

**Court File No. CV-19-616077-00CL**

**Imperial Tobacco Canada Limited and  
Imperial Tobacco Company Limited**

**THIRTY-FIRST REPORT OF THE MONITOR**

**August 19, 2025**

Court File No. CV-19-616077-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

IN THE MATTER OF THE *COMPANIES' CREDITORS  
ARRANGEMENT ACT*, R.S.C. 1985, c.C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
**IMPERIAL TOBACCO CANADA LIMITED AND IMPERIAL TOBACCO COMPANY  
LIMITED**

**THIRTY-FIRST REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC.,  
IN ITS CAPACITY AS MONITOR**

**A. OVERVIEW**

1. This Thirty-First Report of the Monitor (“**Report**”) was prepared in connection with the motion of FTI Consulting Canada Inc., in its capacity as CCAA Plan Administrator (the “**Imperial CCAA Plan Administrator**”) of Imperial Tobacco Canada Limited (“**ITCAN**”) and Imperial Tobacco Company Limited (together with ITCAN, “**Imperial**”), for an Order (the “**Collateral Agent Order**”), among other things:
  - i. approving the proposed Collateral Agency Agreement in respect of Imperial (the “**Imperial Collateral Agency Agreement**”) substantially in the form attached to the Collateral Agent Order as Schedule A and attached hereto as Appendix A;
  - ii. approving the engagement of Computershare Trust Company of Canada (“**Computershare**”) by the Claimants (as defined below) to act as collateral agent (the “**Collateral Agent**”), pursuant to the Imperial Collateral Agency Agreement, to act for and on behalf of itself and the Provinces and Territories, Quebec Class Action Plaintiffs and Pan-Canadian Claimants (collectively, the

“**Claimants**”<sup>1</sup> in respect of certain collateral (the “**Collateral**”) pursuant to (a) the Contribution Security Agreement, the Guarantee (as defined in the Imperial Collateral Agency Agreement), the Deed of Movable Hypothec, and any other agreements, documents or guarantees provided in connection therewith, and (b) the charge granted by the CCAA Court over the property held in the Imperial Supplemental Trust Account pursuant to the Order of the CCAA Court dated August 15, 2025 (collectively, the “**Security Documents**”); and

- iii. approving the limitation of liability of the Collateral Agent.
2. In this Report, unless otherwise defined, all capitalized terms have the respective meanings specified in the Third Amended and Restated Court-Appointed Mediator’s and Monitor’s CCAA Plan of Compromise and Arrangement Concerning, Affecting and Involving Imperial dated February 27, 2025 (the “**Imperial Plan**”).
3. Further information regarding the CCAA Proceedings of Imperial have been provided in previous reports of the Monitor.
4. All CCAA Court materials filed and orders issued in these CCAA Proceedings and the related Imperial Chapter 15 Proceedings are available on the Monitor’s website at: <http://cfcanada.fticonsulting.com/imperialtobacco>.
5. This Report was prepared in coordination with the monitors of the other Tobacco Companies. The Monitor understands that the reports to be filed by such other monitors will be substantially the same as this Report.

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<sup>1</sup> The “Claimants” do not include the *Knight* Class Action Plaintiffs and the Tobacco Producers because these parties will be paid in full as a condition to the implementation of the Imperial Plan.

## B. PURPOSE OF THIS REPORT

6. The purpose of this Report is to provide the CCAA Court with information regarding:
  - i. the collateral agent selection process;
  - ii. the Imperial Collateral Agency Agreement;
  - iii. the proposed limitation of the Collateral Agent's liability; and
  - iv. the Monitor's recommendations in respect of the proposed Collateral Agent Order.

## C. THE COLLATERAL AGENT SELECTION PROCESS AND COLLATERAL AGENT FEES

7. The Imperial Plan requires (i) a collateral agent to be engaged and (ii) Imperial and its Material Subsidiaries to enter into an agreement (the "**Contribution Security Agreement**") granting security to the collateral agent over the property of Imperial for the exclusive benefit of the Claimants in order to secure Imperial's obligations under the Imperial Plan. The form of Contribution Security Agreement has already been approved by the CCAA Court when it sanctioned the Imperial Plan on March 6, 2025.
8. In order to engage a collateral agent, the CCAA Plan Administrators and Court-Appointed Mediator ran a request for proposals process from June 25, 2025 until July 18, 2025, to solicit bids from certain entities that regularly act as collateral agents in similar capacities to act as collateral agent for the Claimants.
9. After careful consideration, the Claimants and Tobacco Companies selected Computershare, subject to approval by the CCAA Court, as the Collateral Agent. Computershare has more than 100 years of experience in Canada as an industry-

leader in providing corporate services, including collateral agent services that span from straightforward collateral agent mandates to complex financial financing structures.

10. Computershare's proposed services will include, upon receiving written instructions from the applicable Claimants, the Imperial CCAA Plan Administrator and/or the approval of the CCAA Court, as applicable:
  - i. holding, administering and enforcing each Security Document, as may be required;
  - ii. taking actions permitted under the Security Documents to protect the Claimants' interests;
  - iii. instituting legal proceedings with respect to the Collateral, including selling any portion of the Collateral or otherwise exercising the rights and remedies of the Claimants under the Security Documents;
  - iv. remitting amounts from the sale of any of the Collateral to the Claimants based on the allocation set out in the Imperial Plan; and
  - v. executing and delivering any necessary additional documents or releasing any Lien (as defined in the Imperial Collateral Agency Agreement) as may be required.
11. In consideration for its services, Computershare will be paid:
  - i. a one-time fee for initial set up and services;

- ii. an annual fee for ongoing administrative duties and responsibilities;<sup>2</sup>
  - iii. outside legal counsel fees for assisting with reviewing and implementing legal documentation related to the Collateral and Security Documents; and
  - iv. additional fees, as applicable, for professional services related to actions taken following an Event of Default by the Tobacco Companies or their Material Subsidiaries (collectively, the “**Collateral Agent Fees**”).
12. The Collateral Agent Fees are the result of arm’s-length negotiations among the Tobacco Companies, Computershare and the Claimants. All such parties have consented to the Collateral Agent Fees. The Monitor believes the proposed Collateral Agent Fees are fair and reasonable given the scope of the duties to be performed by Computershare.

#### **D. THE COLLATERAL AGENCY AGREEMENT**

13. The Imperial Plan requires the engagement of a collateral agent and for the collateral agent to enter into certain of the Security Documents prior to the Plan Implementation Date.<sup>3</sup> To set the terms of the Collateral Agent’s engagement and provide for the scope of its services, the Claimants, Imperial, Imperial’s Material Subsidiaries and the Collateral Agent propose to enter into the Imperial Collateral Agency Agreement. The Imperial Collateral Agency Agreement by its terms is subject to the approval of the CCAA Court.

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<sup>2</sup> Computershare advises that its initial service fee and annual fee are confidential. However, these fees have been disclosed to the CCAA Plan Administrators, Claimants and Tobacco Companies, all of whom are satisfied with the reasonableness of such fees.

<sup>3</sup> Section 5.13 of the Imperial Plan requires that, at least ten Business Days prior to the Plan Implementation Date, Imperial and its Material Subsidiaries shall have entered into certain of the Security Documents (the “**Document Requirement**”). In order to facilitate the implementation of the Imperial Plan, the Court-Appointed Mediator and the Monitor waived the Document Requirement pursuant to Section 19.3 of the Imperial Plan. The Monitor now understands that amendments to the Imperial Plan have been proposed that require the relevant Security Documents to be entered into on or prior to the Plan Implementation Date, eliminating the need for such waiver.

14. The Imperial Collateral Agency Agreement governs the manner in which the Collateral Agent may enforce on the Collateral. In accordance with the Imperial Plan, the Imperial Collateral Agency Agreement requires that there be an Event of Default under the Imperial Plan before the Claimants may instruct the Collateral Agent to enforce on the Collateral under the Security Documents.
15. If an Event of Default takes place, a certain minimum number of the Claimants (representing a majority in number and at least two-thirds in value of the Voting Claims of the Claimants) (the “**Required Claimants**”), or the Imperial CCAA Plan Administrator may provide a notice to the Collateral Agent of the Event of Default.<sup>4</sup> The Collateral Agent will proceed to provide written notice of the Event of Default to each Claimant. The Collateral Agent will then wait to receive instructions from the Required Claimants with respect to enforcement on the Collateral under the relevant Security Documents.
16. Pursuant to the Imperial Plan, the CCAA Court has the exclusive jurisdiction to determine all matters related to the exercise of any rights, remedies and powers that the Collateral Agent may have under the Contribution Security Agreement. Notwithstanding any instructions received from the Required Claimants, no remedies may be exercised by the Collateral Agent without approval of the CCAA Court following a motion of the Collateral Agent on instructions from the Required Claimants.
17. The Imperial Collateral Agency Agreement provides that the Collateral Agent will distribute the proceeds of any sale of any part of the Collateral, if applicable, (i) first to the Collateral Agent, to cover any of the Collateral Agent Fees payable under the Imperial Collateral Agency Agreement, (ii) second to the Claimants in accordance

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<sup>4</sup> Pursuant to the Imperial Collateral Agency Agreement, upon payment in full of the Principal Obligations owing to a Claimant under the Imperial Plan, that Claimant no longer has voting rights under the Imperial Collateral Agency Agreement.

with Sections 16.1 and 16.3 of the Imperial Plan, on instructions from the Imperial CCAA Plan Administrator, on account of the outstanding obligations of Imperial under the Imperial Plan, and (iii) third to Imperial, should any surplus amounts remain after the Claimants are irrevocably and unconditionally paid in full in cash.

18. The Monitor believes that the form of the Imperial Collateral Agency Agreement is fair and reasonable and necessary to implement and administer the Imperial Plan.

#### **E. THE LIMITATION OF THE COLLATERAL AGENT'S LIABILITY**

19. A condition to the appointment of the Collateral Agent in the Imperial Collateral Agency Agreement and the obligations of the Collateral Agent thereunder is that an order limiting the liability of the Collateral Agent as described below be granted.
20. The Contribution Security Agreement contains an indemnity provided by Imperial to the Collateral Agent in respect of liabilities resulting from the Contribution Security Agreement.
21. To protect the Collateral Agent from liabilities under the Imperial Collateral Agency Agreement that are not covered by the indemnity in the Contribution Security Agreement (the “**Residual Liabilities**”), Imperial has agreed to provide a separate indemnity for such Residual Liabilities in the Imperial Collateral Agency Agreement. This additional indemnity is limited to the aggregate Contributions remaining to be paid by all Tobacco Companies toward the Global Settlement Amount at any given time (the “**Remaining Contributions**”). The Collateral Agent Order proposes to limit the Residual Liabilities to the Remaining Contributions, except where the Residual Liabilities arise from the Collateral Agent's negligence, bad faith or wilful misconduct. This ensures that the Collateral Agent has no unindemnified exposure by simply complying with the terms of the Imperial Collateral Agency Agreement.

22. The Imperial Collateral Agency Agreement provides that if Imperial indemnifies the Collateral Agent for any Residual Liabilities, Imperial may deduct, by way of set-off from its Annual Contributions to the Global Settlement Amount any such Residual Liabilities. Imperial may only exercise this set-off if it provides 30-days written notice to the Claimants and no Claimant objects within such notice period, or if the CCAA Court issues a final and non-appealable order permitting such set-off .
23. In the view of the Monitor, the proposed limitation of liability in the Collateral Agent Order is unlikely to prejudice any Person that may make a claim against the Collateral Agent with respect to the exercise of its duties in connection with the Imperial Plan, including for the following reasons:
- i. the liability of the Collateral Agent pursuant to the Contribution Security Agreement (indemnified by Imperial) is likely to encompass most of the liabilities the Collateral Agent may incur in fulfilling its duties, and such liability is not capped;
  - ii. the Residual Liabilities are capped at the amount remaining to be contributed by all Tobacco Companies to the Global Settlement Amount, but this amount will number in the billions of dollars for most of the Contribution Period; and
  - iii. the limitation of liability does not apply in circumstances where the liability results from the Collateral Agent's negligence, bad faith or wilful misconduct.
24. The Imperial Collateral Agency Agreement and the substantially similar collateral agency agreements of the other Tobacco Companies are the result of arm's-length negotiations among the Claimants, the Tobacco Companies and Computershare. The Monitor understands that the limitation of the Collateral Agent's liability in the

proposed Collateral Agent Order is necessary to obtain all parties' agreement to the Imperial Collateral Agency Agreement. The execution of the Imperial Collateral Agency Agreement is necessary to implement the Imperial Plan.

25. In the Monitor's view, the limitation of the Collateral Agent's liability provided for in the proposed Collateral Agent Order is consistent with similar limitations of liability that the Court has granted to other professionals who have provided services to CCAA debtors in furtherance of the objectives of the CCAA, including financial advisors, chief restructuring officers, investment bankers, sales advisors and other similar professionals. As a result, the Monitor believes that the proposed limitation of the Collateral Agent's liability in the Collateral Agent Order is fair and reasonable in the circumstances.

#### **F. RECOMMENDATION**

26. The Monitor submits that the proposed Imperial Collateral Agency Agreement is aligned with the Imperial Plan and will facilitate the restructuring of the Tobacco Companies. Without the Imperial Collateral Agency Agreement, the conditions of the Imperial Plan could not be fulfilled and the implementation of the Imperial Plan would not be possible.
27. The Monitor is not aware of any party that is opposed to the form of Imperial Collateral Agency Agreement. Nor is the Monitor aware of any party opposing the motion at this time.
28. The Monitor is of the view that it is unlikely any stakeholder will be prejudiced by the Collateral Agent Order. Any prejudice that may result therefrom is far outweighed by the benefits such order provides by facilitating the implementation of the Imperial Plan. The balance of convenience, the interests of justice and the merits of the motion favour granting the Collateral Agent Order.

29. For all the foregoing reasons, the Monitor recommends that the Collateral Agent Order be granted.

All of which is respectfully submitted this 19th day of August, 2025.

*FTI Consulting Canada Inc.*

**FTI Consulting Canada Inc.**

in its capacity as Monitor of Imperial Tobacco Canada Limited and Imperial Tobacco Company Limited, and not in its personal capacity

## **Appendix “A”**

**COLLATERAL AGENCY AGREEMENT**

THIS COLLATERAL AGENCY AGREEMENT is made as of [●], 2025,

A M O N G:

**IMPERIAL TOBACCO CANADA LIMITED**, a corporation existing under the laws of Canada (together with its successors and permitted assigns, “**ITCAN**”),

**IMPERIAL TOBACCO COMPANY LIMITED**, a corporation existing under the laws of Canada (together with its successors and permitted assigns, “**ITCO**” and collectively with ITCAN, “**Imperial**”),

**MARLBORO CANADA LIMITED**, a corporation existing under the laws of Canada,

**JOHN PLAYER & SONS LTD.**, a corporation existing under the laws of Canada,

**IMPERIAL BRANDS LTD.**, a corporation existing under the laws of Canada,

**MEDALLION INC.**, a corporation existing under the laws of Canada,

**CAMEO INC.**, a corporation existing under the laws of Canada, and

**IMPERIAL TOBACCO PRODUCTS LIMITED**, a corporation existing under the laws of Canada (collectively with Marlboro Canada Limited, John Player & Sons Ltd., Imperial Brands Ltd., Medallion Inc. and Cameo Inc., the “**Material Subsidiaries**”)

- and -

**COMPUTERSHARE TRUST COMPANY OF CANADA**, in its capacity as collateral agent for the Secured Parties (together with its successors and permitted assigns, the “**Collateral Agent**”)

- and -

**HIS MAJESTY THE KING IN RIGHT OF BRITISH COLUMBIA**

**HIS MAJESTY THE KING IN RIGHT OF ALBERTA**

**HIS MAJESTY THE KING IN RIGHT OF SASKATCHEWAN**

**HIS MAJESTY THE KING IN RIGHT OF MANITOBA**

**HIS MAJESTY THE KING IN RIGHT OF ONTARIO**

**ATTORNEY GENERAL OF QUÉBEC**

**HIS MAJESTY THE KING IN RIGHT OF NEW  
BRUNSWICK**

**HIS MAJESTY THE KING IN RIGHT OF NOVA SCOTIA**

**HIS MAJESTY THE KING IN RIGHT OF PRINCE  
EDWARD ISLAND**

**HIS MAJESTY THE KING IN RIGHT OF  
NEWFOUNDLAND AND LABRADOR**

**GOVERNMENT OF YUKON**

**GOVERNMENT OF THE NORTHWEST TERRITORIES**

**GOVERNMENT OF NUNAVUT**

**QUEBEC CLASS ACTION PLAINTIFFS**, as represented by  
Quebec Class Counsel

**PAN-CANADIAN CLAIMANTS**, as represented by PCC  
Representative Counsel

(collectively, the “**Claimants**”)

WHEREAS the Debtors are or may become obligated or liable to the Secured Parties pursuant to the terms of the Definitive Documents;

AND WHEREAS the Debtors have granted or will grant the Security Interests in favour of the Collateral Agent securing their respective Secured Obligations pursuant to the Security Documents (as defined herein) and the other Definitive Documents;

AND WHEREAS the Claimants would like to appoint the Collateral Agent as their agent to hold each of the Security Documents for the benefit of the Secured Parties;

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the respective covenants and agreements of the parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged by each party), the parties agree as follows:

## **ARTICLE 1**

### **INTERPRETATION**

#### **1.1 Definitions.**

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Plan. In addition, the following terms shall have the following meanings in this Agreement:

**“Act of Instructing Claimants”** means, as to any matter at any time, a direction in writing delivered to the Collateral Agent by the Required Claimants or all of the Claimants holding Voting Claims, as may be required under this Agreement, and for greater certainty, the representatives of certain of the Claimants as set out in the preamble of this Agreement (and any successors or assigns of such representatives pursuant to any written notice from the applicable representatives of such Claimants to the Collateral Agent) are authorized to execute such Act of Instructing Claimants and to execute or issue any payment or wiring directions for the Claimants as received by the Collateral Agent from the applicable Claimants or their representatives that they act as representative of as set out in the preamble of this Agreement;

**“Actionable Default”** means the occurrence of any “Event of Default” as such term is defined in the Plan.

**“Affiliate”** shall have the meaning given to it in the Plan.

**“Agreement”** means this collateral agency agreement, as it may be amended, modified, revised, supplemented, restated and/or replaced from time to time.

**“Business Day”** means a day other than a Saturday, Sunday or statutory or civic holiday in the Province of Ontario.

**“CCAA Court”** means the Ontario Superior Court of Justice (Commercial List) at Toronto.

**“Claimants”** has the meaning given to it in the preamble of this Agreement.

**“Collateral”** means, in respect of any Debtor, all property and assets of such Debtor now or hereafter owned or acquired by such Debtor in which Liens have been granted by such Debtor to the Collateral Agent, for the benefit of the Secured Parties, pursuant to any Security Document.

**“Collateral Agent”** has the meaning given to it in the preamble of this Agreement.

**“Collateral Agent Order”** means an order of the CCAA Court, in form and substance acceptable to the Collateral Agent, Imperial and the CCAA Plan Administrator, that (i) approves this Agreement, (ii) appoints the Collateral Agent as the agent for and on behalf of the Secured Parties in accordance with Section 2.1 of this Agreement, and (iii) limits the liability of the Indemnitees pursuant to this Agreement to the Remaining Contributions, unless such liability is (a) a liability indemnified under Section 12.8 of the Contribution Security Agreement, or (b) results from the negligence, bad faith or wilful misconduct of an Indemnitee, as found by a final and non-appealable decision of the CCAA Court.

**“Contribution Security Agreement”** means the contribution security agreement to be entered into on or about August 29, 2025 by Imperial and the Material Subsidiaries in favour of the Collateral Agent, for the benefit of the Secured Parties, entered into pursuant to the terms of the Plan, as such agreement may be amended, restated, supplemented or otherwise modified from time to time.

**“Debtors”** means, together, ITCAN, ITCO and the Material Subsidiaries, and each a **“Debtor”**.

**“Deed of Movable Hypothec”** means the deed of movable hypothec to be executed on the date hereof between the Debtors party thereto and the Collateral Agent, for the benefit of the Secured Parties, in accordance with Section 2.2 of the Contribution Security Agreement, as amended, restated, supplemented or otherwise modified from time to time.

“**Definitive Documents**” has the meaning given to it in the Plan.

“**Guarantee**” means the guarantee to be entered into on or about August 29, 2025 made by each of the Material Subsidiaries in favour of the Collateral Agent, for the benefit of the Secured Parties, entered into pursuant to Section 11.1 of the Contribution Security Agreement, as amended, restated, supplemented or otherwise modified from time to time.

“**Imperial Supplemental Trust Account**” means the segregated bank account into which Imperial shall deposit its Reserved Amounts from time to time in accordance with Section 5.3 of the Plan.

“**Indemnified Liabilities**” means any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, taxes, expenses or disbursements of any kind or nature whatsoever with respect to the execution, delivery, performance, administration or enforcement of this Agreement or any Security Document or the violation of, non-compliance with or liability under, any law applicable to or enforceable against any Debtor or any of the Collateral, together with all reasonable costs and expenses (including reasonable counsel fees and disbursements) incurred by any Indemnitee in connection with any claim, action, investigation or proceeding in any respect relating to any of the foregoing, whether or not suit is brought.

“**Indemnitee**” means the Collateral Agent, each Receiver, and their respective Affiliates and each and all of their respective directors, officers, partners, trustees, employees, attorneys and agents, and (in each case) their respective heirs, representatives, successors and assigns.

“**ITCAN**” has the meaning given to it in the preamble of this Agreement.

“**ITCO**” has the meaning given to it in the preamble of this Agreement.

“**Lien**” means any “Encumbrance”, as defined in the Plan.

“**Material Subsidiaries**” has the meaning given to it in the preamble of this Agreement.

“**Notice of Actionable Default**” means a written notice given to the Collateral Agent by the Required Claimants or the CCAA Plan Administrator expressly stating that an Actionable Default has occurred and is continuing.

“**Person**” has the meaning given to it in the Plan.

“**Plan**” means the Fourth Amended and Restated Court-Appointed Mediator’s and Monitor’s CCAA Plan of Compromise and Arrangement pursuant to the *Companies’ Creditors Arrangement Act* (Canada) concerning, affecting and involving Imperial, including all Schedules thereto, dated August [●], 2025, as approved by the CCAA Court on August 27, 2025, as the same may be further amended, restated, modified or supplemented from time to time in accordance with the provisions thereof.

“**Principal Obligations**” means, collectively, all obligations of any Debtor to the Secured Parties (or any of them) under, in connection with or with respect to the Definitive Documents, including the Plan, Contribution Security Agreement and Guarantee (including the obligation to remit the Annual Contributions and Reserved Amounts for the benefit of the Secured Parties under, and in accordance with, the Plan).

“**Receiver**” means any interim receiver, receiver, receiver and manager, sequestrator, conservator, custodian, administrator, trustee, liquidator or other similar official.

**“Remaining Contributions”** means, at any time, the amount equal to the Global Settlement Amount less the aggregate amount of all Contributions paid by each Tobacco Company into its respective Global Settlement Trust Account as at such time.

**“Required Claimants”** means, at any time in respect of any action or matter, Claimants holding a majority in number of Voting Claims representing at least two-thirds in value of the Voting Claims of the Claimants.

**“Secured Obligations”** has the meaning given to such term in the applicable Security Document.

**“Secured Parties”** means, collectively, the Claimants and the Collateral Agent, each a **“Secured Party”**.

**“Security Documents”** means, collectively, (a) the Guarantee, the Contribution Security Agreement, and the Deed of Movable Hypothec, and any other agreements, documents or guarantees provided in connection therewith, and (b) the charge granted by the CCAA Court over the property held in the Imperial Supplemental Trust Account pursuant to the Order of the CCAA Court dated August 15, 2025, and such other charges over the property and assets of Imperial as may be ordered by the CCAA Court from time to time, each of the items in clauses (a) and (b), a **“Security Document”**.

**“Security Interests”** means the Liens in favour of the Collateral Agent under the Security Documents securing the Secured Obligations.

**“Voting Claims”** means in respect of each of the Claimants, the value allocated to the claim of such Claimant, and the number of votes associated therewith, as set forth in the definition of “Negative Notice Claim” in the Plan; provided that, for the purposes of calculating the Required Claimants and the calculation of any other approval or consent of the Claimants under or in connection with this Agreement, upon payment in full in cash of all Principal Obligations owing to a Claimant, such Claimant no longer holds any Voting Claim.

## 1.2 **Rules of Construction.**

Except as may be otherwise specifically provided in this Agreement:

(a) the terms “Agreement”, “this Agreement”, “the Agreement”, “hereto”, “hereof”, “herein”, “hereby”, “hereunder” and similar expressions refer to this Agreement in its entirety and not to any particular provision hereof;

(b) references to an “Article” or “Section” followed by a number refer to the specified Article or Section of this Agreement;

(c) the division of this Agreement into articles and sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;

(d) words importing the singular number only shall include the plural and vice versa and words importing the use of any gender shall include all genders;

(e) the word “including” is deemed to mean “including without limitation”;

(f) the terms “party” and “the parties” refer to a party or the parties to this Agreement;

(g) any reference to this Agreement or any other agreement, indenture or contract means this Agreement or any other agreement, indenture or contract as amended, modified, replaced or supplemented from time to time;

(h) any time period within which any action is to be taken hereunder shall be calculated excluding the day on which the period commences and including the day on which the period ends; and

(i) whenever any payment is required to be made, action is required to be taken or period of time is to expire on a day other than a Business Day, such payment shall be made, action shall be taken or period shall expire on the next following Business Day.

### **1.3 Entire Agreement.**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral. Except as expressly set forth herein, there are no representations, warranties, conditions, other agreements or acknowledgements, whether direct or collateral, express or implied, that form part of or affect this Agreement.

### **1.4 Severability.**

If any provision of this Agreement is determined by the CCAA Court to be invalid, illegal or unenforceable in any respect, all other provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of this Agreement is not affected in any manner materially adverse to any party hereto.

### **1.5 Québec Matters.**

For purposes of any assets, liabilities or entities located in the Province of Québec and for all other purposes pursuant to which the interpretation or construction of this Agreement may be subject to the laws of the Province of Québec or a court or tribunal exercising jurisdiction in the Province of Québec, (a) all references to filing, perfection, priority, remedies, registering or recording under a *Personal Property Security Act* shall include publication, opposability, priority and ranking, and recourses under the *Civil Code of Québec*, (b) all references to “perfection” of or “perfected” liens or security interest shall include a reference to an “opposable” or “set up” hypothec as against third parties, (c) “gross negligence or willful misconduct” shall be deemed to be “intentional or gross fault”, (d) “guarantee” and “guarantor” shall include “suretyship” and “surety”, respectively, and (e) for the purposes of the Deed of Movable Hypothec, “Secured Obligations” shall include “*Obligations Garanties*” and “Secured Parties” shall include “*Parties Garanties*”.

## **ARTICLE 2 COLLATERAL AGENT**

### **2.1 Appointment of Collateral Agent.**

(a) Subject to, and in accordance with, this Agreement, and subject specifically to the condition set out in Section 2.1(b) of this Agreement, the Collateral Agent is hereby appointed as the agent for and on behalf of the Secured Parties for, under and in connection with each Security Document and all

Collateral subject thereto, and the Collateral Agent will, as agent, for the benefit solely and exclusively of the Secured Parties:

- (i) accept, enter into, hold, maintain, administer and enforce each Security Document as creditor in its own name, including all Collateral subject thereto, and all Liens created thereunder, perform its obligations under each Security Document and protect, exercise and enforce the interests, rights, powers and remedies granted or available to it under, pursuant to or in connection with each Security Document;
- (ii) take all lawful actions permitted under any Security Document that it may deem necessary or advisable to protect or preserve its interest in the Collateral and such interests, rights, powers and remedies;
- (iii) deliver and receive notices pursuant to each Security Document;
- (iv) sell, assign, collect, assemble, foreclose on, institute legal proceedings with respect to, or otherwise exercise or enforce the rights and remedies of a secured party with respect to the Collateral under each Security Document and its other interests, rights, powers and remedies;
- (v) remit, in accordance with Section 2.4, all cash proceeds received by the Collateral Agent from the collection, foreclosure or enforcement of its interest in the Collateral under any Security Document or any of its other interests, rights, powers or remedies;
- (vi) execute and deliver such additional documents in connection with, or amendments to, each Security Document as may from time to time be authorized and directed by an Act of Instructing Claimants from all of the Claimants; and
- (vii) release any Lien granted to it in any Collateral under any Security Document if authorized and directed by an Act of Instructing Claimants from all of the Claimants holding Voting Claims.

(b) The appointment of the Collateral Agent and the obligations of the Collateral Agent under this Agreement are conditional upon the issuance of the Collateral Agent Order.

(c) The Collateral Agent is authorized and empowered to enter into and perform its obligations under, and to protect, perfect, exercise and enforce its interest, rights, powers and remedies under each Security Document, under Applicable Law and in equity and to act as set forth in this Agreement or as requested in any lawful directions given to it from time to time pursuant to an Act of Instructing Claimants delivered to it in accordance with this Agreement.

(d) For the purposes of granting security under the laws of the Province of Québec which may now or in the future be required to be provided by any Debtor, the Collateral Agent is hereby irrevocably authorized and appointed by each of the Secured Parties to act as hypothecary representative (within the meaning of Article 2692 of the *Civil Code of Québec*) for all present and future Secured Parties (in such capacity, the “**Hypothecary Representative**”) to hold any hypothec or other security granted under the laws of the Province of Québec and to exercise such rights, powers, remedies and duties as are conferred upon the Hypothecary Representative under the Deed of Movable Hypothec, other Security Documents and Applicable Law (with the power to delegate any such rights, powers, remedies or duties). The execution prior to the date hereof by the Collateral Agent in its capacity as the Hypothecary Representative of the Deed of Movable Hypothec or other Security Documents made pursuant to the laws of the Province of

Québec, is hereby ratified and confirmed. Any Person who becomes a Secured Party or successor Collateral Agent shall be deemed to have consented to and ratified the foregoing appointment of the Collateral Agent as the Hypothecary Representative on behalf of all Secured Parties, including such Person and any Affiliate of such Person designated above as a Secured Party. For greater certainty, the Collateral Agent, acting as the Hypothecary Representative, shall have the same rights, powers, immunities, indemnities and exclusions from liability as are prescribed in favour of the Collateral Agent in this Agreement, which shall apply *mutatis mutandis*. In the event of the resignation of the Collateral Agent (which shall include its resignation as the Hypothecary Representative) and appointment of a successor Collateral Agent, such successor Collateral Agent shall also act as the Hypothecary Representative, as contemplated above.

## **2.2 Governing Law and Submission to Jurisdiction.**

(a) This Agreement shall be interpreted and enforced in accordance with, and the respective rights and obligations of the parties shall be governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

(b) Any action or proceeding arising out of or based upon this Agreement shall be brought in the CCAA Court, and each of the parties hereto irrevocably submits to the exclusive jurisdiction of the CCAA Court. The parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in the CCAA Court and irrevocably waive and agree not to plead in the CCAA Court that any such action or proceeding brought in such court has been brought in an inconvenient forum. Each of the parties hereto agrees that a final judgment in any such action or proceeding may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Applicable Law.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Collateral Agent will not exercise any remedies or take any foreclosure actions or otherwise take any action or proceeding against any of the Collateral (other than actions as necessary to prove, protect or preserve the Security Interests) unless and until it shall have received a Notice of Actionable Default, and then only in accordance with the provisions of this Agreement and the Security Documents

(d) The Collateral Agent will not release, waive, vary or subordinate any Security Interest (in each case, in whole or in part) or consent to the release, waiver, variation or subordination of any Security Interest except as directed by an Act of Instructing Claimants from all of the Claimants holding Voting Claims.

## **2.3 Remedies Upon Actionable Default.**

(a) If the Collateral Agent at any time receives a Notice of Actionable Default, the Collateral Agent will promptly deliver written notice thereof to each Claimant pursuant to Section 3.1. Thereafter, subject to Section 2.3(b), the Collateral Agent shall await direction by an Act of Instructing Claimants from Required Claimants and will act as directed by such Act of Instructing Claimants from Required Claimants, in the exercise and enforcement of the Collateral Agent's interests, rights, powers and remedies in respect of the Collateral or under any Security Document or Applicable Law and, following the initiation of such exercise of remedies, the Collateral Agent will act with respect to the manner of such exercise of remedies as directed by an Act of Instructing Claimants from Required Claimants. Unless it has been directed by such an Act of Instructing Claimants, the Collateral Agent shall not take, and shall refrain from taking, any action with respect to any Actionable Default.

(b) Notwithstanding Section 2.3(a) or anything to the contrary in this Agreement or any other Security Document, no remedies may be exercised by the Collateral Agent upon an Actionable Default without the approval of the CCAA Court.

(c) The Collateral Agent shall not be deemed to have actual, constructive, direct or indirect notice or knowledge of any Actionable Default unless and until the Collateral Agent shall have received a Notice of Actionable Default.

#### **2.4 Application of Proceeds.**

(a) Subject to mandatory provisions of Applicable Law, the Collateral Agent will apply the proceeds of any collection, sale, foreclosure or other enforcement of the Security Interests under any Security Document or any realization upon any Collateral, in the following order of application and pursuant to the wiring instructions of the Claimants provided to the Collateral Agent by each Claimant from time to time:

- (i) FIRST, to the payment of all amounts payable under this Agreement on account of the Collateral Agent's direct or indirect fees and any reasonable and documented legal fees, costs and expenses or other liabilities or debts of any kind incurred by the Collateral Agent or any co-trustee, agent or Receiver in connection with this Agreement or any Security Document;
- (ii) SECOND, on instructions from the CCAA Plan Administrator or otherwise by order of the CCAA Court, to the Claimants for application to the payment of all outstanding Principal Obligations that are then due and payable to such Claimants, rateably based on the Claimant Allocation, as set out in Sections 16.1 and 16.3 of the Plan, in the amounts to each Claimant as calculated by and provided in writing by the CCAA Plan Administrator to the Collateral Agent; and
- (iii) THIRD, any surplus remaining after the irrevocable and unconditional payment in full in cash of all of the Principal Obligations will be paid to Imperial or the Material Subsidiaries, as applicable, or as the CCAA Court may direct.

**2.5 No Implied Duty.** It is understood and agreed that the use of the term "Collateral Agent" as used herein or in any other Security Document (or any similar term with respect to the Collateral Agent) is not intended to connote any fiduciary or other implied (or express) obligations arising under any agency doctrine of Applicable Law. Instead, such term is used as a matter of market custom, and is only intended to create or reflect an administrative relationship between the contracting parties. The Collateral Agent will also not have any responsibilities or obligations other than those expressly assumed by it in this Agreement and the Security Documents. The Collateral Agent will not be required to take any action that is contrary to Applicable Law, any provision of this Agreement or any Security Document or any instructions of the CCAA Court. The Collateral Agent shall have no duty to monitor compliance by any Debtor with its duties and obligations under this Agreement or any other Security Document, except to the extent expressly provided herein or therein.

#### **2.6 Appointment of Agents and Advisors; Receivers.**

(a) The Collateral Agent may execute any of the rights or powers hereunder or perform any duties hereunder either directly or by or through agents, legal counsel, accountants, appraisers or other experts or advisors selected by it in good faith as it may reasonably require for the purpose of discharging its duties hereunder and will not be responsible for any act, default, misconduct or negligence on the part of any of them. The Collateral Agent may act and rely and shall be protected in acting in good faith on the opinion or advice of or information obtained from any agent, counsel, accountant, engineer, appraiser or other expert or advisor, whether retained or employed by the Collateral Agent or any other Secured Party, in relation to any matter arising in the performance of its duties under this Agreement. The Collateral Agent

shall provide prior written notice to the CCAA Plan Administrator in connection with the retention of any agents, legal counsel, accountants, appraisers or other experts or advisors.

(b) Without limiting the generality of Section 2.6(a) and in addition to other rights it may have, but subject in all cases to Section 2.3(b), the Collateral Agent may institute proceedings in the CCAA Court for the appointment of one or more Receiver(s) as instructed by the Required Claimants pursuant to an Act of Instructing Claimants. Any such Receiver is hereby given and shall have the same powers, rights and exclusions and limitations of liability as the Collateral Agent has under any Security Document, pursuant to Applicable Law or in equity. In exercising any such powers, any such Receiver shall, to the extent permitted by Applicable Law, act as, and for all purposes shall be deemed to be the agent of the Debtors and the Collateral Agent shall not be responsible for any act, default, misconduct or negligence of any such Receiver. The Collateral Agent may remove any such Receiver or Receivers and appoint another or others in his or their stead from time to time pursuant to an Act of Instructing Claimants from the Required Claimants. Any Receiver so appointed may be an officer or employee of the Collateral Agent. Upon a Debtor receiving notice from the Collateral Agent of the taking of possession of the Collateral or the appointment of a Receiver, all powers, functions, rights and privileges of each of the directors and officers of such Debtor with respect to the Collateral shall, to the extent permitted by Applicable Law, cease, unless specifically continued by the written consent of the Collateral Agent, such consent to be granted only if specified in an Act of Instructing Claimants from Required Claimants.

## **2.7 Limitations on Duty of Collateral Agent; Limitation of Liability.**

(a) Beyond the exercise of reasonable care in the custody of Collateral in its possession, neither the Collateral Agent nor any Receiver nor any of their respective Affiliates will have any duty as to any Collateral in its possession or control or in the possession or control of any agent or bailee, any income thereon, or as to preservation of rights against prior parties or any other rights pertaining thereto and the Collateral Agent will not be responsible for filing any financing statements, financing change statements or continuation statements or recording any documents or instruments in any public office at any time or times or otherwise perfecting or maintaining the perfection of any Lien in the Collateral (which financing change statements or continuation statements or recordings shall be at the sole cost, expense and responsibility of Imperial) unless instructed to do so by Required Claimants pursuant to an Act of Instructing Claimants. The Collateral Agent or a Receiver, or any of their respective Affiliates, will be deemed to have exercised reasonable care in the custody of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which it accords its own property, and neither the Collateral Agent nor any Receiver nor any of their respective Affiliates will be liable or responsible for any loss or diminution in the value of any of the Collateral by reason of the act or omission of any agent or bailee selected by the Collateral Agent or any Receiver in good faith.

(b) Neither the Collateral Agent nor any Receiver nor any of their Affiliates will be responsible for the existence, genuineness or value of any of the Collateral or for the validity, perfection, priority or enforceability of the Security Interests, for the validity or sufficiency of the Collateral or any agreement or assignment contained therein, for the validity of the title of any Debtor to the Collateral, for insuring the Collateral or for the payment of taxes, charges, assessments or Liens upon the Collateral or otherwise as to the maintenance of the Collateral, and hereby disclaims any representation or warranty to the Secured Parties concerning the perfection of the Security Interests or in the value of any of the Collateral.

(c) Neither the Collateral Agent nor any Receiver nor any of their respective Affiliates will be responsible or liable for any action taken or omitted to be taken by it hereunder or under any Security Document except to the extent caused by its own gross negligence, bad faith or wilful misconduct as determined by the CCAA Court by final and non-appealable order or judgment.

(d) No property or assets of the Collateral Agent, owned in its personal capacity or otherwise, will be subject to levy, execution or other enforcement procedure with regard to any obligations under this Agreement or under any Security Document, other than in connection with any liability of the Collateral Agent in connection with this Agreement or any Security Document as determined by a final and non-appealable decision of the CCAA Court to have been caused by the gross negligence, bad faith or wilful misconduct of the Collateral Agent.

**2.8** **Entitled to Rely.** The Collateral Agent may conclusively rely upon, and shall be fully protected in relying upon, any writing, certificate, notice, statement, order or other document reasonably believed by it to be genuine and correct and to have been signed or sent by or on behalf of the proper Person or Persons and need not investigate any fact or matter stated in any such document, including an Act of Instructing Claimants. The Collateral Agent may seek and rely upon, and shall be fully protected in relying upon, any judicial order or judgment, upon any advice, opinion or statement of legal counsel, independent consultants and other experts selected by it in good faith and upon any certification, instruction, notice or other writing delivered to it in accordance with the provisions of this Agreement or delivered to it by the Claimants or the CCAA Plan Administrators, without being required to determine the authenticity thereof or the correctness of any fact stated therein or the propriety or validity of service thereof. The Collateral Agent may act in reliance upon any instrument comporting with the provisions of this Agreement or any signature reasonably believed by it to be genuine and may assume that any Person purporting to give notice or receipt or advice or make any statement or execute any document in connection with the provisions hereof or any Security Document has been duly authorized to do so. The Collateral Agent will not be required to inquire as to the occurrence or absence of any Actionable Default and will not be affected by or required to act upon any notice or knowledge as to the occurrence of any Actionable Default unless and until it receives a Notice of Actionable Default.

**2.9** **Actions by Collateral Agent.** As to any matter not expressly provided for by this Agreement or any Security Document, the Collateral Agent will act or refrain from acting as directed by an Act of Instructing Claimants and will be fully protected if it does so pursuant to this Section 2.9, and any action taken, suffered or omitted pursuant hereto or thereto shall be binding on the Secured Parties. The Collateral Agent will not be required to take any legal or other action under this Agreement that will require it to expend any funds or otherwise incur any liability, expense or obligation in the performance of its duties or the exercise of its powers or rights hereunder unless it has been provided with security or indemnity including the advance of funds reasonably satisfactory to it against any and all liability, expense or obligation which may be incurred by it by reason of taking or continuing to take such action.

**2.10** **Collateral Agent's Remuneration and Expenses.** Imperial agrees to pay to the Collateral Agent from time to time, remuneration for its services hereunder, as set out in the agreed Collateral Agent fee schedule, and will also pay upon demand, all reasonable costs and expenses incurred by the Collateral Agent, including all reasonable fees, expenses and disbursements of legal counsel and any auditors, accountants, consultants or appraisers or other professional advisors, experts and agents engaged by the Collateral Agent or any Receiver, in each case, on a full indemnity basis in connection with:

- (a) the preparation, execution, delivery, filing, recordation, administration or enforcement of this Agreement or any Security Document or any consent, amendment, waiver or other modification relating hereto or thereto;
- (b) the creation, perfection, release or enforcement of any of the Security Interests, including filing and recording fees, expenses and taxes, stamp or documentary taxes, and search fees; and
- (c) the preservation, collection, foreclosure or enforcement of the Collateral or any interest, right, power or remedy of the Collateral Agent or in connection with the collection or

enforcement of any of the Secured Obligations or the proof, protection, administration or resolution of any claim based upon the Secured Obligations in any Insolvency Proceeding (as defined in the Guarantee).

The agreements in this Section 2.10 will survive repayment of all Principal Obligations, the termination of this Agreement and the removal or resignation of the Collateral Agent.

## **2.11 Indemnity.**

(a) In addition to and without limiting any other protection of the Collateral Agent hereunder or otherwise under Applicable Law, Imperial agrees to defend, indemnify, pay and hold harmless the Indemnitees from and against any and all Indemnified Liabilities, howsoever arising (including from or out of any act, omission or error of the Collateral Agent in connection with its acting as Collateral Agent hereunder); provided that: (i) no Indemnitee will be entitled to indemnification hereunder with respect to any Indemnified Liability to the extent such Indemnified Liability is found by a final and non-appealable decision of the CCAA Court to have resulted from the negligence, bad faith or wilful misconduct of such Indemnitee; and (ii) the amount of the Indemnified Liabilities at any time that is not a liability indemnified under Section 12.8 of the Contribution Security Agreement (which, for greater certainty, includes amounts paid pursuant to Section 12.12 of the Contribution Security Agreement) shall be limited to the Remaining Contributions at such time.

(b) All amounts due under this Section 2.11 will be payable upon demand by the Collateral Agent. The agreements in this Section 2.11 will survive repayment of all Principal Obligations, the termination of this Agreement and the removal or resignation of the Collateral Agent.

(c) If Imperial pays any Indemnified Liability to the Collateral Agent in accordance with this Agreement, Imperial may, by way of set-off, deduct from its future Annual Contributions to the Global Settlement Trust Account any portion of such amount that is not a liability indemnified under Section 12.8 of the Contribution Security Agreement (which, for greater certainty, includes amounts paid pursuant to Section 12.12 of the Contribution Security Agreement). Imperial may exercise such right of set-off if (i) Imperial provides 30 days' written notice to the Provinces and Territories and any Impacted Claimants, and no Province, Territory or Impacted Claimant objects to such set-off in writing within such 30 day notice period, or (ii) the CCAA Court issues a final, non-appealable order that Imperial is entitled to such set-off in the amount determined in such order.

**2.12 Resignation or Removal of Collateral Agent.** Subject to the appointment of a successor Collateral Agent as provided in Section 2.13 and the acceptance of such appointment by the successor Collateral Agent:

- (a) the Collateral Agent may resign at any time by giving not less than 45 days' written notice of resignation to each Claimant, Imperial, and the CCAA Plan Administrators, provided that such notice period may be waived by each Claimant, Imperial, and the CCAA Plan Administrators; and
- (b) the Collateral Agent may be removed at any time, with or without cause, by an Act of Instructing Claimants of the Required Claimants or by order of the CCAA Court.

**2.13 Appointment of Successor Collateral Agent.** Upon any resignation or removal of the Collateral Agent pursuant to Section 2.12:

- (a) a successor Collateral Agent as approved by the CCAA Court may be appointed;

- (b) if no successor Collateral Agent has been so appointed and has accepted such appointment within 30 days after the predecessor Collateral Agent gave notice of resignation or was removed, the retiring Collateral Agent may (at the expense of Imperial), make a motion to the CCAA Court for the appointment of a successor Collateral Agent; and
- (c) the Collateral Agent will fulfill its obligations under this Agreement until a successor Collateral Agent has accepted its appointment as Collateral Agent and the provisions of this Section 2.13 have been satisfied. For the avoidance of doubt, the Collateral Agent's fees will be paid in accordance with Section 2.10 during this period.

**2.14**            **Succession of New Collateral Agent.** Upon acceptance of a successor Collateral Agent by way of an appointment pursuant to Section 2.13:

- (a) such Person will succeed to and become vested with all the rights, powers, privileges, duties and obligations of the predecessor Collateral Agent hereunder and under the Security Documents, and the predecessor Collateral Agent will be discharged from its duties and obligations hereunder and thereunder; and
- (b) the predecessor Collateral Agent will (upon full payment of its fees and expenses, and at the expense of Imperial) promptly transfer all Security Interests and Collateral within its possession or control to the possession or control of the successor Collateral Agent and will execute instruments and assignments as may be necessary or desirable or reasonably requested by the successor Collateral Agent to transfer to the successor Collateral Agent all Security Interests, interests, rights, powers and remedies of the predecessor Collateral Agent in respect of the Security Documents, the Collateral and the Security Interests.

**2.15**            **Repayment of Principal Obligations.**

Each Claimant hereby agrees that, upon the repayment and satisfaction in full of all Principal Obligations owing to such Claimant, such Claimant shall deliver written notice to the Collateral Agent and the other Claimants confirming that: (a) all such Principal Obligations have been repaid and satisfied in full; and (b) that such Claimant no longer holds any Voting Claim for the purposes of calculating any approval or consent of the Claimants required under this Agreement, including the determination of the Required Claimants.

### **ARTICLE 3** **GENERAL**

**3.1**            **Notices.**

(a) Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be delivered in person or transmitted by e-mail or sent by registered mail, charges prepaid, addressed as set out in Schedule "A" hereto.

(b) Any such notice or other communication shall be deemed to have been given and received on the day on which it was delivered or transmitted (or, if such day is not a Business Day or if delivery or transmission is made on a Business Day after 5:00 p.m. at the place of receipt, then on the next following Business Day) or, if mailed, on the third Business Day following the date of mailing; provided, however, that if at the time of mailing or within three Business Days thereafter there is or occurs a labour dispute or other event which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder shall be delivered or transmitted by e-mail as aforesaid.

(c) Any party may at any time change its address for service from time to time by giving notice to the other parties in accordance with this Section.

### **3.2 Assignment.**

No party may assign any of its rights or obligations under this Agreement except with the prior written consent of the other parties hereto; provided that, the Collateral Agent may assign its rights and obligations hereunder to a successor Collateral Agent in accordance with Sections 2.13 and 2.14.

### **3.3 Successors and Assigns.**

This Agreement shall enure to the benefit of and shall be binding on and enforceable by and against the parties and their respective successors and permitted assigns.

### **3.4 No Amendment.**

No provisions of this Agreement may be modified, amended or waived without the prior written consent of the Debtors, the Collateral Agent and all of the Claimants holding Voting Claims at such time.

### **3.5 Paramountcy.**

If there is a conflict or inconsistency between the provisions of this Agreement and the Plan or the Sanction Order, then the provisions of the Plan or the Sanction Order shall govern and prevail to the extent necessary to resolve such conflict or inconsistency. If there is a conflict or inconsistency between the provisions of this Agreement and any Security Document, then, notwithstanding anything contained in such Security Document, the provisions contained in this Agreement shall govern and prevail to the extent necessary to resolve such conflict or inconsistency, it being understood that the Security Documents may not detract from any of the rights, entitlements and/or protections granted to the Collateral Agent (for its own benefit and the benefit of the other Secured Parties) under this Agreement.

### **3.6 Further Assurances.**

Each of the parties hereto shall, from time to time hereafter and upon any reasonable request of the other, promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things as may be required or necessary for the purposes of giving effect to this Agreement, including any and all acts, documents or things as may be necessary for the purpose of registering or filing notice of the terms and provisions of this Agreement.

### **3.7 Termination.**

This Agreement shall terminate and cease to have effect on the earlier of (i) the date on which all of the Claimants holding Voting Claims shall have agreed by way of an Act of Instructing Claimants to terminate this Agreement, and (ii) the date on which all of the Principal Obligations shall have been indefeasibly paid in full and all of the Security Interests have been released and discharged.

### **3.8 Counterparts.**

This Agreement and all documents contemplated by or delivered under or in connection with this Agreement may be executed and delivered in counterparts, with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and will constitute one and the same agreement. Delivery by electronic mail of an executed counterpart to this Agreement and all documents contemplated by or delivered under or in connection with

this Agreement shall be effective delivery of an original executed counterpart of this Agreement and such other documents.

[The remainder of this page has been intentionally left blank.]

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date first written above.

**IMPERIAL TOBACCO CANADA LIMITED, as Debtor**

by \_\_\_\_\_  
Name:  
Title

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**IMPERIAL TOBACCO COMPANY LIMITED, as Debtor**

by \_\_\_\_\_  
Name:  
Title:

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**MARLBORO CANADA LIMITED, as Debtor**

by \_\_\_\_\_  
Name:  
Title:

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**JOHN PLAYER & SONS LTD., as Debtor**

by \_\_\_\_\_  
Name:  
Title:

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**IMPERIAL BRANDS LTD., as Debtor**

by \_\_\_\_\_  
Name:  
Title:

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**MEDALLION INC., as Debtor**

by \_\_\_\_\_  
Name:  
Title:

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**CAMEO INC., as Debtor**

by \_\_\_\_\_  
Name:  
Title:

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**IMPERIAL TOBACCO PRODUCTS LIMITED, as Debtor**

by \_\_\_\_\_  
Name:  
Title:

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**COMPUTERSHARE TRUST COMPANY OF CANADA, as Collateral Agent**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Corporation.

**HIS MAJESTY THE KING IN RIGHT OF BRITISH COLUMBIA**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
ALBERTA**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
SASKATCHEWAN**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
MANITOBA**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
ONTARIO**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**ATTORNEY GENERAL OF QUÉBEC**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
NEW BRUNSWICK**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
NOVA SCOTIA**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
PRINCE EDWARD ISLAND**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Crown.

**HIS MAJESTY THE KING IN RIGHT OF  
NEWFOUNDLAND AND LABRADOR**

by \_\_\_\_\_  
Name:  
Title;

I have authority to bind the Crown.

**GOVERNMENT OF YUKON**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Government.

**GOVERNMENT OF THE  
NORTHWEST TERRITORIES**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Government.

**GOVERNMENT OF NUNAVUT**

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Government.

**QUEBEC CLASS ACTION  
PLAINTIFFS**, as represented by Quebec  
Class Counsel

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Quebec Class Action  
Plaintiffs

**PAN-CANADIAN CLAIMANTS**, as  
represented by PCC Representative Counsel

by \_\_\_\_\_  
Name:  
Title:

I have authority to bind the Pan-Canadian  
Claimants

**SCHEDULE “A”****NOTICES**

(a) if to the Debtors:

Imperial Tobacco Canada Limited  
3711 Rue Saint-Antoine Ouest  
Montréal QC H4C 3P6

Attention: Paola Tawile  
Email: [paola\\_tawile@bat.com](mailto:paola_tawile@bat.com)

with a copy to:

Osler, Hoskin & Harcourt LLP  
100 King Street West  
1 First Canadian Place  
Suite 6200, P.O. Box 50  
Toronto ON M5X 1B8

Attention: Marc Wasserman / Martino Calvaruso  
Email: [mwasserman@osler.com](mailto:mwasserman@osler.com) / [mcalvaruso@osler.com](mailto:mcalvaruso@osler.com)

(b) if to the Collateral Agent:

Computershare Trust Company of Canada  
320 Bay Street, 14th Floor  
Toronto, ON M5H 4A6

Attention: General Manager, Corporate Trust  
Email: [corporatetrust.toronto@computershare.com](mailto:corporatetrust.toronto@computershare.com)

(c) if to His Majesty the King in right of British Columbia:

[●]

Attention: [●]  
E-Mail: [●]

with a copy to:

[●]

Attention: [●]  
E-Mail: [●]

(d) if to His Majesty the King in right of Alberta:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

- (e) if to His Majesty the King in right of Saskatchewan:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

- (f) if to His Majesty the King in right of Manitoba:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

- (g) if to His Majesty the King in right of Ontario:

Crown Law Office-Civil  
Ministry of the Attorney General  
720 Bay Street, 8<sup>th</sup> Floor  
Toronto, ON M7A 2S9

Attention: Jacqueline Wall

E-Mail: [jacqueline.wall@ontario.ca](mailto:jacqueline.wall@ontario.ca)

- (h) Attorney General of Québec:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[•]

Attention: [•]

E-Mail: [•]

- (i) if to His Majesty the King in right of New Brunswick:

[•]

Attention: [•]

E-Mail: [•]

with a copy to:

[•]

Attention: [•]

E-Mail: [•]

- (j) if to His Majesty the King in right of Nova Scotia:

[•]

Attention: [•]

E-Mail: [•]

with a copy to:

[•]

Attention: [•]

E-Mail: [•]

- (k) if to His Majesty the King in right of Prince Edward Island:

[•]

Attention: [•]

E-Mail: [•]

with a copy to:

[•]

Attention: [•]

E-Mail: [•]

- (l) if to His Majesty the King in right of Newfoundland and Labrador:

[•]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

(m) if to the Government of Yukon:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

(n) if to the Government of the Northwest Territories:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

(o) if to the Government of Nunavut:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

(p) if to the Quebec Class Action Plaintiffs:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

(q) if to the Pan-Canadian Claimants:

[●]

Attention: [●]

E-Mail: [●]

with a copy to:

[●]

Attention: [●]

E-Mail: [●]

IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C.1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OF  
COMPROMISE OR ARRANGEMENT OF IMPERIAL TOBACCO CANADA  
LIMITED AND IMPERIAL TOBACCO COMPANY LIMITED

Court File No. CV-19-616077-00CL

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

Proceeding commenced at Toronto

**THIRTY-FIRST REPORT OF THE MONITOR  
August 19, 2025**

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