course of collection and (ii) in favor of a banking or other financial institution arising as a matter of law encumbering deposits or other funds maintained with a financial institution (including the right of set off) and which are within the general parameters customary in the banking industry;

(m) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.02(j) or (n) to be applied against the purchase price for such Investment and (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 7.05, in each case, solely to the extent such Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

(n) Liens in favor of the Parent Borrower or a Restricted Subsidiary securing Indebtedness permitted under Section 7.03(e) (provided that, solely with respect to Indebtedness required to be Subordinated Debt under Section 7.03(e), such Lien shall be subordinated to the Liens on the Collateral securing the Obligations to the same extent);

(o) Liens existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 6.13), in each case after the date hereof; provided that (i) such Lien was not created in contemplation of such acquisition or such Person becoming a Restricted Subsidiary, (ii) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property subjected to a Lien securing Indebtedness and other obligations incurred prior to such time and which Indebtedness and other obligations are permitted hereunder that require, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition), and (iii) the Indebtedness secured thereby is permitted under Section 7.03(f) or (v);

(p) any interest or title of a lessor or sublessor under leases or subleases entered into by the Parent Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(q) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Parent Borrower or any of its Restricted Subsidiaries in the ordinary course of business;

(r) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other financial institutions not given in connection with the incurrence of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Parent Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Parent Borrower or its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Parent Borrower or any Restricted Subsidiary in the ordinary course of business;

(s) Liens arising from precautionary Uniform Commercial Code financing statement filings;

(t) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;

(u) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Parent Borrower or any Restricted Subsidiary;

(v) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit issued for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;

(w) the modification, replacement, renewal or extension of any Lien permitted by clauses (b), (i) and (o) of this Section 7.01; provided that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by Indebtedness permitted under Section 7.03, and (B) proceeds and products thereof; and (ii) the renewal, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 7.03;

(x) ground leases in respect of real property on which facilities owned or leased by the Parent Borrower or any of its Restricted Subsidiaries are located;

(y) Liens on property of a Non-Loan Party securing Indebtedness or other obligations of such Non-Loan Party;

(z) Liens solely on any cash earnest money deposits made by the Parent Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;

(aa) Liens securing Indebtedness permitted pursuant to Section 7.03(t); provided that such Liens may be either a Lien on the Collateral that is pari passu with the Lien securing the Obligations or a Lien ranking junior to the Lien on the Collateral securing the Obligations (but may not be secured by any assets that are not Collateral) and, in any such case, the beneficiaries thereof (or an agent on their behalf) shall have (i) become party to the Notes Intercreditor Agreement pursuant to the terms thereof or (ii) entered into a Customary Intercreditor Agreement with the Administrative Agent;

(bb) Liens securing Indebtedness permitted pursuant to Section 7.03(m);

(cc) other Liens securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed the greater of (x) \$350,000,000 and (y) 20.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period;

(dd) Liens securing Indebtedness permitted pursuant to Section 7.03(w) and (y); provided that such Liens may be either a Lien on the Collateral that is pari passu with the Lien securing the Obligations or a Lien ranking junior to the Lien on the Collateral securing the Obligations (but may not be secured by any assets that are not Collateral) and, in any such case, the beneficiaries thereof (or an agent on their behalf) shall have (i) become party to the Notes Intercreditor Agreement pursuant to the terms thereof or (ii) entered into a Customary Intercreditor Agreement with the Administrative Agent;

(ee) Liens securing Indebtedness permitted pursuant to Section 7.03(v); provided that, to the extent such Liens are on the Collateral, the beneficiaries thereof (or an agent on their behalf) shall have (i) become party to the Notes Intercreditor Agreement pursuant to the terms thereof or (ii) entered into a Customary Intercreditor Agreement with the Administrative Agent;

(ff) Liens on the Collateral securing Indebtedness permitted pursuant to Section 7.03(b); provided that, such Liens shall be junior to the Liens on the Collateral securing the Obligations on the terms set forth in the Notes Intercreditor Agreement or any replacement Customary Intercreditor Agreement that provides that the Liens securing such Indebtedness rank junior to the Liens securing the Obligations and is entered into in connection with a Permitted Refinancing of such Indebtedness;

(gg) with respect to any Foreign Subsidiary, other Liens and privileges arising mandatorily by Law;

(hh) Liens on receivables and related assets arising in connection with a Permitted Receivables Financing;

(ii) Liens on the Collateral securing Indebtedness permitted by Section 7.03(r); provided that such Liens shall rank junior to the Liens on the Collateral securing the Obligations and the beneficiaries thereof (or an agent on their behalf) shall have (i) become party to the Notes Intercreditor Agreement pursuant to the terms thereof or (ii) entered into a Customary Intercreditor Agreement that provides that the Liens securing such Indebtedness rank junior to the Liens securing the Obligations with the Administrative Agent; and

(jj) Liens on the Equity Interests of JV Entities securing financing arrangements for the benefit of the applicable JV Entity that are not otherwise prohibited under this Agreement.

Section 7.02 Investments. Make any Investments, except:

(a) Investments by the Parent Borrower or a Restricted Subsidiary in assets that were Cash Equivalents when such Investment was made;

(b) loans or advances to officers, directors, managers, partners and employees of Holdings (or any direct or indirect parent thereof), any Intermediate Holding Company, the Parent Borrower or its Restricted Subsidiaries (i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes, (ii) in connection with such Person's purchase of Equity Interests of Holdings (or any direct or indirect parent thereof or any Intermediate Holding Company or the Parent Borrower) (provided that the proceeds of any such loans and advances shall be contributed to the Parent Borrower in cash as common equity) and (iii) for purposes not described in the foregoing clauses (i) and (ii), in an aggregate principal amount outstanding not to exceed \$35,000,000;

(c) asset purchases (including purchases of inventory, supplies and materials) and the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons, in each case in the ordinary course of business;

(d) Investments (i) by any Loan Party in any other Loan Party (other than Holdings), (ii) by any Non-Loan Party in any Loan Party (other than Holdings), (iii) by any Non-Loan Party in any other Non-Loan Party and (iv) by any Loan Party in any Non-Loan Party; provided that the aggregate amount of such Investments in Non-Loan Parties pursuant to clause (iv) (other than in the ordinary course of business) shall not exceed in an aggregate amount, as valued at cost at the time each such Investment is made and including all related commitments for future Investments, (A) the greater of (x) \$350,000,000 and (y) 20.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period (excluding any Investments received in respect of, or consisting of, the transfer or contribution of Equity Interests in or Indebtedness of any

Foreign Subsidiary that is not organized in a Covered Jurisdiction to any other Foreign Subsidiary that is not organized in a Covered Jurisdiction), plus (B) an amount equal to any returns of capital or sale proceeds actually received in cash in respect of any such Investments (which amount shall not exceed the amount of such Investment valued at cost at the time such Investment was made); provided that any such amounts under this clause (B) shall not increase the Available Amount, it being understood that any returns of capital or sale proceeds actually received in cash in respect of any such Investments in excess of the amount of such Investment valued at cost at the time such Investment was made shall increase the Available Amount (to the extent such excess amount of returns or proceeds would otherwise increase the Available Amount pursuant to the definition thereof);

(e) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the ordinary course of business;

(f) Investments consisting of Liens, Indebtedness, fundamental changes, Dispositions and Restricted Payments permitted under Section 7.01, Section 7.03, Section 7.04, Section 7.05 and Section 7.06, respectively;

(g) Investments consisting of any modification, replacement, renewal, reinvestment or extension of any Investment existing on the date hereof; provided that the amount of any Investment permitted pursuant to this Section 7.02(g) is not increased from the amount of such Investment on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by this Section 7.02;

(h) Investments in Swap Contracts permitted under Section 7.03(g);

(i) promissory notes and other noncash consideration received in connection with Dispositions permitted by Section 7.05;

(j) the purchase or other acquisition of property and assets or businesses of any Person or of assets constituting a business unit, a line of business or division of such Person, or Equity Interests in a Person that, upon the consummation thereof, will be a Restricted Subsidiary of the Parent Borrower (including as a result of a merger or consolidation) (each, a “Permitted Acquisition”); provided that (i) except in the case of a Limited Condition Acquisition (in which case, compliance with this clause (i) shall be determined in accordance with Section 1.09(a)), immediately before and immediately after giving Pro Forma Effect to any such purchase or other acquisition, no Default or Event of Default shall have occurred and be continuing, (ii) after giving effect to any such purchase or other acquisition, the Parent Borrower shall be in compliance with the covenant in Section 6.15 and (iii) to the extent required by the Collateral and Guarantee Requirement, (A) the property, assets and businesses acquired in such purchase or other acquisition shall become Collateral and (B) any such newly created or acquired Restricted Subsidiary (other than an Excluded Subsidiary) shall become Guarantors, in each case in accordance with Section 6.10;

(k) the Transaction;

(l) Investments in the ordinary course of business consisting of endorsements for collection or deposit and customary trade arrangements with customers consistent with past practices;

(m) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers, customers and Franchisees or in settlement of delinquent obligations of, or other disputes with, customers, suppliers and Franchisees arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;

(n) Investments as valued at cost at the time each such Investment is made and including all related commitments for future Investments, in an amount not exceeding the Available Amount, provided that at the time of any such Investment, no Event of Default shall have occurred and be continuing or would result therefrom;

(o) advances of payroll payments to employees in the ordinary course of business;

(p) loans and advances to any direct or indirect parent of the Parent Borrower in lieu of, and not in excess of the amount of (after giving effect to any other such loans or advances or Restricted Payments in respect thereof), Restricted Payments to the extent permitted to be made to such direct or indirect parent in accordance with Section 7.06; provided that any such loan or advance shall reduce the amount of such applicable Restricted Payment thereafter permitted under Section 7.06 by a corresponding amount (if such applicable provision of Section 7.06 contains a maximum amount);

(q) Investments held by a Restricted Subsidiary acquired after the Closing Date or of a corporation or company merged into the Parent Borrower or merged or consolidated with a Restricted Subsidiary in accordance with Section 7.04 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;

(r) Guarantee Obligations of the Parent Borrower or any Restricted Subsidiary in respect of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;

(s) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests (other than any Cure Amount);

(t) other Investments in an aggregate amount, as valued at cost at the time each such Investment is made and including all related commitments for future Investments, not exceeding (i) the greater of (x) \$350,000,000 and (y) 20.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period, plus (ii) an amount equal to any returns of capital or sale proceeds actually received in cash in respect of any such Investments (which amount shall not exceed the amount of such Investment valued at cost at the time such Investment was made); provided that any such amounts under this clause (ii) shall not increase the Available Amount, it being understood that any returns of capital or sale proceeds actually received in cash in respect of any such Investments in excess of the amount of such Investment valued at cost at the time such Investment was made shall increase the Available Amount (to the extent such excess amount of returns or proceeds would otherwise increase the Available Amount pursuant to the definition thereof);

(u) Investments in JV Entities and Unrestricted Subsidiaries in an aggregate amount, as valued at cost at the time each such Investment is made and including all related commitments for future Investments, not exceeding (i) the greater of (x) \$350,000,000 and (y) 20.0% of

Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period, plus (ii) an amount equal to any returns of capital or sale proceeds actually received in cash in respect of any such Investments (which amount shall not exceed the amount of such Investment valued at cost at the time such Investment was made); provided that any such amounts under this clause (ii) shall not increase the Available Amount, it being understood that that any returns of capital or sale proceeds actually received in cash in respect of any such Investments in excess of the amount of such Investment valued at cost at the time such Investment was made shall increase the Available Amount (to the extent such excess amount of returns or proceeds would otherwise increase the Available Amount pursuant to the definition thereof);

(v) Investments in connection with a Permitted Receivables Financing;

(w) contributions to a “rabbi” trust for the benefit of employees or other grantor trust subject to claims of creditors in the case of a bankruptcy of the Parent Borrower;

(x) Investments by an Unrestricted Subsidiary entered into prior to the day such Unrestricted Subsidiary is redesignated as a Restricted Subsidiary pursuant to the definition of “Unrestricted Subsidiary”; provided that such Investments were not incurred in contemplation of such redesignation;

(y) Investments consisting of Guarantee Obligations with respect to, or the assumption of Indebtedness (to the extent permitted by Section 7.03) of, or loans made to, or the acquisition of loans made to or Equity Interests in, Franchisees, suppliers, distributors or licensees of the Parent Borrower and its Restricted Subsidiaries in an aggregate amount not to exceed \$500,000,000 at any time outstanding;

(z) other Investments; provided that, at the time of such Investment, (i) no Default or Event of Default has occurred and is continuing and (ii) the Total Leverage Ratio of the Parent Borrower as of the end of the most recently ended Test Period, on a Pro Forma Basis, would be no greater than 4.75:1.00;

(aa) Investments existing on the Closing Date and set forth on Schedule 7.02 and any modification, replacement, renewal, reinvestment or extension thereof; provided that the amount of any Investment permitted pursuant to this Section 7.02(aa) is not increased from the amount of such Investment on the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by this Section 7.02; and

(bb) transactions entered into in order to consummate a Permitted Tax Restructuring.

Section 7.03 Indebtedness. Create, incur, assume or suffer to exist any Indebtedness, except:

(a) Indebtedness of the Parent Borrower and any of its Subsidiaries under the Loan Documents;

(b) Indebtedness of the Borrowers in respect of the Senior Secured Notes (and Guarantees thereof by the Guarantors) in an aggregate principal amount not to exceed \$2,250,000,000 and any Permitted Refinancing thereof;

(c) (i) Indebtedness of the Parent Borrower and any of its Restricted Subsidiaries in respect of any Ratably Secured Existing Notes, (ii) Surviving Indebtedness listed on Schedule 7.03(c) and (iii) any Permitted Refinancing of any of the foregoing;

(d) Guarantee Obligations of the Parent Borrower and its Restricted Subsidiaries in respect of Indebtedness of the Parent Borrower or any Restricted Subsidiary otherwise permitted hereunder (except that an Immaterial Subsidiary may not, by virtue of this Section 7.03(d), guarantee Indebtedness that such Immaterial Subsidiary could not otherwise incur under this Section 7.03); provided that, if the Indebtedness being guaranteed is subordinated to the Obligations, such Guarantee Obligation shall be subordinated to the Guarantee of the Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;

(e) Indebtedness of the Parent Borrower or any Restricted Subsidiary owing to the Parent Borrower or any other Restricted Subsidiary to the extent constituting an Investment permitted by Section 7.02; provided that all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subject to the subordination terms set forth in Section 3.01 of the Guaranty;

(f) (i) Attributable Indebtedness and other Indebtedness (including Capitalized Leases) financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets (provided that such Indebtedness is incurred concurrently with or within two hundred seventy (270) days after the applicable acquisition, construction, repair, replacement or improvement), (ii) Attributable Indebtedness arising out of Permitted Sale Leasebacks in an aggregate principal amount not to exceed at any one time outstanding the greater of (x) \$100,000,000 and (y) 6.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period and (iii) any Permitted Refinancing of any Indebtedness set forth in the immediately preceding clauses (i) and (ii); provided that the aggregate principal amount of Indebtedness (including without limitation Attributable Indebtedness, but excluding Attributable Indebtedness incurred pursuant to clause (ii)) under this Section 7.03(f) does not exceed the greater of (x) \$350,000,000 and (y) 20.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period;

(g) Indebtedness in respect of Swap Contracts (i) entered into to hedge or mitigate risks to which the Parent Borrower or any Subsidiary has actual or anticipated exposure (other than those in respect of shares of capital stock or other equity ownership interests of the Parent Borrower or any Subsidiary), (ii) entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Parent Borrower or any Subsidiary and (iii) entered into to hedge commodities, currencies, general economic conditions, raw materials prices, revenue streams or business performance;

(h) Guarantee Obligations with respect to, or the assumption of, Indebtedness of Franchisees, suppliers, distributors or licensees of the Parent Borrower and its Restricted Subsidiaries, in each case to the extent permitted by Section 7.02(v);

(i) Indebtedness representing deferred compensation to employees of the Parent Borrower (or any direct or indirect parent of the Parent Borrower) and its Restricted Subsidiaries incurred in the ordinary course of business;

(j) Indebtedness to current or former officers, directors, partners, managers, consultants and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of Holdings (or any direct or indirect parent thereof) permitted by Section 7.06 in an aggregate amount not to exceed \$20,000,000 at any one time outstanding;

(k) Indebtedness incurred by the Parent Borrower or any of its Restricted Subsidiaries in a Permitted Acquisition, any other Investment expressly permitted hereunder or any Disposition, in each case to the extent constituting indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar adjustments;

(l) Indebtedness consisting of obligations of the Parent Borrower or any of its Restricted Subsidiaries under deferred compensation or other similar arrangements incurred by such Person in connection with the Transaction and Permitted Acquisitions or any other Investment expressly permitted hereunder;

(m) Cash Management Obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in each case incurred in the ordinary course;

(n) Indebtedness consisting of (a) the financing of insurance premiums or (b) take or pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(o) Indebtedness incurred by the Parent Borrower or any of its Restricted Subsidiaries in respect of letters of credit, bank guarantees, bankers' acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business, including in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;

(p) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Parent Borrower or any of its Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business or consistent with past practice;

(q) Indebtedness supported by a Letter of Credit in a principal amount not to exceed the face amount of such Letter of Credit;

(r) (i) other unsecured or junior lien Indebtedness of the Parent Borrower or any Restricted Subsidiary in an aggregate amount not to exceed (A) \$1,000,000,000 at the time of any incurrence pursuant to this clause (A) (when aggregated with the amount of Permitted Refinancings in respect of Indebtedness originally incurred pursuant to this clause (A) that are consummated in reliance on Section 7.03(r)(ii) below) plus (B) unlimited additional unsecured or junior lien Indebtedness, so long as either (x) the Total Leverage Ratio (calculated on a Pro Forma Basis) as of the end of the most recent Test Period is not greater than 7.00:1.00 or (y) the Fixed Charge Coverage Ratio (calculated on a Pro Forma Basis) for the end of the most recent Test Period is not less than 2.00:1.00; provided further that, in the case of any Indebtedness incurred under this clause (r), (1) such Indebtedness shall not mature prior to the date that is 91 days after the Maturity Date of the Term B Loans or have a Weighted Average Life to Maturity

less than the Weighted Average Life to Maturity of the Term B Loans plus 91 days, (2) such Indebtedness shall not have mandatory prepayment, redemption or offer to purchase events more onerous than those applicable to the Term B Loans, (3) the other terms and conditions of such Indebtedness (excluding pricing and optional prepayment or redemption terms) reflect market terms and conditions at the time of incurrence or issuance of such Indebtedness and (4) the maximum aggregate principal amount of Indebtedness that may be incurred pursuant to this clause (r) and Section 7.03(v) by Non-Loan Parties shall not exceed the greater of (x) \$400,000,000 and (y) 25.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period at any one time outstanding and (ii) any Permitted Refinancing thereof;

(s) Indebtedness incurred by a Non-Loan Party, and guarantees thereof by Non-Loan Party, in an aggregate principal amount not to exceed (A) \$600,000,000 at any one time outstanding plus (B) additional Indebtedness incurred from time to time pursuant to asset based revolving facilities provided by commercial banks or similar financial institutions; provided that (1) such Indebtedness is secured by Liens on the current assets of Restricted Subsidiaries that are not Loan Parties (and not on the Collateral), (2) Loan Parties shall not Guarantee such Indebtedness unless such Guarantee would otherwise be permitted under Section 7.02, and (3) borrowings under such asset based revolving facilities shall be subject to a borrowing base or similar advance rate criteria;

(t) (i) Indebtedness (in the form of senior secured, senior unsecured, senior subordinated, or subordinated notes or loans) incurred by the Borrowers to the extent that the Borrowers shall have been permitted to incur such Indebtedness pursuant to, and such Indebtedness shall be deemed to be incurred in reliance on, Section 2.14; provided that (A) such Indebtedness shall not mature earlier than the Maturity Date applicable to the Term B Loans, (B) as of the date of the incurrence of such Indebtedness, the Weighted Average Life to Maturity of such Indebtedness shall not be shorter than that of the Term B Loans, (C) no Restricted Subsidiary is a borrower or guarantor with respect to such Indebtedness unless such Restricted Subsidiary is a Subsidiary Guarantor which shall have previously or substantially concurrently guaranteed the Obligations, (D) the other terms and conditions of such Indebtedness (excluding pricing and optional prepayment or redemption terms) reflect market terms on the date of issuance, (E) if such Indebtedness is in the form of a term loan facility of the Loan Parties and is secured by a Lien on the Collateral that is pari passu with the Lien securing the Obligations, the terms set forth in the proviso to Section 2.14(b)(ii) shall have been complied with as if such Indebtedness was considered an Incremental Term Loan and (F) the Parent Borrower has delivered to the Administrative Agent a certificate of a Responsible Officer of the Parent Borrower, together with all relevant financial information reasonably requested by the Administrative Agent, including reasonably detailed calculations demonstrating compliance with clauses (A), (B), (C), (D), and (E) (such Indebtedness incurred pursuant to this clause (t) being referred to as “Permitted Alternative Incremental Facilities Debt”) and (ii) any Permitted Refinancing thereof;

(u) additional Indebtedness in an aggregate principal amount not to exceed the greater of (x) \$500,000,000 and (y) 30.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period at any one time outstanding;

(v) Indebtedness incurred to finance or assumed in connection with a Permitted Acquisition, provided that (i) after giving Pro Forma Effect to such Permitted Acquisition and such Indebtedness, the Total Leverage Ratio (calculated on a Pro Forma Basis) as of the most recent Test Period is either (x) not greater than 7.00:1.00 or (y) not greater than the Total

Leverage Ratio immediately prior to the consummation of such Permitted Acquisition and the incurrence or assumption of such Indebtedness, (ii) if such Indebtedness is secured by a Lien on the Collateral that is pari passu with the Lien securing the Obligations, (A) after giving Pro Forma Effect to such Permitted Acquisition and such secured Indebtedness, the First Lien Senior Secured Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period is either (x) not greater than 4.00:1.00 or (y) not greater than the First Lien Senior Secured Leverage Ratio immediately prior to the consummation of such Permitted Acquisition and the incurrence or assumption of such Indebtedness and (B) if such Indebtedness is a term loan facility of the Loan Parties, the Parent Borrower shall have been permitted to incur such Indebtedness pursuant to, and such Indebtedness shall be deemed to be incurred in reliance on, Section 2.14, and the terms set forth in the proviso to Section 2.14(b)(ii) shall have been complied with as if such Indebtedness was considered an Incremental Term Loan (such Indebtedness incurred pursuant to this clause (B) being referred to as “Permitted Credit Facilities Acquisition Debt”) and (iii) the maximum aggregate principal amount of Indebtedness that may be incurred pursuant to this clause (v) and Section 7.03(r) by Non-Loan Parties shall not exceed the greater of (x) \$400,000,000 and (y) 25.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period at any one time outstanding;

(w) (i) Indebtedness (in the form of senior secured, senior unsecured, senior subordinated, or subordinated notes or loans) incurred by a Borrower to the extent that 100% of the Net Cash Proceeds therefrom are, immediately after the receipt thereof, applied solely to the prepayment of Term Loans in accordance with Section 2.05(b)(iii); provided that (A) such Indebtedness shall not mature earlier than the Maturity Date with respect to the relevant Term Loans being refinanced, (B) as of the date of the incurrence of such Indebtedness, the Weighted Average Life to Maturity of such Indebtedness shall not be shorter than that of then-remaining Term Loans being refinanced, (C) no Restricted Subsidiary is a borrower or guarantor with respect to such Indebtedness unless such Restricted Subsidiary is a Subsidiary Guarantor which shall have previously or substantially concurrently guaranteed the Obligations, (D) the terms and conditions of such Indebtedness (excluding pricing and optional prepayment or redemption terms or covenants or other provisions applicable only to periods after the maturity date of the Term Loans being refinanced) reflect market terms and conditions on the date of issuance and such Indebtedness shall not participate in mandatory prepayments on a greater than pro rata basis with the Term Loans and (E) the Parent Borrower has delivered to the Administrative Agent a certificate of a Responsible Officer of the Parent Borrower, together with all relevant financial information reasonably requested by the Administrative Agent, including reasonably detailed calculations demonstrating compliance with clauses (A), (B), (C) and (D) and (ii) any Permitted Refinancing thereof;

(x) Indebtedness with respect to any Permitted Receivables Financing;

(y) Indebtedness in respect of Permitted Debt Exchange Notes incurred pursuant to a Permitted Debt Exchange in accordance with Section 2.17 and any Permitted Refinancing thereof; and

(z) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (y) above.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Indebtedness described in clauses (a) through (z) above, the Parent Borrower shall, in its sole discretion, classify and reclassify or later

divide, classify or reclassify such item of Indebtedness (or any portion thereof) and will only be required to include the amount and type of such Indebtedness in one or more of the above clauses; provided that all Indebtedness outstanding under the Loan Documents will be deemed to have been incurred in reliance only on the exception in clause (a) of this Section 7.03 and the Senior Secured Notes will be deemed to have been incurred in reliance only on the exception set forth in clause (c) of this Section 7.03.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03.

Section 7.04 Fundamental Changes. Merge, amalgamate, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that:

(a) any Restricted Subsidiary may merge or amalgamate with (i) the Parent Borrower (including a merger or amalgamation the purpose of which is to reorganize the Parent Borrower in a new province within Canada or the conversion from one form or legal entity into another) (provided that the resulting entity shall succeed as a matter of law to all of the Obligations of the Parent Borrower), or (ii) any one or more other Restricted Subsidiaries (provided that when any Restricted Subsidiary that is a Loan Party is merging or amalgamating with another Restricted Subsidiary, a Loan Party shall be a continuing or surviving Person, as applicable, or the resulting entity shall succeed as a matter of law to all of the Obligations of such Loan Party; provided, further, that the Subsidiary Borrower shall not be merged or amalgamated with any Person unless the surviving Person is the Subsidiary Borrower or a Restricted Subsidiary (other than a Foreign Subsidiary) that is a Loan Party that becomes the Subsidiary Borrower pursuant to customary documentation) and (iii) in order to consummate a Permitted Tax Restructuring;

(b) (i) any Restricted Subsidiary that is not a Loan Party may merge, amalgamate or consolidate with or into any other Restricted Subsidiary that is not a Loan Party, (ii) (A) any Restricted Subsidiary may liquidate, dissolve or wind up, or (B) any Restricted Subsidiary may change its legal form, in each case, if the Parent Borrower determines in good faith that such action is in the best interests of the Parent Borrower and its Subsidiaries and is not materially disadvantageous to the Lenders and (iii) either Borrower may change its legal form if it determines in good faith that such action is in the best interests of the Parent Borrower and its Subsidiaries, and the Administrative Agent reasonably determines it is not disadvantageous to the Lenders;

(c) any Restricted Subsidiary (other than the Subsidiary Borrower) may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to another Restricted Subsidiary; provided that if the transferor in such a transaction is a Loan Party, then either (i) the transferee must be a Loan Party or (ii) to the extent constituting an Investment, such Investment must be a permitted Investment in or Indebtedness of a Restricted Subsidiary that is not a Loan Party in accordance with Section 7.02 and Section 7.03, respectively;

(d) so long as no Default exists or would result therefrom, each Borrower may merge or amalgamate with any other Person; provided that such Borrower shall be a continuing or surviving corporation;

(e) so long as no Default exists or would result therefrom, any Restricted Subsidiary may merge or amalgamate with any other Person in order to effect an Investment permitted pursuant to Section 7.02; provided that the continuing or surviving Person shall be a Restricted Subsidiary, which together with each of its Restricted Subsidiaries, shall have complied with the requirements of Section 6.10; provided, that the Subsidiary Borrower shall not be merged or amalgamated with any Person unless the surviving Person is the Subsidiary Borrower or a Restricted Subsidiary (other than a Foreign Subsidiary) that is a Loan Party that becomes the Subsidiary Borrower pursuant to customary documentation;

(f) the Acquisition may be consummated; and

(g) so long as no Default exists or would result therefrom, a merger, amalgamation, dissolution, winding up, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05, may be effected.

Section 7.05 Dispositions. Make any Disposition, except:

(a) Dispositions of obsolete, worn out or surplus property, whether now owned or hereafter acquired, in the ordinary course of business and Dispositions of property no longer used or useful in the conduct of the business of the Parent Borrower and its Restricted Subsidiaries;

(b) Dispositions of inventory and immaterial assets in the ordinary course of business (including allowing any registrations or any applications for registration of any immaterial IP Rights to lapse or go abandoned in the ordinary course of business);

(c) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased);

(d) Dispositions of property to the Parent Borrower or a Restricted Subsidiary; provided that if the transferor of such property is a Loan Party (i) the transferee thereof must be a Loan Party, (ii) to the extent such transaction constitutes an Investment, such transaction is permitted under Section 7.02, (iii) such Disposition shall consist of the transfer of Equity Interests in or Indebtedness of any Foreign Subsidiary to any other Foreign Subsidiary, or (iv) such Disposition is of property not related to a Covered Jurisdiction;

(e) Dispositions permitted by Section 7.02, Section 7.04 and Section 7.06 and Liens permitted by Section 7.01;

(f) Dispositions in the ordinary course of business of Cash Equivalents;

(g) leases, subleases, licenses or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Parent Borrower and its Restricted Subsidiaries, taken as a whole;

(h) transfers of property subject to Casualty Events;

(i) Dispositions of Investments in JV Entities or non-Wholly-Owned Restricted Subsidiaries; provided that no Dispositions may be made pursuant to this Section 7.05(i) to the extent such JV Entity or non-Wholly-Owned Restricted Subsidiary was, prior to a previous

Disposition of Equity Interests in such JV Entity or non-Wholly-Owned Restricted Subsidiary made pursuant to another provision of this Section 7.05, a Wholly-Owned Restricted Subsidiary, and such Dispositions pursuant to such other provision of this Section 7.05 and this Section 7.05(i) were part of a single Disposition or series of related Dispositions, other than to the extent required by, or made pursuant to, customary buy/sell arrangements between the parties to such JV Entity or shareholders of such non-Wholly-Owned Restricted Subsidiary set forth in the shareholders agreements, joint venture agreements, organizational documents or similar binding agreements relating to such JV Entity or non-Wholly-Owned Restricted Subsidiary (any such arrangement, a “Buy/Sell Arrangement”) (provided that the Net Cash Proceeds of any Dispositions required by, or made pursuant to, any Buy/Sell Arrangement and not otherwise permitted by this Section 7.05(i) shall be subject to the requirements of Section 2.05(b)(ii));

(j) Dispositions of accounts receivable in the ordinary course of business in connection with the collection or compromise thereof;

(k) the unwinding of any Swap Contract pursuant to its terms;

(l) Permitted Sale Leasebacks;

(m) Dispositions not otherwise permitted pursuant to this Section 7.05; provided that (i) such Disposition shall be for fair market value as reasonably determined by the Parent Borrower in good faith, (ii) if after giving Pro Forma Effect to such Disposition, the First Lien Senior Secured Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period is greater than 3.50:1.00, with respect to any Disposition pursuant to this clause (m) for a purchase price in excess of \$75,000,000, the Parent Borrower or any of its Restricted Subsidiaries shall receive not less than 75.0% of such consideration in the form of cash or Cash Equivalents (provided, however, that for the purposes of this clause (m)(ii), the following shall be deemed to be cash: (A) the assumption by the transferee of Indebtedness or other liabilities contingent or otherwise of the Parent Borrower or any of its Restricted Subsidiaries (other than Subordinated Debt) and the valid release of the Parent Borrower or such Restricted Subsidiary, by all applicable creditors in writing, from all liability on such Indebtedness or other liability in connection with such Disposition, (B) securities, notes or other obligations received by the Parent Borrower or any of its Restricted Subsidiaries from the transferee that are converted by such Parent Borrower or any of its Restricted Subsidiaries into cash or Cash Equivalents within 180 days following the closing of such Disposition, (C) Indebtedness (other than Subordinated Debt) of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Disposition, to the extent that the Parent Borrower and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Disposition and (D) aggregate non-cash consideration received by the Parent Borrower and its Restricted Subsidiaries for all Dispositions under this clause (m) and Section 7.05(t) having an aggregate fair market value (determined as of the closing of the applicable Disposition for which such non-cash consideration is received) not to exceed the greater of (x) \$250,000,000 and (y) 15.0% of Consolidated EBITDA of the Parent Borrower for the most recently ended Test Period at any time outstanding (net of any non-cash consideration converted into cash and Cash Equivalents received in respect of any such non-cash consideration)), (iii) the Parent Borrower or the applicable Restricted Subsidiary complies with the applicable provisions of Section 2.05 and (iv) all such Dispositions made under this Section 7.05(m) do not to exceed in the aggregate 35.0% of Total Assets of the Parent Borrower as of the last day of the Test Period then most recently ended;

(n) the Parent Borrower and its Restricted Subsidiaries may surrender or waive contractual rights and settle or waive contractual or litigation claims in the ordinary course of business;

(o) Dispositions of non-core or obsolete assets acquired in connection with Permitted Acquisitions;

(p) any swap of assets in exchange for services or other assets in the ordinary course of business of comparable or greater fair market value of usefulness to the business of the Parent Borrower and its Restricted Subsidiaries as a whole, as determined in good faith by the Parent Borrower;

(q) any sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(r) Specified Dispositions and transactions entered into to consummate a Permitted Tax Restructuring;

(s) Dispositions for Cash Equivalents (other than in connection with the capitalization of any special purpose entity used to effect any such Permitted Receivables Financing) of accounts receivable in connection with any Permitted Receivables Financing;

(t) Dispositions of real property; provided that (i) any such Disposition for a purchase price in excess of \$50,000,000 shall be for fair market value as reasonably determined by the Parent Borrower in good faith, (ii) if after giving Pro Forma Effect to such Disposition, the First Lien Senior Secured Leverage Ratio (calculated on a Pro Forma Basis) as of the last day of the most recently ended Test Period is greater than 3.50:1.00, with respect to any Disposition pursuant to this clause (t)(ii) for a purchase price in excess of \$75,000,000, the Parent Borrower or any of its Restricted Subsidiaries shall receive not less than 75.0% of such consideration in the form of cash or Cash Equivalents (provided, however, that for the purposes of this clause (t)(ii), the following shall be deemed to be cash: (A) the assumption by the transferee of Indebtedness or other liabilities contingent or otherwise of the Parent Borrower or any of its Restricted Subsidiaries (other than Subordinated Debt) and the valid release of the Parent Borrower or such Restricted Subsidiary, by all applicable creditors in writing, from all liability on such Indebtedness or other liability in connection with such Disposition, (B) securities, notes or other obligations received by the Parent Borrower or any of its Restricted Subsidiaries from the transferee that are converted by such Parent Borrower or any of its Restricted Subsidiaries into cash or Cash Equivalents within 180 days following the closing of such Disposition, (C) Indebtedness (other than Subordinated Debt) of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Disposition, to the extent that the Parent Borrower and each other Restricted Subsidiary are released from any Guarantee of payment of such Indebtedness in connection with such Disposition and (D) aggregate non-cash consideration received by the Parent Borrower and its Restricted Subsidiaries for all Dispositions under this clause (t) and Section 7.05(m) having an aggregate fair market value (determined as of the closing of the applicable Disposition for which such non-cash consideration is received) not to exceed the greater of (x) \$250,000,000 and (y) 15.0% of Consolidated EBITDA of the Parent Borrower as of the last day of the most recently ended Test Period at any time outstanding (net of any non-cash consideration converted into cash and Cash Equivalents received in respect of any such non-cash consideration)) and (iii) the Parent Borrower or the applicable Restricted Subsidiary complies with the applicable provisions of Section 2.05; and

(u) sales, transfers, leases or other dispositions of restaurants and related assets (other than real property) to Franchisees or Restricted Subsidiaries that within 180 days become Franchisees, including through the sale of Equity Interests of Persons owning such assets.

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than the Parent Borrower or any Subsidiary Guarantor, such Collateral shall be sold free and clear of the Liens created by the Loan Documents and, if requested by the Administrative Agent, upon the certification by the Parent Borrower that such Disposition is permitted by this Agreement, the Administrative Agent or the Collateral Agent, as applicable, shall be authorized to take and shall take any actions deemed appropriate in order to effect the foregoing.

Section 7.06 Restricted Payments . Declare or make, directly or indirectly, any Restricted Payment, except:

(a) each Restricted Subsidiary may make Restricted Payments to the Parent Borrower and to other Restricted Subsidiaries (and, in the case of a Restricted Payment by a non-Wholly-Owned Restricted Subsidiary, to the Parent Borrower and any other Restricted Subsidiary and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests);

(b) (i) the Parent Borrower may (or may make Restricted Payments to permit any direct or indirect parent thereof to) redeem in whole or in part any of its Equity Interests for another class of its (or such parent's) Equity Interests or rights to acquire its Equity Interests or with proceeds from substantially concurrent equity contributions or issuances of new Equity Interests, provided that any terms and provisions material to the interests of the Lenders, when taken as a whole, contained in such other class of Equity Interests are at least as advantageous to the Lenders as those contained in the Equity Interests redeemed thereby and (ii) the Parent Borrower may declare and make dividend payments or other distributions payable solely in Qualified Equity Interests;

(c) Restricted Payments made on the Closing Date to consummate the Transaction;

(d) to the extent constituting Restricted Payments, the Parent Borrower and its Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 7.02 , Section 7.04 or Section 7.07(e) ;

(e) repurchases of Equity Interests in the ordinary course of business in the Parent Borrower (or any direct or indirect parent thereof) or any Restricted Subsidiary deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(f) the Parent Borrower or any Restricted Subsidiary may, in good faith, pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of it or any direct or indirect parent thereof held by any future, present or former employee, director, manager, officer or consultant (or any Affiliates, spouses, former spouses, other immediate family members, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Parent Borrower (or any direct or indirect parent of the Parent Borrower) or any of its Subsidiaries pursuant to any employee, management, director or manager equity plan, employee, management, director or manager stock option plan or any other employee, management, director or manager benefit plan or any agreement (including any stock subscription

or shareholder agreement) with any employee, director, manager, officer or consultant of Holdings (or any direct or indirect parent thereof), the Parent Borrower or any Subsidiary; provided that such payments do not to exceed \$35,000,000 in any calendar year, provided that any unused portion of the preceding basket for any calendar year may be carried forward to succeeding calendar years, so long as the aggregate amount of all Restricted Payments made pursuant to this Section 7.06(f) in any calendar year (after giving effect to such carry forward) shall not exceed \$70,000,000; provided, further, that cancellation of Indebtedness owing to the Parent Borrower (or any direct or indirect parent thereof) or any of its Subsidiaries from members of management of the Parent Borrower, any of the Parent Borrower's direct or indirect parent companies or any of the Parent Borrower's Restricted Subsidiaries in connection with a repurchase of Equity Interests of any of the Parent Borrower's direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement;

(g) the Parent Borrower and its Restricted Subsidiaries may make Restricted Payments to any direct or indirect holder of an Equity Interest in the Parent Borrower:

(i) the proceeds of which will be used to pay a Permitted Tax Distribution or a Permitted Canadian Part VI.1 Tax;

(ii) the proceeds of which shall be used to pay such equity holder's operating costs and expenses incurred in the ordinary course of business, other overhead costs and expenses and fees (including (v) administrative, legal, accounting and similar expenses provided by third parties, (w) trustee, directors, managers and general partner fees, (x) any judgments, settlements, penalties, fines or other costs and expenses in respect of any claim, litigation or proceeding, (y) fees and expenses (including any underwriters discounts and commissions) related to any investment or acquisition transaction (whether or not successful) and (z) payments in respect of indebtedness and equity securities of any direct or indirect holder of Equity Interests in the Parent Borrower to the extent the proceeds are used or will be used to pay expenses or other obligations described in this Section 7.06(g)) which are reasonable and customary and incurred in the ordinary course of business and attributable to the ownership or operations of the Parent Borrower and its Subsidiaries (including any reasonable and customary indemnification claims made by directors, managers or officers of any direct or indirect parent of the Parent Borrower attributable to the direct or indirect ownership or operations of the Parent Borrower and its Subsidiaries) and fees and expenses otherwise due and payable by the Parent Borrower or any Restricted Subsidiary and permitted to be paid by the Parent Borrower or such Restricted Subsidiary under this Agreement not to exceed \$20,000,000 in any fiscal year;

(iii) the proceeds of which shall be used to pay franchise and excise taxes, and other fees and expenses, required to maintain its (or any of its direct or indirect parents') existence (including any costs or expenses associated with being a public company listed on a national securities exchange);

(iv) to finance any Investment permitted to be made pursuant to Section 7.02; provided that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) the Parent Borrower or such parent shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be held by or contributed to the Parent Borrower or a Restricted Subsidiary or (2) the merger (to the extent permitted in Section 7.04) of the Person formed or acquired into it or a Restricted Subsidiary in order to consummate such Permitted Acquisition, in each case, in accordance with the requirements of Section 6.10;

(v) the proceeds of which shall be used to pay customary costs, fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering permitted by this Agreement; and

(vi) the proceeds of which shall be used to pay customary salary, bonus and other benefits payable to officers and employees of any direct or indirect parent company or partner of the Parent Borrower to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Parent Borrower and its Restricted Subsidiaries;

(h) the Parent Borrower or any Restricted Subsidiary may pay any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement (it being understood that a distribution pursuant to this Section 7.06(h) shall be deemed to have utilized capacity under such other provision of this Agreement);

(i) the Parent Borrower or any Restricted Subsidiary may (a) pay cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any Permitted Acquisition and (b) honor any conversion request by a holder of convertible Indebtedness and make cash payments in lieu of fractional shares in connection with any such conversion and may make payments on convertible Indebtedness in accordance with its terms;

(j) the Parent Borrower or any Restricted Subsidiary may make additional Restricted Payments in an amount, when aggregated with the amount expended pursuant to Section 7.08(a)(iii)(A), not to exceed \$500,000,000;

(k) the Parent Borrower or any Restricted Subsidiary may make additional Restricted Payments in an amount not to exceed the Available Amount; provided that at the time of any such Restricted Payment, no Event of Default shall have occurred and be continuing or would result therefrom;

(l) the declaration and payment by the Parent Borrower of dividends on the common stock or common equity interests of the Parent Borrower or Holdings following a public offering of such common stock or common equity interests following the Closing Date, in an amount not to exceed 6.0% of the proceeds received by or contributed to the Parent Borrower in or from any such public offering in any fiscal year;

(m) the declaration and payment by the Parent Borrower or any Restricted Subsidiary (or the making of Restricted Payments to allow any direct or indirect parent thereof to declare and pay) of cash dividends with respect to the Preferred Stock in an amount not to exceed 9.0% per annum of the liquidation preference thereof;

(n) following the second anniversary of the Closing Date, the Parent Borrower or any Restricted Subsidiary may pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) for the repurchase, retirement or other acquisition or retirement for value of all or any portion of the Preferred Stock; provided that (i) at the time of such Restricted Payment and after giving effect thereto and to the incurrence of any Indebtedness in connection therewith, (x) the First Lien Senior Secured Leverage Ratio as of the end of the most recent Test Period, on

a Pro Forma Basis, would be no greater than 3.75:1.00 and (y) the Total Leverage Ratio as of the end of the most recent Test Period, on a Pro Forma Basis, would be no greater than 6.75:1.00 and (ii) no Restricted Payment pursuant to this clause (n) may be financed with the proceeds of Indebtedness incurred (or deemed incurred) pursuant to clause (i) of Section 2.14(a) in violation of the leverage ratios set forth in clause (i) of this proviso;

(o) the Parent Borrower or any Restricted Subsidiary may make additional Restricted Payments; provided that, at the time of such Restricted Payment, (i) no Default or Event of Default has occurred and is continuing and (ii) the Total Leverage Ratio of the Parent Borrower as of the end of the most recently ended Test Period, on a Pro Forma Basis, would be no greater than 4.50:1.00; and

(p) the Parent Borrower or any Restricted Subsidiary may make Restricted Payments in connection with the spin-off of Subsidiaries whose sole assets consist of real property and assets incidental thereto; provided that the First Lien Senior Secured Leverage Ratio of the Parent Borrower as of the end of the most recently ended Test Period, on a Pro Forma Basis, would be no greater than 3.50:1.00.

Section 7.07 Transactions with Affiliates. Enter into any transaction of any kind with any Affiliate of the Parent Borrower with a fair market value in excess of \$20,000,000, whether or not in the ordinary course of business, other than:

(a) transactions between or among the Parent Borrower or any Restricted Subsidiary or any entity that becomes a Restricted Subsidiary as a result of such transaction;

(b) transactions on terms not less favorable to the Parent Borrower or such Restricted Subsidiary as would be obtainable by the Parent Borrower or such Restricted Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate;

(c) the Transaction and the payment of fees and expenses related to the Transaction;

(d) the issuance of Equity Interests to any officer, director, manager, employee or consultant of the Parent Borrower or any of its Subsidiaries or any direct or indirect parent of the Parent Borrower in connection with the Transaction;

(e) the payment of advisory, consulting, refinancing, subsequent transaction and exit fees to the Sponsor in an aggregate amount in any fiscal year not to exceed the amount permitted to be paid pursuant to the Sponsor Management Agreement as in effect on the date hereof and related indemnities and reasonable expenses; provided that, upon the occurrence and during the continuance of an Event of Default such amounts may accrue, but not be payable in cash during such period, but all such accrued amounts (plus accrued interest, if any, with respect thereto) may be payable in cash upon the cure or waiver of such Event of Default;

(f) equity issuances, repurchases, redemptions, retirements or other acquisitions or retirements of Equity Interests by the Parent Borrower or any Restricted Subsidiary permitted under Section 7.06;

(g) loans and other transactions by and among the Parent Borrower and/or one or more Subsidiaries to the extent permitted under this Article VII;

(h) employment and severance arrangements between the Parent Borrower or any of its Subsidiaries and their respective officers and employees in the ordinary course of business and transactions pursuant to stock option plans and employee benefit plans and arrangements;

(i) to the extent permitted by Sections 7.06(g)(i) and (iii), payments by the Parent Borrower (and any direct or indirect parent thereof) and its Restricted Subsidiaries pursuant to any tax sharing agreements among the Parent Borrower (and any such direct or indirect parent thereof) and its Restricted Subsidiaries on customary terms to the extent attributable to the ownership or operation of the Parent Borrower and its Restricted Subsidiaries;

(j) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, managers, officers, employees and consultants of the Parent Borrower and its Restricted Subsidiaries or any direct or indirect parent of the Parent Borrower in the ordinary course of business to the extent attributable to the ownership or operation of the Parent Borrower and its Restricted Subsidiaries;

(k) transactions pursuant to agreements in existence on the Closing Date and set forth on Schedule 7.07 or any amendment thereto to the extent such an amendment is not adverse to the Lenders in any material respect;

(l) dividends and other distributions permitted under Section 7.06;

(m) customary payments by the Parent Borrower and any Restricted Subsidiaries to the Sponsor made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities (including in connection with acquisitions or divestitures), which payments are approved, as applicable pursuant to requirements of law or the relevant constituent documents of the Parent Borrower or such Restricted Subsidiary, by the majority of the members of the board of directors or a majority of the disinterested members of the board of directors of the Parent Borrower in good faith and such payments shall not exceed 1.0% of the transaction value for each such transaction;

(n) transactions entered into by an Unrestricted Subsidiary with an Affiliate prior to the redesignation of any such Unrestricted Subsidiary as a Restricted Subsidiary pursuant to the definition of "Unrestricted Subsidiary"; provided that such transactions were not entered into in contemplation of such redesignation;

(o) Dispositions for Cash Equivalents (other than in connection with the capitalization of any special purpose entity used to effect any such Permitted Receivables Financing) of accounts receivable in connection with any Permitted Receivables Financing; and

(p) transactions in connection with Permitted Tax Restructurings.

Section 7.08 Prepayments, Etc., of Indebtedness.

(a) Prepay, redeem, purchase, defease or otherwise satisfy prior to the scheduled maturity thereof in any manner any Subordinated Debt (it being understood that payments of regularly scheduled interest, AHYDO payments and mandatory prepayments under any such Subordinated Debt Documents shall not be prohibited by this clause), except for (i) the refinancing thereof with the Net Cash Proceeds of any Indebtedness (to the extent such Indebtedness constitutes a Permitted Refinancing), (ii) the conversion thereof to Equity Interests (other than Disqualified Equity Interests) of the Parent Borrower or any of its direct or indirect parents (or any Intermediate Holding Company),

(iii) prepayments, redemptions, purchases, defeasances and other payments thereof prior to their scheduled maturity in an aggregate amount, when aggregated with the amount of Restricted Payments made pursuant to Section 7.06(i), not to exceed (A) \$500,000,000 plus (B) the Available Amount (provided that, at the time of any such payment, no Event of Default shall have occurred and be continuing or would result therefrom) and (iv) other prepayments, redemptions, purchases, defeasances and other payments thereof prior to their scheduled maturity (provided that, at the time of such prepayments, redemptions, purchases, defeasances or other payments, (x) no Default or Event of Default has occurred and is continuing and (y) the Total Leverage Ratio of the Parent Borrower as of the end of the most recently ended Test Period, on a Pro Forma Basis, would be no greater than 4.75:1.00).

(b) Amend, modify or change in any manner materially adverse to the interests of the Lenders any term or condition of any Subordinated Debt Documents without the consent of the Required Lenders (not to be unreasonably withheld or delayed).

Section 7.09 First Lien Senior Secured Leverage Ratio. Except with the written consent of the Required Revolving Credit Lenders, permit the First Lien Senior Secured Leverage Ratio as of the last day of any Test Period (commencing with the last day of the first full fiscal quarter of the Parent Borrower commencing after the Closing Date) to be greater than 6.50:1.00. Notwithstanding the foregoing, this Section 7.09 shall only be in effect as of the last day of any Test Period (commencing with the first full fiscal quarter of the Parent Borrower commencing after the Closing Date) when the sum of (i) Letters of Credit with an aggregate Outstanding Amount in excess of \$50,000,000 (other than those Cash Collateralized in an amount equal to the Outstanding Amount thereof), (ii) the Outstanding Amount of Revolving Credit Loans and (iii) the Outstanding Amount of Swing Line Loans exceeds 30.0% of the Revolving Credit Commitments as of the last day of such Test Period.

Section 7.10 Negative Pledge and Subsidiary Distributions. Enter into any agreement, instrument, deed or lease which prohibits or limits (i) the ability of any Loan Party to create, incur, assume or suffer to exist any Lien upon any of their respective properties or revenues, whether now owned or hereafter acquired, for the benefit of the Secured Parties with respect to the Obligations or under the Loan Documents (ii) the ability of any Restricted Subsidiary to pay dividends or other distributions with respect to any of its Equity Interests; provided that the foregoing shall not apply to:

(a) restrictions and conditions imposed by (A) law, (B) any Loan Document or (C) the Senior Secured Notes Indenture and other documents relating to the Senior Secured Notes;

(b) restrictions and conditions existing on the Closing Date or to any extension, renewal, amendment, modification or replacement thereof, except to the extent any such amendment, modification or replacement expands the scope of any such restriction or condition;

(c) customary restrictions and conditions arising in connection with any Disposition permitted by Section 7.05;

(d) customary provisions in leases, licenses and other contracts restricting the assignment thereof;

(e) restrictions imposed by any agreement relating to secured Indebtedness permitted by this Agreement to the extent such restriction applies only to the property securing such Indebtedness;

(f) any restrictions or conditions set forth in any agreement in effect at any time any Person becomes a Restricted Subsidiary (but not any modification or amendment expanding the

scope of any such restriction or condition), provided that such agreement was not entered into in contemplation of such Person becoming a Restricted Subsidiary and the restriction or condition set forth in such agreement does not apply to the Parent Borrower or any other Restricted Subsidiary;

(g) any restrictions or conditions in any Indebtedness permitted pursuant to Section 7.03 to the extent such restrictions or conditions are no more restrictive than the restrictions and conditions in the Loan Documents or, in the case of Subordinated Debt, are market terms at the time of issuance or, in the case of Indebtedness of any Non-Loan Party, are imposed solely on such Non-Loan Party and its Subsidiaries, provided that any such restrictions or conditions permit compliance with the Collateral and Guarantee Requirement and Section 6.10;

(h) any restrictions on cash or other deposits imposed by agreements entered into in the ordinary course of business;

(i) customary provisions in shareholders agreements, joint venture agreements, organizational documents or similar binding agreements relating to any JV Entity or non-Wholly-Owned Restricted Subsidiary and other similar agreements applicable to JV Entities and non-Wholly-Owned Restricted Subsidiaries permitted under Section 7.02 and applicable solely to such JV Entity or non-Wholly-Owned Restricted Subsidiary and the Equity Interests issued thereby;

(j) customary restrictions in leases, subleases, licenses or asset sale agreements and other similar contracts otherwise permitted hereby so long as such restrictions may relate to the assets subject thereto; and

(k) restrictions imposed by any agreement governing Indebtedness entered into on or after the Closing Date and permitted under Section 7.03 that are, taken as a whole, in the good faith judgment of the Parent Borrower, no more restrictive with respect to the Parent Borrower or any Restricted Subsidiary than customary market terms for Indebtedness of such type, so long as the Parent Borrower shall have determined in good faith that such restrictions will not adversely affect in any material respect its obligation or ability to make any payments required hereunder.

Section 7.11 Activities Prior to the Closing Date. Prior to the Closing Date, neither Holdings nor the Borrowers shall engage in any material activities other than in connection with the Transaction, performing their obligations under the Escrow Agreement, maintaining their existence and other activities reasonably related thereto. In addition, prior to the Closing Date, the Borrowers or their Restricted Subsidiaries may enter into non-speculative hedging agreements in connection with financing arrangements associated with the Acquisition Agreement.

ARTICLE VIII

Events of Default and Remedies

Section 8.01 Events of Default. Any of the following events referred to in any of clauses (a) through (j) inclusive of this Section 8.01 shall constitute an “ Event of Default ”:

(a) Non-Payment. Any Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or (ii) within five (5) Business Days after the same becomes due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or

(b) Specific Covenants. The Parent Borrower fails to perform or observe any term, covenant or agreement contained in (i) any of Section 6.03(a) or Section 6.04 (solely with respect to the Parent Borrower), Section 6.11, Section 6.13 or Article VII (other than Section 7.09) or (ii) Section 7.09; provided that an Event of Default under Section 7.09 is subject to a cure pursuant to Section 8.05; provided further that an Event of Default under Section 7.09 shall not constitute an Event of Default for purposes of any Term Loan unless and until the Revolving Credit Lenders have actually terminated the Revolving Credit Commitments and/or declared all outstanding obligations under the Revolving Credit Facility to be immediately due and payable in accordance with this Agreement; or

(c) Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for thirty (30) days after receipt by the Parent Borrower of written notice thereof by the Administrative Agent or the Required Lenders; or

(d) Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; provided that this clause (d) shall be limited on the Closing Date to the representations and warranties referred to in Section 4.01(f); or

(e) Cross-Default. Any Loan Party or any Restricted Subsidiary (A) fails to make any payment beyond the applicable grace period with respect thereto, if any (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than Indebtedness hereunder) having an aggregate principal amount of not less than the Threshold Amount, or (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than (i) with respect to Indebtedness consisting of Swap Contracts, termination events or equivalent events pursuant to the terms of such Swap Contracts and (ii) any event requiring prepayment pursuant to customary asset sale provisions), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, all such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem all such Indebtedness to be made, prior to its stated maturity; provided that this clause (e)(B) shall not apply to secured Indebtedness that becomes due (or requires an offer to purchase) as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; provided, further, that such failure is unremedied and is not waived by the holders of such Indebtedness; or

(f) Insolvency Proceedings, Etc. Except with respect to any dissolution or liquidation of a Restricted Subsidiary expressly permitted by Section 7.04 in connection with the consummation of a Permitted Tax Restructuring, any Loan Party or any of the Restricted Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, interim receiver, receiver and manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, interim receiver, receiver and manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for sixty (60) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for sixty (60) calendar days; or an order for relief is entered in any such proceeding; or

(g) Inability to Pay Debts; Attachment. (i) Any Loan Party or any Restricted Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of the Loan Parties, taken as a whole, and is not released, vacated or fully bonded within sixty (60) days after its issue or levy; or

(h) Judgments. There is entered against any Loan Party or any Restricted Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of sixty (60) consecutive days; or

(i) Invalidity of Collateral Documents. Any material provision of any Collateral Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or Section 7.05) or as a result of acts or omissions by the Administrative Agent or any Lender or the satisfaction in full of all the Obligations, ceases to be in full force and effect or ceases to create a valid and perfected first priority lien on the Collateral covered thereby; or any Loan Party contests in writing the validity or enforceability of any material provision of any Collateral Document; or any Loan Party denies in writing that it has any or further liability or obligation under any Collateral Document (other than as a result of repayment in full of the Obligations and termination of the Aggregate Commitments), or purports in writing to revoke or rescind any Collateral Document; or

(j) Change of Control. There occurs any Change of Control.

Section 8.02 Remedies Upon Event of Default.

(a) If any Event of Default occurs and is continuing (other than an Event of Default under Section 8.01(b)(ii) unless the conditions of the second proviso contained therein have been satisfied), the Administrative Agent may and, at the request of the Required Lenders, shall take any or all of the following actions:

(i) declare the commitment of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

(iii) require that the Borrowers Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(iv) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law;

provided that (i) upon the occurrence of an Event of Default under Section 8.01(f) with respect to the Parent Borrower, the obligation of each Lender to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, and the obligation of the Borrowers to Cash Collateralize the L/C Obligations as aforesaid shall automatically become effective, in each case without further act of the Administrative Agent or any Lender and (ii) no such action set forth in this Section 8.02(a) may be taken prior to the Closing Date except as a result of (x) an Event of Default with respect to clause (a) of Section 8.01 with respect to a failure to pay principal or interest when due or (ii) an Event of Default under clause (f) of Section 8.01 with respect to a Borrower.

(b) Subject to the first proviso in Section 8.01(b)(ii), if any Event of Default under Section 8.01(b)(ii) occurs and is continuing, the Administrative Agent may and, at the request of the Required Revolving Credit Lenders, shall take any or all of the following actions:

(i) declare the commitment of each Lender to make Revolving Credit Loans and Swing Line Loans and any obligation of the L/C Issuers to make L/C Credit Extensions to be terminated, whereupon such commitments and obligation shall be terminated;

(ii) declare the unpaid principal amount of all outstanding Revolving Credit Loans and Swing Line Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document under or in respect of the Revolving Credit Facility to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrowers;

(iii) require that the Borrowers Cash Collateralize the L/C Obligations (in an amount equal to the then Outstanding Amount thereof); and

(iv) exercise on behalf of itself and the Revolving Credit Lenders all rights and remedies available to it and the Revolving Credit Lenders under the Loan Documents or applicable Laws, in each case under or in respect of the Revolving Credit Facility.

Section 8.03 Exclusion of Immaterial Subsidiaries. Solely for the purpose of determining whether a Default has occurred under clause (f) or (g) of Section 8.01, any reference in any such clause to any Restricted Subsidiary or Loan Party shall be deemed not to include any Subsidiary that is an Immaterial Subsidiary or at such time could, upon designation by the Parent Borrower, become an Immaterial Subsidiary affected by any event or circumstances referred to in any such clause unless the

Consolidated EBITDA of such Subsidiary together with the Consolidated EBITDA of all other Subsidiaries affected by such event or circumstance referred to in such clause, shall exceed 5% of the Consolidated EBITDA of the Parent Borrower and its Restricted Subsidiaries.

Section 8.04 Application of Funds. If the circumstances described in Section 2.12(g) have occurred, or after the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable and the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the proviso to Section 8.02), including in any bankruptcy or insolvency proceeding, any amounts received on account of the Obligations shall be applied by the Administrative Agent, subject to any Customary Intercreditor Agreement then in effect, in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to each Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including Attorney Costs payable under Section 10.04 and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest (including, but not limited to, post-petition interest), ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal, Unreimbursed Amounts or face amounts of the Loans, L/C Borrowings and Swap Termination Value under Secured Hedge Agreements and Cash Management Obligations and for the account of the L/C Issuers, to Cash Collateralize that portion of L/C Obligations comprised of the aggregate undrawn amount of Letters of Credit, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

Last, the balance, if any, after all of the Obligations have been paid in full, to the Borrowers or as otherwise required by Law.

Subject to Section 2.03(c), amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above and, if no Obligations remain outstanding, to the Borrowers.

Notwithstanding the foregoing, (a) amounts received from the Parent Borrower or any Guarantor that is not a “Eligible Contract Participant” (as defined in the Commodity Exchange Act) shall not be applied to the obligations that are Excluded Swap Obligations (it being understood, that in the

event that any amount is applied to Obligations other than Excluded Swap Obligations as a result of this clause (a), to the extent permitted by applicable law, the Administrative Agent shall make such adjustments as it determines are appropriate to distributions pursuant to clause Fourth above from amounts received from “Eligible Contract Participants” to ensure, as nearly as possible, that the proportional aggregate recoveries with respect to obligations described in clause Fourth above by the holders of any Excluded Swap Obligations are the same as the proportional aggregate recoveries with respect to other obligations pursuant to clause Fourth above) and (b) Cash Management Obligations shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may request, from the applicable Cash Management Bank. Each Cash Management Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Article IX hereof for itself and its Affiliates as if a “Lender” party hereto.

Section 8.05 Permitted Holders’ Right to Cure.

(a) Notwithstanding anything to the contrary contained in Section 8.01(b), in the event that the Parent Borrower fails to comply with the requirement of the Financial Covenant from the last day of the Test Period, until the expiration of the tenth day after the date on which financial statements with respect to the Test Period in which such covenant is being measured are required to be delivered pursuant to Section 6.01, any of the Permitted Holders shall have the right to make a direct or indirect equity investment in the Parent Borrower in cash in the form of common Equity Interests (or other Qualified Equity Interests reasonably acceptable to the Administrative Agent) (the “Cure Right”), and upon the receipt by the Parent Borrower of net cash proceeds pursuant to the exercise of the Cure Right (the “Cure Amount”), the Financial Covenant shall be recalculated, giving effect to a pro forma increase to Consolidated EBITDA for such Test Period in an amount equal to such Cure Amount; provided that (x) such pro forma adjustment to Consolidated EBITDA shall be given solely for the purpose of determining the existence of a Default or an Event of Default under the Financial Covenant with respect to any Test Period that includes the fiscal quarter for which such Cure Right was exercised and not for any other purpose under any Loan Document (including for purposes of determining pricing, mandatory prepayments and the availability or amount permitted pursuant to any covenant under Article VII) for the quarter with respect to which such Cure Right was exercised and (y) there shall be no reduction in Indebtedness in connection with any Cure Amounts for determining compliance with Section 7.09 and no Cure Amounts will reduce (or count towards) the First Lien Senior Secured Leverage Ratio or Total Leverage Ratio for purposes of any calculation thereof for the fiscal quarter with respect to which such Cure Right was exercised unless the proceeds are actually applied to prepay Indebtedness pursuant to Section 2.05(a).

(b) If, after the exercise of the Cure Right and the recalculations pursuant to clause (a) above, the Parent Borrower shall then be in compliance with the requirements of the Financial Covenant during such Test Period (including for purposes of Section 4.02), the Parent Borrower shall be deemed to have satisfied the requirements of the Financial Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable Default or Event of Default under Section 8.01 that had occurred shall be deemed cured; provided that (i) the Cure Right may be exercised on no more than five (5) occasions, (ii) in each four fiscal quarter period, there shall be at least two fiscal quarters in respect of which no Cure Right is exercised and (iii) with respect to any exercise of the Cure Right, the Cure Amount shall be no greater than the amount required to cause the Parent Borrower to be in compliance with the Financial Covenant.

ARTICLE IX

Administrative Agent and Other Agents

Section 9.01 Appointment and Authorization of Agents .

(a) Each Lender hereby irrevocably appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall have no duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” herein and in the other Loan Documents with reference to any Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

(b) Each L/C Issuer shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and each such L/C Issuer shall have all of the benefits and immunities (i) provided to the Agents in this Article IX with respect to any acts taken or omissions suffered by such L/C Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the applications and agreements for letters of credit pertaining to such Letters of Credit as fully as if the term “Agent” as used in this Article IX and in the definition of “Agent-Related Person” included such L/C Issuer with respect to such acts or omissions, and (ii) as additionally provided herein with respect to such L/C Issuer.

(c) The Administrative Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (in its capacities as a Lender, Swing Line Lender (if applicable), L/C Issuer (if applicable) and a potential Hedge Bank or Cash Management Bank) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest, charge or other Lien created by the Collateral Documents for and on behalf of or on trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as “collateral agent” (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX (including Section 9.07, as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

Section 9.02 Delegation of Duties. The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents or of exercising any rights and remedies thereunder) by or through Affiliates, agents, employees or attorneys-in-fact, such sub-agents as shall be deemed necessary by the Administrative Agent, and shall be

entitled to advice of counsel, both internal and external, and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or sub-agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct.

Section 9.03 Liability of Agents . No Agent-Related Person shall (a) be liable to any Lender for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby, including their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent (except for its own gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, statement, representation or warranty made by any Loan Party or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Collateral Documents, or the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof. No Agent shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that such Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that such Agent shall not be required to take any action that, in its judgment or the judgment of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable Law. No Agent shall be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), or in the absence of its own gross negligence or willful misconduct.

Section 9.04 Reliance by Agents .

(a) Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, request, consent, certificate, instrument, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by such Agent and shall not incur any liability for relying thereon. Each Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.

(b) For purposes of determining compliance with the conditions specified in Section 4.01 , each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 9.05 Notice of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Parent Borrower referring to this Agreement, describing such Default and stating that such notice is a “notice of default.” The Administrative Agent will notify the Lenders of its receipt of any such notice. Subject to the other provisions of this Article IX, the Administrative Agent shall take such action with respect to any Event of Default as may be directed by the Required Lenders in accordance with Article VIII; provided that unless and until the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable or in the best interest of the Lenders.

Section 9.06 Credit Decision; Disclosure of Information by Agents. Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrowers and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrowers and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

Section 9.07 Indemnification of Agents. Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it in its capacity as an Agent-Related Person; provided that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person’s own gross negligence or willful misconduct, as

determined by the final judgment of a court of competent jurisdiction; provided that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 9.07. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 9.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrowers, provided that such reimbursement by the Lenders shall not affect the Borrowers' continuing reimbursement obligations with respect thereto, if any. The undertaking in this Section 9.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent.

Section 9.08 Agents in their Individual Capacities. JPMCB and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though JPMCB were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, JPMCB or its Affiliates may receive information regarding any Loan Party or any Affiliate of a Loan Party (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, JPMCB shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" include JPMCB in its individual capacity.

Section 9.09 Successor Agents. The Administrative Agent may resign as the Administrative Agent and Collateral Agent upon thirty (30) days' notice to the Lenders and the Parent Borrower. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which appointment of a successor agent shall require the consent of the Parent Borrower at all times other than during the existence of an Event of Default under Section 8.01(f) or (g) (which consent of the Parent Borrower shall not be unreasonably withheld or delayed). If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders and the Parent Borrower, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, the Person acting as such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and Collateral Agent and the term "Administrative Agent" shall mean such successor administrative agent and/or supplemental administrative agent, as the case may be (and the term "Collateral Agent" shall mean such successor collateral agent and/or supplemental agent, as described in Section 9.01(c)), and the retiring Administrative Agent's appointment, powers and duties as the Administrative Agent and Collateral Agent shall be terminated. After the retiring Administrative Agent's resignation hereunder as the Administrative Agent and Collateral Agent, the provisions of this Article IX and Section 10.04 and Section 10.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent and Collateral Agent under this Agreement. If no successor agent has accepted appointment as the Administrative Agent and Collateral Agent by the date which is thirty (30) days following the retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall

nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent and Collateral Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above (except that in the case of any collateral security held by the Collateral Agent on behalf of the Lenders or the L/C Issuer under any of the Loan Documents, the retiring Collateral Agent shall continue to hold such collateral security until such time as a successor Collateral Agent is appointed). Upon the acceptance of any appointment as the Administrative Agent and Collateral Agent hereunder by a successor and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may reasonably request, in order to (a) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (b) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, the Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent and Collateral Agent, and the retiring Administrative Agent and Collateral Agent shall, to the extent not previously discharged, be discharged from its duties and obligations under the Loan Documents.

Section 9.10 Administrative Agent May File Proofs of Claim . In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Section 2.04(e) and (f), Section 2.09 and Section 10.04) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same; and

(c) any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due to the Administrative Agent under Section 2.09 and Section 10.04 .

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.11 Collateral and Guaranty Matters. The Lenders irrevocably agree:

(a) that any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document shall be automatically released (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than (x) obligations under Secured Hedge Agreements not yet due and payable, (y) Cash Management Obligations not yet due and payable and (z) contingent indemnification obligations not yet accrued and payable), the expiration or termination of all Letters of Credit (other than Letters of Credit that have been Cash Collateralized or as to which other arrangements reasonably satisfactory to the Administrative Agent and the applicable L/C Issuer have been made), (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than any other Loan Party (provided that in the event of a transfer of assets from a Loan Party to another Loan Party organized in a different jurisdiction, the Collateral Agent shall release such Lien if such transferee Loan Party takes all actions reasonably necessary to grant a Lien in such transferred assets to the Collateral Agent (to the extent required by the Collateral and Guarantee Requirement)) and (iii) subject to Section 10.01, if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders, (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty pursuant to clause (c) or (d) below or (v) if the property subject to such Lien becomes Excluded Property;

(b) to release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Sections 7.01(i) and (o);

(c) (i) if any Subsidiary Guarantor ceases to be a Restricted Subsidiary, or becomes an Excluded Subsidiary, in each case as a result of a transaction or designation permitted hereunder (as certified in writing delivered to the Administrative Agent by a Responsible Officer of the Parent Borrower) or (ii) so long as no Event of Default has occurred and is continuing at such time, upon the designation by the Parent Borrower of a Subsidiary Guarantor as a “Designated Non-Guarantor Subsidiary”, in the case of each of clauses (i) and (ii) above (x) such Subsidiary shall be automatically released from its obligations under the Guaranty and (y) any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary (to the extent such Equity Interests have become Excluded Property or are being transferred to a Person that is not a Loan Party) shall be automatically released.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent’s authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty pursuant to this Section 9.11. In each case as specified in this Section 9.11, the Administrative Agent will promptly (and each Lender irrevocably authorizes the Administrative Agent to), at the Parent Borrower’s expense, execute and deliver to the applicable Loan Party such documents as such Loan Party may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or to evidence the release of such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents and this Section 9.11.

Section 9.12 Other Agents; Arrangers and Managers. None of the Lenders, the Agents, the Lead Arrangers, the Documentation Agents, Syndication Agents, or other Persons identified on the facing page or signature pages of this Agreement as a “syndication agent” or “co-arranger” shall

have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

Section 9.13 Appointment of Supplemental Administrative Agents.

(a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a “Supplemental Administrative Agent” and, collectively, as “Supplemental Administrative Agents”).

(b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article IX and of Section 10.04 and Section 10.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

(c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Parent Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

Section 9.14 Withholding Tax. To the extent required by any applicable Law, the Administrative Agent may deduct or withhold from any payment to any Lender under any Loan Document an amount equivalent to any applicable withholding Tax. If the Internal Revenue Service, the Canada Revenue Agency or any other Governmental Authority asserts a claim that the Administrative

Agent did not properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered or was not properly executed or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of, withholding Tax ineffective), such Lender shall indemnify and hold harmless the Administrative Agent fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including any penalties, additions to Tax or interest and together with all expenses (including legal expenses, allocated internal costs and out-of-pocket expenses) incurred, whether or not such Tax was correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this Section 9.14. The agreements in this Section 9.14 shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of this Agreement and the repayment, satisfaction or discharge of all other obligations. For the avoidance of doubt, (1) the term "Lender" shall, for purposes of this Section 9.14, include any L/C Issuer and any Swing Line Lender and (2) this Section 9.14 shall not limit or expand the obligations of the Borrowers or any Guarantor under Section 3.01 or any other provision of this Agreement.

Section 9.15 Cash Management Obligations; Secured Hedge Agreements. Except as otherwise expressly set forth herein or in any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefits of Section 8.04, any Guaranty or any Collateral by virtue of the provisions hereof or of any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article IX to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Cash Management Obligations or Obligations arising under Secured Hedge Agreements unless the Administrative Agent has received written notice of such Obligations, together with such supporting documentation as the Administrative Agent may reasonably request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

ARTICLE X

Miscellaneous

Section 10.01 Amendments, Etc. Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrowers or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Parent Borrower or the applicable Loan Party, as the case may be, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided that no such amendment, waiver or consent shall:

(a) extend or increase the Commitment of any Lender without the written consent of each Lender directly and adversely affected thereby (it being understood that a waiver of any condition precedent set forth in Section 4.02 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);

(b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.07 or Section 2.08, fees or other amounts without the written consent of each Lender directly and adversely affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of the Term Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest;

(c) reduce the principal of, or the rate of interest specified herein on, any Loan or L/C Borrowing, or (subject to clause (iii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly and adversely affected thereby, it being understood that any change to the definition of First Lien Senior Secured Leverage Ratio or in the component definitions thereof shall not constitute a reduction in the rate of interest or fees; provided that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrowers to pay interest at the Default Rate;

(d) change any provision of this Section 10.01, the definition of "Required Lenders," "Required Revolving Credit Lenders" or Section 8.04 without the written consent of each Lender directly and adversely affected thereby;

(e) release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender; provided that any transaction permitted under Section 7.04 or Section 7.05 shall not be subject to this clause (e) to the extent such transaction does not result in the release of all or substantially all of the Collateral; or

(f) release all or substantially all of the Guarantees in any transaction or series of related transactions, without the written consent of each Lender; provided that any transaction permitted under Section 7.04 or Section 7.05 shall not be subject to this clause (f) to the extent such transaction does not result in the release of all or substantially all of the Guarantees;

and provided, further, that (i) no amendment, waiver or consent shall, unless in writing and signed by each L/C Issuer in addition to the Lenders required above, affect the rights or duties of a L/C Issuer under this Agreement or any Letter of Credit Application relating to any Letter of Credit issued or to be issued by it; (ii) no amendment, waiver or consent shall, unless in writing and signed by the Swing Line Lender in addition to the Lenders required above, affect the rights or duties of the Swing Line Lender under this Agreement; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document; (iv) Section 10.07(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification; (v) any amendment or waiver that by its terms affects the rights or duties of Lenders holding Loans or Commitments of a particular Class (but not the Lenders holding Loans or Commitments of any other Class) will require only the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto if such Class of Lenders were the only Class of Lenders; (vi) only the consent of the Required Revolving Credit Lenders shall be necessary to amend or waive the terms and provisions of Sections 7.09, 8.01(b)(ii) and 8.05 (and related definitions as used in such Sections, but not as used in other Sections of this Agreement); and (vii) Schedule 1.01A, Schedule 1.01B, Schedule 1.01C, Schedule 1.01D, Schedule 1.01F, Schedule 2.03(a), Schedule 5.06, Schedule 5.11 and Schedule 6.12 may be updated with the consent of the Borrowers and the Administrative Agent (not to be unreasonably withheld) following the Escrow Closing Date and prior to the Closing Date to reflect circumstances existing on the Closing Date. Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required

Lenders, the Administrative Agent and the Borrowers (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans, the Revolving Credit Loans, the Incremental Term Loans, if any, and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders and, if applicable, the Required Revolving Credit Lenders.

Notwithstanding anything to the contrary contained in this Section 10.01, any guarantees, collateral security documents and related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended, supplemented and waived with the consent of the Administrative Agent at the request of the Parent Borrower without the need to obtain the consent of any Lender if such amendment, supplement or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities, omissions, mistakes or defects or (iii) to cause such guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents. Furthermore, with the consent of the Administrative Agent at the request of the Parent Borrower (without the need to obtain any consent of any Lender), any Loan Document may be amended to cure ambiguities, omissions, mistakes or defects.

Neither the Administrative Agent nor the Collateral Agent shall amend or waive any provision of the Notes Intercreditor Agreement or other Customary Intercreditor Agreement (other than to cure ambiguities, omissions, mistakes or defects or to add other parties thereto (to the extent contemplated by Section 7.01)) without the written consent of the Required Lenders.

Section 10.02 Notices and Other Communications; Facsimile Copies .

(a) General . Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Loan Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Parent Borrower, the Administrative Agent, an L/C Issuer or the Swing Line Lender, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

(ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a written notice to the Parent Borrower, the Administrative Agent, the L/C Issuers and the Swing Line Lender.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the

provisions of Section 10.02(b)), when delivered; provided that notices and other communications to the Administrative Agent, the L/C Issuer and the Swing Line Lender pursuant to Article II shall not be effective until actually received by such Person during the person's normal business hours. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder.

(b) Electronic Communications. Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any L/C Issuer pursuant to Article II if such Lender or such L/C Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Parent Borrower may, in their discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), provided that if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) The Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Agent-Related Persons (collectively, the "Agent Parties") have any liability to the Loan Parties, any Lender, any L/C Issuer or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Parent Borrower's or the Administrative Agent's transmission of Borrower Materials through the Internet, except to the extent that such losses, claims, damages, liabilities or expenses are determined by a court of competent jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Agent Party; provided, however, that in no event shall any Agent Party have any liability to any Loan Party, any Lender, any L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive damages (as opposed to direct or actual damages).

(d) Change of Address, Etc.. Each of Holdings, the Parent Borrower, the Administrative Agent, any L/C Issuer and the Swing Line Lender may change its address, telecopier or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Parent Borrower, the Administrative Agent, the L/C Issuers and the Swing Line Lender. In addition, each Lender agrees to notify the Administrative Agents from

time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, telecopier number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the "Private Side Information" or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender's compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the "Public Side Information" portion of the Platform and that may contain material non-public information with respect to the Parent Borrower or their securities for purposes of United States Federal or state securities laws.

(e) Reliance by Agents and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices and Swing Line Loan Notices) purportedly given by or on behalf of the Borrowers even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrowers shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrowers in the absence of gross negligence or willful misconduct. All telephonic notices to the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

(f) Notice to other Loan Parties. The Parent Borrower agrees that notices to be given to any other Loan Party under this Agreement or any other Loan Document may be given to the Parent Borrower in accordance with the provisions of this Section 10.02 with the same effect as if given to such other Loan Party in accordance with the terms hereunder or thereunder.

Section 10.03 No Waiver; Cumulative Remedies. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Section 10.04 Attorney Costs and Expenses. The Borrowers agree (a) if the Closing Date occurs, to pay or reimburse the Administrative Agent, the Syndication Agent and the Lead Arrangers for all reasonable and documented or invoiced out-of-pocket costs and expenses associated with the syndication of the Term B Loans and Revolving Credit Loans and the preparation, execution and delivery, administration, amendment, modification, waiver and/or enforcement of this Agreement and the other Loan Documents, and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), including all Attorney Costs of Cahill Gordon & Reindel LLP (and any other counsel retained with the Parent Borrower's consent (such consent not to be unreasonably withheld or delayed)) and one local and foreign counsel in each relevant jurisdiction, and (b) to pay or reimburse the Administrative Agent, the Syndication Agent, the Lead Arrangers and each Lender for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all costs and expenses incurred in connection with any workout or restructuring in respect of the Loans, all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of counsel to the Administrative Agent). The foregoing costs and expenses shall include all reasonable

search, filing, recording and title insurance charges and fees related thereto, and other reasonable and documented out-of-pocket expenses incurred by any Agent. The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 10.04 shall be paid within ten (10) Business Days of receipt by the Parent Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion.

Section 10.05 Indemnification by the Borrowers. Whether or not the transactions contemplated hereby are consummated, the Borrowers shall indemnify and hold harmless each Agent-Related Person, each Lender, each Lead Arranger, the Syndication Agent, each Documentation Agent and their respective Affiliates, directors, officers, employees, counsel, agents, advisors, and other representatives (collectively, the “Indemnitees”) from and against any and all losses, liabilities, damages, claims, and reasonable and documented or invoiced out-of-pocket fees and expenses (including reasonable Attorney Costs of one counsel for all Indemnitees and, if necessary, one firm of local counsel in each appropriate jurisdiction (which may include a single special counsel acting in multiple jurisdictions) for all Indemnitees (and, in the case of an actual or perceived conflict of interest, where the Indemnitee affected by such conflict informs the Parent Borrower of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnitee)) of any such Indemnitee arising out of or relating to any claim or any litigation or other proceeding (regardless of whether such Indemnitee is a party thereto and whether or not such proceedings are brought by the Parent Borrower, its equity holders, its Affiliates, creditors or any other third person) that relates to the Transaction, including the financing contemplated hereby, of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnitee in any way relating to or arising out of or in connection with (a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (b) any Commitment, Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by an L/C Issuer to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), or (c) any actual or alleged presence or Release or threat of Release of Hazardous Materials on, at, under or from any property currently or formerly owned or operated by the Parent Borrower, any Subsidiary or any other Loan Party, or any Environmental Liability related in any way to the Parent Borrower, any Subsidiary or any other Loan Party, or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) (all the foregoing, collectively, the “Indemnified Liabilities”), in all cases, whether or not caused by or arising, in whole or in part, out of the negligence of the Indemnitee; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any of its controlled Affiliates or controlling Persons or any of the officers, directors, employees, agents, advisors or members of any of the foregoing, in each case who are involved in or aware of the Transaction (as determined by a court of competent jurisdiction in a final and non-appealable decision), (y) a material breach of the Loan Documents by such Indemnitee or one of its Affiliates or (z) disputes solely between and among such Indemnitees to the extent such disputes do not arise from any act or omission of the Parent Borrower or any of its Affiliates (other than with respect to a claim against an Indemnitee acting in its capacity as an Agent or Lead Arranger or similar role under the Loan Documents unless such claim arose from the gross negligence, bad faith or willful misconduct of such Indemnitee). No Indemnitee shall be liable for any damages arising from the use by others of any information or other

materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement, nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 10.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, managers, partners, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 10.05 shall be paid within ten (10) Business Days after demand therefor; provided, however, that such Indemnitee shall promptly refund such amount to the extent that there is a final judicial or arbitral determination that such Indemnitee was not entitled to indemnification or contribution rights with respect to such payment pursuant to the express terms of this Section 10.05. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations. For the avoidance of doubt, this Section 10.05 shall not apply to Taxes other than Taxes that represent liabilities, obligations, losses, damages, etc., with respect to a non-Tax claim.

Section 10.06 Payments Set Aside. To the extent that any payment by or on behalf of a Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate.

Section 10.07 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that, except as otherwise provided herein (including without limitation as permitted under Section 7.04), neither Holdings nor any of its Subsidiaries may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee, (ii) by way of participation in accordance with the provisions of Section 10.07(e), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(g) or (iv) to an SPC in accordance with the provisions of Section 10.07(h) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 10.07(e) and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (“Assignees”) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans (including for purposes of this Section 10.07(b), participations in L/C Obligations and in Swing Line Loans) at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Parent Borrower, provided that, no consent of the Parent Borrower shall be required for an assignment (1) of any Term Loan to any other Lender, any Affiliate of a Lender or any Approved Fund or, (2) of any Term Loan, Revolving Credit Loans or Revolving Credit Commitment, if an Event of Default under Section 8.01(a), (f) or (g) (in the case of Section 8.01(f) or (g), with respect to the Parent Borrower) has occurred and is continuing, to any Assignee; provided, further, that with respect to an assignment of Term Loans, such consent shall be deemed to have been given if the Parent Borrower has not responded within 10 Business Days after notice by the Administrative Agent;

(B) the Administrative Agent; provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Term Loan to another Lender, an Affiliate of a Lender or an Approved Fund;

(C) each L/C Issuer at the time of such assignment, provided that no consent of such L/C Issuers shall be required for any assignment of a Term Loan; and

(D) in the case of any assignment of any of the Revolving Credit Facility, the Swing Line Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Commitment or Loans of any Class, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 (in the case of the Revolving Credit Facility) or \$1,000,000 (in the case of a Term Loan) unless the Parent Borrower and the Administrative Agent otherwise consents, provided that (1) no such consent of the Parent Borrower shall be required if an Event of Default under Section 8.01(a), (f) or (g) (in the case of Section 8.01(f) or (g), with respect to the Parent Borrower) has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

(B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption;

(C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any documentation required by Section 3.01(f);

(D) the Assignee shall not be a natural person or a Disqualified Lender;

(E) the Assignee shall not be a Defaulting Lender; and

(F) in case of an assignment to a Sponsor Affiliated Lender, (1) after giving effect to such assignment, to all other assignments with all Sponsor Affiliated Lenders, the aggregate principal amount of all Loans and Commitments then held by all Sponsor Affiliated Lenders (other than Affiliated Debt Funds) shall not exceed 25% of the aggregate unpaid principal amount of the Term Loans then outstanding (determined at the time of such purchase), (2) no Revolving

Credit Loans or Revolving Credit Commitments shall be assigned to any Sponsor Affiliated Lender; provided that Revolving Credit Loans and Revolving Credit Commitments held by a Lender that becomes a Defaulting Lender may be assigned to a Sponsor Affiliated Lender (other than Holdings or its Restricted Subsidiaries), (3) no proceeds of Revolving Credit Loans shall be used, directly or indirectly, to consummate such assignment, (4) any Loans assigned to Holdings or its Restricted Subsidiaries shall be cancelled promptly upon such assignment, (5) in the event that any proceeding under the Bankruptcy Code shall be instituted by or against the Borrowers or any other Guarantor, each Sponsor Affiliated Lender shall acknowledge and agree that they are each “insiders” under Section 101(31) of the Bankruptcy Code and, as such, the claims associated with the Loans and Commitments owned by it shall not be included in determining whether the applicable class of creditors holding such claims has voted to accept a proposed plan for purposes of Section 1129(a)(10) of the Bankruptcy Code, or, alternatively, to the extent that the foregoing designation is deemed unenforceable for any reason, each Sponsor Affiliated Lender shall vote in such proceedings in the same proportion as the allocation of voting with respect to such matter by those Lenders who are not Sponsor Affiliated Lenders, except to the extent that any plan of reorganization proposes to treat the Obligations held by such Sponsor Affiliated Lender in a manner that is less favorable in any material respect to such Sponsor Affiliated Lender than the proposed treatment of similar Obligations held by Lenders that are not Sponsor Affiliated Lenders; provided that this clause (5) shall not apply to Affiliated Debt Funds, (6) such Sponsor Affiliated Lender will not receive information provided solely to Lenders and will not be permitted to attend or participate in (or receive any notice of) Lender meetings or conference calls and will not be entitled to challenge the Administrative Agent’s and the Lenders’ attorney-client privilege as a result of their status as Sponsor Affiliated Lenders and (7) notwithstanding anything to the contrary contained herein, any such Loans acquired by a Sponsor Affiliated Lender may, with the consent of the Parent Borrower, be contributed to the Parent Borrower (whether through any of its direct or indirect parent entities or otherwise) and exchanged for debt or equity securities that are otherwise permitted to be issued at such time.

This paragraph (b) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Facilities on a non-pro rata basis.

(c) Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.07(d) and receipt by the Administrative Agent from the parties to each assignment of a processing and recordation fee of \$3,500 (provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment), from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.03, 3.04, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Note (if any), the Borrowers (at their expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this clause (c) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.07(e). For greater certainty, any assignment by a Lender pursuant to this Section 10.07 shall not in any way constitute or be deemed to constitute a novation, discharge, recession, extinguishment or substitution of the existing Indebtedness and any Indebtedness so assigned shall continue to be the same obligation and not a new obligations.

(d) The Administrative Agent, acting solely for this purpose as an agent of the Borrowers, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related interest amounts) and currencies of the Loans, L/C Obligations (specifying the Unreimbursed Amounts), L/C Borrowings and amounts due under Section 2.04, owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent demonstrable error, and the Borrowers, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, any Agent and any Lender (with respect to its own interests only), at any reasonable time and from time to time upon reasonable prior notice.

(e) Any Lender may at any time, without the consent of, or notice to, the Parent Borrower or the Administrative Agent, sell participations to any Person (other than a natural person or a Defaulting Lender) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans (including such Lender's participations in L/C Obligations and/or Swing Line Loans) owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or the other Loan Documents; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 10.01(a), (b), (c), (d), (e) or (f) that directly affects such Participant. Subject to Section 10.07(f), the Borrowers agree that each Participant shall be entitled to the benefits of Sections 3.01, 3.03 and 3.04 (through the applicable Lender), subject to the requirements and limitations of such Sections (including Section 3.01(e) and (f) and Sections 3.05 and 3.06), to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.07(b). To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender; provided that such Participant complies with Section 2.13 as though it were a Lender. Any Lender that sells participations shall maintain a register on which it enters the name and the address of each Participant and the principal and interest amounts of each Participant's participation interest in the Commitments and/or Loans (or other rights or obligations) held by it (the "Participant Register"). The entries in the Participant Register shall be conclusive, absent demonstrable error, and the Borrowers and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation interest as the owner thereof for all purposes notwithstanding any notice to the contrary. In maintaining the Participant Register, such Lender shall be acting as the non-fiduciary agent of the Borrowers solely for purposes of applicable United States federal income tax law and undertakes no duty, responsibility or obligation to the Borrowers (without limitation, in no event shall such Lender be a fiduciary of the Borrowers for any purpose). No Lender shall have any obligation to disclose all or any portion of a Participant Register to any Person (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, or its other obligations under this Agreement) except to the extent that such disclosure is necessary to establish in connection with a Tax audit that such commitment, loan, or other obligation is in registered form under Section 5f.103(c) of the United States Treasury Regulations or, if different, under Sections 871(h) or 881(c) of the Code.

(f) A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.03 or 3.04 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Parent Borrower's prior written consent or except to the extent such entitlement to a greater payment results from a Change in Law after the Participant became a Participant.

(g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(h) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Parent Borrower (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) an SPC shall be entitled to the benefit of Sections 3.01, 3.03 and 3.04, subject to the requirements and limitations of such Sections (including Section 3.01(e) and (f) and Sections 3.05 and 3.06), to the same extent as if such SPC were a Lender, but neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrowers under this Agreement (including its obligations under Section 3.01, 3.03 or 3.04) except to the extent any entitlement to greater amounts results from a Change in Law after the grant to the SPC occurred, (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable and such liability shall remain with the Granting Lender, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Parent Borrower and the Administrative Agent, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or Guarantee Obligation or credit or liquidity enhancement to such SPC.

(i) Notwithstanding anything to the contrary contained herein, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it and (2) any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; provided that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.

(j) Notwithstanding anything to the contrary contained herein, any L/C Issuer or the Swing Line Lender may, upon thirty (30) days' notice to the Parent Borrower and the Lenders, resign

as an L/C Issuer or the Swing Line Lender, respectively; provided that on or prior to the expiration of such 30-day period with respect to such resignation, the relevant L/C Issuer or the Swing Line Lender shall have identified, in consultation with the Parent Borrower, a successor L/C Issuer or Swing Line Lender willing to accept its appointment as successor L/C Issuer or Swing Line Lender, as applicable. In the event of any such resignation of an L/C Issuer or the Swing Line Lender, the Borrowers shall be entitled to appoint from among the Lenders willing to accept such appointment a successor L/C Issuer or Swing Line Lender hereunder; provided that no failure by the Borrowers to appoint any such successor shall affect the resignation of the relevant L/C Issuer or the Swing Line Lender, as the case may be. If an L/C Issuer resigns as an L/C Issuer, it shall retain all the rights and obligations of an L/C Issuer hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as an L/C Issuer and all L/C Obligations with respect thereto (including the right to require the Lenders to make Base Rate Loans or fund risk participations in Unreimbursed Amounts pursuant to Section 2.03(c)). If the Swing Line Lender resigns as Swing Line Lender, it shall retain all the rights of the Swing Line Lender provided for hereunder with respect to Swing Line Loans made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make, Base Rate Loans or fund risk participations in outstanding Swing Line Loans pursuant to Section 2.04(c).

Section 10.08 Confidentiality. Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information and to not use or disclose such information, except that Information may be disclosed (a) to its Affiliates and its and its Affiliates' directors, officers, employees, trustees, investment advisors and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent requested by any Governmental Authority, to any pledgee referred to in Section 10.07(g); (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) subject to an agreement containing provisions substantially the same as those of this Section 10.08 (or as may otherwise be reasonably acceptable to the Parent Borrower), to any pledgee referred to in Section 10.07(i), counterparty to a Swap Contract or Permitted Receivables Financing, Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement; (f) with the written consent of the Parent Borrower; (g) to the extent such Information becomes publicly available other than as a result of a breach of this Section 10.08; (h) to any Governmental Authority or examiner regulating any Lender; (i) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender); or (j) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement, the other Loan Documents, the Commitments, and the Credit Extensions. For the purposes of this Section 10.08, "Information" means all information received from any Loan Party or its Affiliates or its Affiliates' directors, managers, officers, employees, trustees, investment advisors or agents, relating to Holdings, the Parent Borrower or any of their Subsidiaries or their business, other than any such information that is publicly available to any Agent or any Lender prior to disclosure by any Loan Party other than as a result of a breach of this Section 10.08, including, without limitation, information delivered pursuant to Section 6.01, 6.02 or 6.03 hereof.

Section 10.09 Setoff. In addition to any rights and remedies of the Lenders provided by Law, upon the occurrence and during the continuance of any Event of Default, each Lender and its Affiliates and each L/C Issuer and its Affiliates is authorized at any time and from time to time, without

prior notice to the Parent Borrower or any other Loan Party, any such notice being waived by the Parent Borrower (on its own behalf and on behalf of each Loan Party and its Subsidiaries) to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other Indebtedness (in any currency) at any time owing by, such Lender and its Affiliates or such L/C Issuer and its Affiliates, as the case may be, to or for the credit or the account of the respective Loan Parties and their Subsidiaries against any and all Obligations owing to such Lender and its Affiliates or such L/C Issuer and its Affiliates hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Agent or such Lender or Affiliate shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness. Notwithstanding anything to the contrary contained herein, no Lender or its Affiliates and no L/C Issuer or its Affiliates shall have a right to set off and apply any deposits held or other Indebtedness owing by such Lender or its Affiliates or such L/C Issuer or its Affiliates, as the case may be, to or for the credit or the account of any Subsidiary of a Loan Party that is a Foreign Subsidiary or a Domestic Foreign Holding Company. Each Lender and L/C Issuer agrees promptly to notify the Parent Borrower and the Administrative Agent after any such set off and application made by such Lender or L/C Issuer, as the case may be; provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent, each Lender and each L/C Issuer under this Section 10.09 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent, such Lender and such L/C Issuer may have.

Section 10.10 Counterparts. This Agreement and each other Loan Document may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by telecopier or other electronic transmission of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by telecopier or other electronic transmission be confirmed by a manually signed original thereof; provided that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by telecopier or other electronic transmission.

Section 10.11 Integration. This Agreement, together with the other Loan Documents and the Fee Letter, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; provided that the inclusion of supplemental rights or remedies in favor of the Agents or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

Section 10.12 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by any Agent or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Credit Extension, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding. The provisions of Sections 10.14 and 10.15 shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding.

Section 10.13 Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.14 GOVERNING LAW, JURISDICTION, SERVICE OF PROCESS.

(a) THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (EXCEPT AS OTHERWISE EXPRESSLY PROVIDED THEREIN).

(b) EXCEPT AS SET FORTH IN THE FOLLOWING PARAGRAPH, ANY LEGAL ACTION OR PROCEEDING ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, SHALL BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY OR OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE (PROVIDED THAT IF NONE OF SUCH COURTS CAN AND WILL EXERCISE SUCH JURISDICTION, SUCH EXCLUSIVITY SHALL NOT APPLY), AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE PARENT BORROWER, HOLDINGS, EACH AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THOSE COURTS. THE PARENT BORROWER, HOLDINGS, THE SUBSIDIARY BORROWER, EACH AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO.

(c) THE PARENT BORROWER HEREBY APPOINTS BURGER KING CORPORATION, 5505 BLUE LAGOON DRIVE, MIAMI, FLORIDA 33126 AS ITS AUTHORIZED AGENT (THE “ AUTHORIZED AGENT”) UPON WHOM PROCESS MAY BE SERVED IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREIN WHICH MAY BE INSTITUTED IN ANY STATE OR FEDERAL COURT IN THE CITY OF NEW YORK, NEW YORK. SERVICE OF PROCESS UPON THE AUTHORIZED AGENT SHALL BE DEEMED, IN EVERY RESPECT, EFFECTIVE SERVICE OF PROCESS UPON THE PARENT BORROWER.

NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT, THE COLLATERAL AGENT OR ANY LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION (I) FOR PURPOSES OF ENFORCING A JUDGMENT, (II) IN CONNECTION WITH EXERCISING REMEDIES AGAINST THE COLLATERAL IN A JURISDICTION IN WHICH SUCH COLLATERAL IS LOCATED, (III) IN CONNECTION WITH ANY PENDING BANKRUPTCY,

INSOLVENCY OR SIMILAR PROCEEDING IN SUCH JURISDICTION OR (IV) TO THE EXTENT THE COURTS REFERRED TO IN THE PREVIOUS PARAGRAPH DO NOT HAVE JURISDICTION OVER SUCH LEGAL ACTION OR PROCEEDING OR THE PARTIES OR PROPERTY SUBJECT THERETO.

Section 10.15 WAIVER OF RIGHT TO TRIAL BY JURY. EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10.15 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 10.16 Binding Effect. This Agreement shall become effective when it shall have been executed by each Borrower and Holdings and the Administrative Agent shall have been notified by each Lender, Swing Line Lender and L/C Issuer that each such Lender, Swing Line Lender and L/C Issuer has executed it and thereafter shall be binding upon and inure to the benefit of the Borrowers, each Agent and each Lender and their respective successors and assigns, except that the Borrowers shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders except as permitted by Section 7.04.

Section 10.17 Judgment Currency. If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrowers in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the “Judgment Currency”) other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the “Agreement Currency”), be discharged only to the extent that on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrowers in the Agreement Currency, the Borrowers agree, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrowers (or to any other Person who may be entitled thereto under applicable Law).

Section 10.18 Lender Action. Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Loan Documents or the Secured Hedge Agreements (including the exercise

of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent. The provisions of this Section 10.18 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

Section 10.19 USA PATRIOT Act . Each Lender hereby notifies the Parent Borrower that, pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies the Borrowers and the Guarantors, which information includes the name and address of the Borrowers and the Guarantors and other information that will allow such Lender to identify the Borrowers and the Guarantors in accordance with the USA PATRIOT Act.

Section 10.20 Intercreditor Agreements .

(a) Reference is made to the Notes Intercreditor Agreement. Each Lender (and, by its acceptance of the benefits of any Collateral Document, each other Secured Party) hereunder (i) acknowledges that it has received a copy of the Notes Intercreditor Agreement, (ii) agrees that it will be bound by and will take no actions contrary to the provisions of the Notes Intercreditor Agreement and (iii) authorizes and instructs the Collateral Agent to enter into the Notes Intercreditor Agreement and any Customary Intercreditor Agreement, in each case as Collateral Agent and on behalf of such Lender or other Secured Party.

(b) The Secured Parties agree, for the express benefit of the Ratably Secured Existing Notes Indenture Trustee and the holders of the Ratably Secured Existing Notes (each of whom are intended as third party beneficiaries of this Section 10.20), that the Liens created by the Collateral Documents in favor of the Secured Parties over the First Lien Shared Collateral shall at all times be secured on an equal basis, ranking ratably and *pari passu* , with any Liens on the First Lien Shared Collateral granted by the Ratably Secured Existing Notes Issuer and any Ratably Secured Existing Notes Guarantors in favor of the Ratably Secured Existing Notes Indenture Trustee securing the Ratably Secured Existing Notes and all other obligations under the Ratably Secured Existing Notes Indenture, irrespective of: (i) the time or order of creation, execution, delivery, attachment or perfection of such Liens; (ii) the method of perfection of such Liens; (iii) the time or order of registration or filing of financing statements, land registration forms or other recordings of such Liens; (iv) the giving of or failure to give notice of the acquisition of any additional Liens; (v) the date or dates of any existing or future advance or advances made or other credit accommodation granted or services provided by the Secured Parties or the holders of the Ratably Secured Existing Notes; (vi) the date or dates of any default or Event of Default in respect of the Obligations or the date or dates of any default in respect of the obligations under the Ratably Secured Existing Notes Indenture or, in each case, any security granted in respect thereof; (vii) the date of crystallization of any floating charge created by such Liens; (viii) the date of commencement of enforcement proceedings under this Agreement or the Ratably Secured Existing Notes Indenture or the respective security agreements securing the obligations thereunder; or (ix) the priorities otherwise accorded to such Liens by any applicable Laws.

(c) Each Lender (and, by its acceptance of the benefits of any Collateral Document, each other Secured Party) hereunder (i) authorizes and instructs the Collateral Agent, as Collateral Agent and on behalf of such Lender or other Secured Party, to enter into one or more intercreditor agreements from time to time with the Ratably Secured Existing Notes Indenture Trustee (collectively, the “ Ratably Secured Existing Notes Intercreditor Agreement ”) that provide for, inter alia, substantially the same rights referred to in Section 10.20(b) and covering any other matters incidental thereto, including provisions relating to the release of the Liens granted in favor of the Ratably Secured Existing Notes Indenture Trustee, and (ii) agrees that it will be bound by and will take no actions contrary to the provisions of any such Ratably Secured Existing Notes Intercreditor Agreement.

Section 10.21 Obligations Absolute. To the fullest extent permitted by applicable Law, all obligations of the Loan Parties hereunder shall be absolute and unconditional irrespective of:

- (a) any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or the like of any Loan Party;
- (b) any lack of validity or enforceability of any Loan Document or any other agreement or instrument relating thereto against any Loan Party;
- (c) any change in the time, manner or place of payment of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from any Loan Document or any other agreement or instrument relating thereto;
- (d) any exchange, release or non-perfection of any other Collateral, or any release or amendment or waiver of or consent to any departure from any guarantee, for all or any of the Obligations;
- (e) any exercise or non-exercise, or any waiver of any right, remedy, power or privilege under or in respect hereof or any Loan Document; or
- (f) any other circumstances which might otherwise constitute a defense available to, or a discharge of, the Loan Parties.

Section 10.22 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each of the Borrowers and Holdings acknowledge and agrees, and acknowledges its Affiliates' understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent and the Lead Arrangers are arm's-length commercial transactions between the Borrowers, Holdings and their respective Affiliates, on the one hand, and the Administrative Agent and the Lead Arrangers, on the other hand, (B) each of the Borrowers and Holdings have consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each of the Borrowers and Holdings are capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, each Lender and each Lead Arranger each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrowers, Holdings or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, nor any Lender or Lead Arranger has any obligation to the Borrowers, Holdings or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, each Lender and each Lead Arranger and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers, Holdings and their respective Affiliates, and neither the Administrative Agent nor any Lead Arranger has any obligation to disclose any of such interests to the Borrowers, Holdings or any of their respective Affiliates. To the fullest extent permitted by law, each of the Borrowers and Holdings hereby waive and release any claims that it may have against the Administrative Agent, each Lender and each Lead Arranger with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 10.23 Quebec Matters. For the purposes of holding any security granted by any Loan Party pursuant to the laws of the Province of Quebec to secure payment of any debenture or bond issued by any Loan Party, Collateral Agent is hereby appointed to act as the person holding the power of attorney (fondé de pouvoir) pursuant to article 2692 of the Civil Code of Quebec to act on behalf of each of the debentureholders or bondholders (as applicable), initially namely JPMorgan Chase Bank, N.A. in its capacity as Collateral Agent for the Secured Parties. Each Person who is or becomes a Lender and each assignee holder of any debenture or bonds issued by any Loan Party shall be deemed to ratify the power of attorney (fondé de pouvoir) granted to Collateral Agent hereunder by its execution of an Assignment and Assumption. The Collateral Agent agrees to act in such capacity. Each party hereto agrees that, notwithstanding Section 32 of An Act respecting the special powers of legal persons (Quebec), the Collateral Agent shall also be entitled to act as a debentureholder or bondholder (as applicable) and to acquire and/or to hold on behalf of the Secured Parties any debentures, bonds or other titles of indebtedness to be issued under any deed of hypothec executed by or on behalf of any Loan Party. For greater certainty, the Collateral Agent, acting as the holder of an irrevocable power of attorney (fondé de pouvoir), shall have the same rights, powers, immunities, indemnities and exclusions from liability as are prescribed in favor of the Collateral Agent in this Agreement, which shall apply mutatis mutandis. In the event of the resignation and appointment of a successor Collateral Agent, such successor Collateral Agent shall also act as the holder of an irrevocable power of attorney (fondé de pouvoir).

Section 10.24 Joint and Several Liability. Each Borrower is jointly and severally liable under this Agreement for all Obligations, regardless of the manner or amount in which proceeds of the Loans are used, allocated, shared or disbursed by or among the Borrowers themselves, or the manner in which an Agent and/or any Lender accounts for such Loans or other extensions of credit in its book and records. Notwithstanding the foregoing, all Loans shall be funded to and received by the Parent Borrower, and the Borrowers shall account for such Loans or other extensions of credit in its books and records consistent with such funding.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

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

1011778 B.C. UNLIMITED LIABILITY COMPANY,
as the Parent Borrower

By: _____
Name:
Title:

[Signature Page to Credit Agreement]

NEW RED FINANCE, INC.,
as the Subsidiary Borrower

By: _____
Name:
Title:

[Signature Page to Credit Agreement]

1013421 B.C. UNLIMITED LIABILITY COMPANY,
as Holdings

By: _____
Name:
Title:

[Signature Page to Credit Agreement]

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent, Collateral Agent, L/C Issuer
and Swing Line Lender

By: _____
Name:
Title:

[Signature Page to Credit Agreement]

[
as Lender

By: _____
Name: _____
Title: _____

[Signature Page to Credit Agreement]

- , 2014

9060669 Canada Inc.
c/o Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126

[New Red Canada Limited Partnership]
c/o Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126

Dear Sirs/Mesdames:

Business Combination Transaction between Tim Hortons Inc. and Burger King Worldwide, Inc.

We are acting as Ontario counsel to **9060669 Canada Inc. (f/k/a 1011773 B.C. Unlimited Liability Company)** (“**Holdings**”) and **New Red Canada Limited Partnership** (f/k/a New Red Canada Partnership) (“**Partnership**”) in connection with the registration by Holdings of common shares (the “**Common Shares**”) and the registration by Partnership of exchangeable units (the “**Exchangeable Units**”) pursuant to a Joint Information Statement and Management Proxy Circular on Form S-4 (the “**Registration Statement**”) jointly filed by Holdings and Partnership with the Securities and Exchange Commission (the “**Commission**”) under the Securities Act of 1933, as amended (the “**Act**”). The Common Shares are to be issued in connection with the arrangement (the “**Arrangement**”) and the merger (the “**Merger**”), and the Exchangeable Units are to be issued in connection with the Merger, in each case as contemplated by the Arrangement Agreement and Plan of Merger, dated as of August 26, 2014, by and among Holdings, Partnership, Burger King Worldwide, Inc. (“**BKW**”), Tim Hortons Inc. (“**THI**”), Blue Merger Sub, Inc. and 8997900 Canada Inc. (the “**Arrangement Agreement**”).

In connection with the opinion expressed herein, we have examined originals, or copies certified or otherwise identified to our satisfaction, of such documents, corporate records and other instruments as we have deemed necessary for the purposes of this opinion, including (i) the Arrangement Agreement attached as Exhibit 2.1 to the Registration

Statement; (ii) the Plan of Arrangement in the form filed as Exhibit 2.2 to the Registration Statement (the “ **Plan of Arrangement** ”), (iii) the Articles of Amendment of Holdings in the form filed as Exhibit 3.1 to the Registration Statement (the “ **Articles of Amendment** ”); (iv) the Amended and Restated By-law No. 1 of Holdings in the form filed as Exhibit 3.2 to the Registration Statement (the “ **Amended By-Laws** ”); (v) the Partnership Agreement of Partnership filed as Exhibit 3.3 to the Registration Statement (the “ **Partnership Agreement** ”); and (vi) the Registration Statement.

For purposes of this opinion, we have assumed the authenticity of all documents submitted to us as originals, the conformity to the originals of all documents submitted to us as copies and the authenticity of the originals of all documents submitted to us as copies. We have also assumed the legal capacity of all natural persons, the genuineness of the signatures of persons signing all documents in connection with which this opinion is rendered and the due authorization, execution and delivery of all documents by the parties thereto other than Holdings and Partnership. We have not independently established or verified any facts relevant to the opinion expressed herein, but relied upon statements and representations of officers and other representatives of Holdings and Partnership and others as to factual matters.

Based and relying upon and subject to the foregoing and the further limitations set forth below, we are of the opinion that, when (i) the form of Plan of Arrangement is duly finalized by the completion of information marked as omitted as at the date hereof and provided that such Plan of Arrangement shall not otherwise have been amended, modified, supplemented or rescinded (the “ **Final Plan of Arrangement** ”); (ii) the Final Plan of Arrangement is duly approved by the shareholders of THI without amendment or modification thereof or supplement thereto; (iii) the Arrangement is approved by the Ontario Superior Court of Justice (Commercial List) (the “ **Court** ”) on the terms of the Final Plan of Arrangement without amendment or modification thereof or supplement thereto, and, if such approval of the Arrangement by the Court is appealed, such appeal is withdrawn, abandoned or dismissed, and in the case such appeal is dismissed such dismissal has the effect of confirming the approval by the Court of the Arrangement on the terms of the Final Plan of Arrangement without amendment or modification thereof or supplement thereto; (iv) the articles of arrangement relating to the Arrangement, incorporating the Final Plan of Arrangement without amendment, modification or supplement thereto, are filed with the director (the “ **Director** ”) appointed pursuant to section 260 of the Canada Business Corporations Act (the “ **CBCA** ”) and the Director issues a certificate of arrangement in accordance with section 262 of the CBCA; (v) the certificate of merger relating to the Merger is filed with and accepted by the Secretary of State of the State of Delaware; (vi) the Registration Statement becomes effective under the Act and provided that such effectiveness shall not have been terminated; (vii) the Articles of Amendment are validly adopted by Holdings in accordance with the CBCA and the Director issues a certificate of amendment in accordance with section 262 of the CBCA and provided that such Articles of Amendment shall not have been amended, modified, supplemented or rescinded; (viii) the Amended By-Laws are validly adopted by Holdings in accordance with the CBCA and provided that such Amended By-Laws shall not have been amended, modified, supplemented or rescinded; (ix) the Partnership Agreement is adopted by the partners of Partnership and provided that such Partnership Agreement shall

not have been amended, modified, supplemented or terminated and remains the partnership agreement of Partnership; (x) BKW, as the sole shareholder of Holdings prior to the Arrangement and the Merger and acting pursuant to a sole shareholder declaration validly adopted pursuant to the CBCA, restricting in whole the powers of the directors of Holdings and giving such power to BKW, duly authorizes the issuance of the Common Shares and, in Holdings' capacity as general partner of Partnership, the issuance of the Exchangeable Units, in each case pursuant to the Arrangement Agreement; and (xi) Holdings, in its capacity as general partner of Partnership prior to the Arrangement and the Merger, duly authorizes in accordance with the Partnership Agreement the issuance of the Exchangeable Units pursuant to the Arrangement Agreement:

1. All necessary corporate action will have been taken by Holdings to authorize the issuance of the Common Shares pursuant to the Arrangement Agreement.
2. All necessary action will have been taken by Partnership to authorize the issuance of the Exchangeable Units pursuant to the Arrangement Agreement.
3. The Common Shares, when issued pursuant to the Arrangement Agreement, will be outstanding as validly issued, fully paid and non-assessable.
4. The Exchangeable Units, when issued pursuant to the Arrangement Agreement, will be outstanding as validly issued, fully paid and non-assessable.

Our advice on every legal issue addressed in this opinion is based exclusively on the laws of the Province of Ontario and the laws of Canada applicable in that province. The manner in which any particular issue relating to this opinion would be treated in any actual court case would depend in part on facts and circumstances particular to the case and would also depend on how the court involved chose to exercise the wide discretionary authority generally available to it. This letter is not intended to guarantee the outcome of any legal dispute which may arise in the future.

We hereby consent to the filing of this opinion with the Commission as Exhibit 5.1 to the Registration Statement. We also consent to the reference to our firm under the heading "Legal Matters" in the Registration Statement. In giving the foregoing consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Act or the rules and regulations of the Commission promulgated thereunder.

This opinion is furnished to you in connection with the filing of the Registration Statement with the Commission, and is not to be used, circulated, quoted or otherwise relied upon for any other purpose. This opinion is limited to the specific issues addressed herein, and no opinion may be inferred or implied beyond that expressly stated herein.

Yours very truly,

(212) 373-3000

(212) 757-3990

[], 2014

Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126

Registration Statement on Form S-4

Ladies and Gentlemen:

We have acted as tax counsel for Burger King Worldwide, Inc., a Delaware corporation (“ **Burger King Worldwide** ”), in connection with (i) the Combination, as defined and described in the Arrangement Agreement and Plan of Merger dated as of August 26, 2014 (the “ **Arrangement Agreement** ”) by and among Burger King Worldwide, 9060669 Canada Inc., a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company) (“ **Holdings** ”), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), a limited partnership organized under the laws of Ontario and a wholly owned subsidiary of Holdings (“ **Partnership** ”), Blue Merger Sub, Inc., a Delaware corporation and an indirect wholly owned subsidiary of Partnership (“ **Merger**

Sub ”), 8997900 Canada Inc., a corporation organized under the laws of Canada and an indirect wholly owned subsidiary of Partnership, and Tim Hortons Inc., a corporation organized under the laws of Canada (“ **Tim Hortons** ”), and (ii) the preparation and filing of the related Registration Statement on Form S-4 (the “ **Registration Statement** ”), which includes the Proxy Statement/Prospectus (the “ **Proxy Statement/Prospectus** ”), filed with the Securities and Exchange Commission (the “ **Commission** ”). Unless otherwise indicated, each capitalized term used herein has the meaning ascribed to it in the Arrangement Agreement.

In connection with this opinion, we have examined the Arrangement Agreement, including the Schedules thereto and, in particular, the limited partnership agreement of Partnership, the Registration Statement, the Proxy Statement/Prospectus, the representation letters of Holdings (together with Partnership and Merger Sub), Burger King Worldwide and Tim Hortons delivered to us for purposes of this opinion (the “ **Tax Representation Letters** ”) and such other documents as we have deemed necessary or appropriate in order to enable us to render our opinion. In such examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies, and the authenticity of the originals of such latter documents. We have not, however, undertaken any independent investigation of any factual matter set forth in any of the foregoing. For purposes of this opinion, we have assumed, with your permission, (i) that the Combination will be consummated in the manner described in Arrangement Agreement and the Proxy Statement/Prospectus, (ii) the statements concerning the

Combination set forth in the Arrangement Agreement and the Proxy Statement/Prospectus are true, complete and correct and will remain true, complete and correct at all times up to and including the Merger Effective Time, (iii) that the representations made and to be made by Holdings (together with Partnership and Merger Sub), Burger King Worldwide and Tim Hortons in the Arrangement Agreement and in the Tax Representation Letters are and will be true, correct and complete and (iv) any representations made in the Arrangement Agreement or the Tax Representation Letters “to the knowledge of,” or based on the belief of Holdings, Partnership, Merger Sub, Burger King Worldwide or Tim Hortons or similarly qualified are true, complete and correct and will remain true, complete and correct at all times up to and including the Merger Effective Time, in each case without such qualification. We have also assumed that the parties have complied with and, if applicable, will continue to comply with, the obligations, covenants, and agreements contained in the Arrangement Agreement. In addition, our opinion is based solely on the documents that we have examined, the additional information that we have obtained, and the representations to be made by Holdings (together with Partnership and Merger Sub), Burger King Worldwide and Tim Hortons referred to above, which we have assumed will be true as of the Merger Effective Time.

Based upon the foregoing, and subject to the assumptions and qualifications set forth herein, we hereby confirm our opinion set forth in the discussion in the Proxy Statement/Prospectus under the heading “Material U.S. Federal Income Tax Considerations,” to the extent that discussion relates to tax considerations other than the tax considerations of the arrangement to holders of Tim Hortons common shares, and insofar as it represents conclusions as to the application of U.S. federal income tax law.

We express our opinion herein only as to those matters specifically set forth above and no opinion should be inferred as to the tax consequences of the Combination under any state, local or foreign law, or with respect to other areas of U.S. federal taxation. This opinion is given as of the date hereof and is based on the Internal Revenue Code of 1986, as amended, Treasury Regulations promulgated thereunder and interpretations thereof by the Internal Revenue Service and the courts having jurisdiction over such matters, all of which are subject to change either prospectively or retroactively. Further, any variation or difference in the facts from those set forth in the Arrangement Agreement, the Proxy Statement/Prospectus and the Tax Representation Letters may affect the conclusions stated herein. We are members of the Bar of the State of New York, and we do not express any opinion herein concerning any law other than the federal law of the United States.

This opinion is furnished to you solely for use in connection with the Registration Statement. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the references to our firm name in the Proxy Statement/Prospectus in connection with the references to this opinion and the material U.S. federal income tax consequences of the Combination other than the U.S. federal income tax consequences of the arrangement to holders of Tim Hortons common shares. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Commission thereunder.

Very truly yours,

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

[], 2014

Burger King Worldwide, Inc.
5505 Blue Lagoon Drive
Miami, FL 33126

Registration Statement on Form S-4

Ladies and Gentlemen:

We have acted as tax advisor for Burger King Worldwide, Inc., a Delaware corporation (“**Burger King Worldwide**”), in connection with (i) the Combination, as defined and described in the Arrangement Agreement and Plan of Merger dated as of August 26, 2014 (the “**Arrangement Agreement**”) by and among Burger King Worldwide, 9060669 Canada Inc., a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company) (“**Holdings**”), New Red Canada Limited Partnership (f/k/a New Red Canada Partnership), a limited partnership organized under the laws of Ontario and a wholly owned subsidiary of Holdings (“**Partnership**”), Blue Merger Sub, Inc., a Delaware corporation and an indirect, wholly owned subsidiary of Partnership (“**Merger Sub**”), 8997900 Canada Inc., a corporation organized under the laws of Canada and an indirect wholly owned subsidiary of Partnership, and Tim Hortons Inc., a corporation organized under the laws of Canada (“**Tim Hortons**”), and (ii) the preparation and filing of the related Registration Statement on Form S-4 (the “**Registration Statement**”), which includes the Proxy Statement/Prospectus (the “**Proxy Statement/Prospectus**”),

filed with the Securities and Exchange Commission (the “ **Commission** ”). Unless otherwise indicated, each capitalized term used herein has the meaning ascribed to it in the Arrangement Agreement.

In connection with this opinion, we have examined the Arrangement Agreement, including the Schedules thereto and, in particular, the limited partnership agreement of Partnership, the Registration Statement, the Proxy Statement/Prospectus, the representation letters of Holdings (together with Partnership and Merger Sub), Burger King Worldwide and Tim Hortons delivered to us for purposes of this opinion (the “ **Tax Representation Letters** ”) and such other documents as we have deemed necessary or appropriate in order to enable us to render our opinion. In such examination, we have assumed the genuineness of all signatures, the legal capacity of natural persons, the authenticity of all documents submitted to us as originals, the conformity to original documents of all documents submitted to us as duplicates or certified or conformed copies, and the authenticity of the originals of such latter documents. We have not, however, undertaken any independent investigation of any factual matter set forth in any of the foregoing. For purposes of this opinion, we have assumed, with your permission, (i) that the Combination will be consummated in the manner described in Arrangement Agreement and the Proxy Statement/Prospectus, (ii) the statements concerning the Combination set forth in the Arrangement Agreement and the Proxy Statement/Prospectus are true, complete and correct and will remain true, complete and correct at all times up to and including the Merger Effective Time, (iii) that the representations made and to be made by Holdings (together with Partnership and Merger Sub), Burger King Worldwide and Tim Hortons in the Arrangement Agreement and in

the Tax Representation Letters are and will be true, correct and complete and (iv) any representations made in the Arrangement Agreement or the Tax Representation Letters “to the knowledge of,” or based on the belief of Holdings, Partnership, Merger Sub, Burger King Worldwide or Tim Hortons or similarly qualified are true, complete and correct and will remain true, complete and correct at all times up to and including the Merger Effective Time, in each case without such qualification. We have also assumed that the parties have complied with and, if applicable, will continue to comply with, the obligations, covenants, and agreements contained in the Arrangement Agreement. In addition, our opinion is based solely on the documents that we have examined, the additional information that we have obtained, and the representations to be made by Holdings (together with Partnership and Merger Sub), Burger King Worldwide and Tim Hortons referred to above, which we have assumed will be true as of the Merger Effective Time.

Based upon the foregoing, and subject to the assumptions and qualifications set forth herein, we hereby confirm our opinion set forth in the discussion in the Proxy Statement/Prospectus under the heading “Material U.S. Federal Income Tax Considerations,” to the extent that discussion relates to tax considerations other than the tax considerations of the arrangement to holders of Tim Hortons common shares and insofar as it represents conclusions as to the application of U.S. federal income tax law.

We express our opinion herein only as to those matters specifically set forth above and no opinion should be inferred as to the tax consequences of the Combination under any state, local or foreign law, or with respect to other areas of U.S. federal taxation. This opinion is given as of the date hereof and is based on the Internal

Revenue Code of 1986, as amended, Treasury Regulations promulgated thereunder and interpretations thereof by the Internal Revenue Service and the courts having jurisdiction over such matters, all of which are subject to change either prospectively or retroactively. Further, any variation or difference in the facts from those set forth in the Arrangement Agreement, the Proxy Statement/Prospectus and the Tax Representation Letters may affect the conclusions stated herein. Except as set forth above, we express no other opinions.

This opinion is furnished to you solely for use in connection with the Registration Statement. We hereby consent to the filing of this opinion as an exhibit to the Registration Statement and to the references to our firm name in the Proxy Statement/Prospectus in connection with the references to this opinion and the material U.S. federal income tax consequences of the Combination other than the U.S. federal income tax consequences of the arrangement to holders of Tim Hortons common shares. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended, or the rules and regulations of the Commission thereunder.

Very truly yours,

KPMG LLP

[Letterhead of Wachtell, Lipton, Rosen & Katz]

[], 2014

Tim Hortons Inc.
874 Sinclair Road
Oakville, ON
Canada

Ladies and Gentlemen:

Reference is made to the registration statement on Form S-4 of 9060669 Canada Inc. (“Holdings”), a corporation continued under the laws of Canada (f/k/a 1011773 B.C. Unlimited Liability Company), and New Red Canada Limited Partnership (“Partnership”), a limited partnership organized under the laws of Ontario (f/k/a New Red Canada Partnership), including the joint information statement/circular forming a part thereof (as amended through the date hereof, the “Registration Statement”), relating to the transactions contemplated by the Arrangement Agreement and Plan of Merger dated as of August 26, 2014, by and among Burger King Worldwide, Inc., Holdings, Partnership, Blue Merger Sub, Inc., 8997900 Canada Inc., and Tim Hortons Inc. (as amended or supplemented through the date hereof, the “Agreement”). Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

We hereby confirm that, subject to the limitations and qualifications set forth in the section of the Registration Statement entitled “THE TRANSACTIONS—Material U.S. Federal Income Tax Considerations—In General,” the discussion in the section of the Registration Statement entitled “THE TRANSACTIONS—Material U.S. Federal Income Tax Consequences of the Arrangement to U.S. Holders” constitutes our opinion as to the material U.S. federal income tax consequences of the Arrangement to U.S. holders (as defined therein) of Tim Hortons common shares.

We hereby confirm our opinion in the Registration Statement and consent to the filing of this opinion with the Securities and Exchange Commission as an exhibit to the Registration Statement, and to the references therein to us. In giving such consent, we do not thereby admit that we are in the category of persons whose consent is required under Section 7 of the Securities Act of 1933, as amended.

Very truly yours,



October 31, 2014

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We hereby consent to the incorporation by reference in this Amendment No. 3 to the Registration Statement on Form S-4 of 9060669 Canada Inc. and New Red Canada Limited Partnership of our report dated February 25, 2014 relating to the consolidated financial statements, financial statement schedule and the effectiveness of internal control over financial reporting of Tim Hortons Inc., which appears in Tim Hortons Inc.'s Annual Report on Form 10-K for the year ended December 29, 2013. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers LLP

Chartered Professional Accountants, Licensed Public Accountants

*PricewaterhouseCoopers LLP
PwC Tower, 18 York Street, Suite 2600, Toronto, Ontario, Canada M5J 0B2
T: +1 416 863 1133, F: +1 416 365 8215, www.pwc.com/ca*

"PwC" refers to PricewaterhouseCoopers LLP, an Ontario limited liability partnership, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Burger King Worldwide, Inc.:

We consent to the use of our report dated February 21, 2014, with respect to the consolidated balance sheets of Burger King Worldwide, Inc. and subsidiaries as of December 31, 2013 and 2012, and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity, and cash flows for each of the years in the three-year period ended December 31, 2013, and the effectiveness of internal control over financial reporting as of December 31, 2013, incorporated herein by reference and to the reference to our firm under the heading "Experts" in the joint information statement/circular.

/s/ KPMG LLP

Miami, Florida
October 30, 2014
Certified Public Accountants