

COMPETITION TRIBUNAL

IN THE MATTER OF the *Competition Act*, R.S.C. 1985, c. C-34, and the *Competition Tribunal Rules*, SOR/2008-141;

AND IN THE MATTER OF the proposed acquisition by Parkland Fuel Corporation of the majority of the Canadian business and assets of CST Brands, Inc. from Alimentation Couche-Tard Inc.;

AND IN THE MATTER OF the filing and registration of a consent agreement pursuant to sections 92 and 105 of the *Competition Act*.

B E T W E E N :

THE COMMISSIONER OF COMPETITION

Applicant

- and -

PARKLAND FUEL CORPORATION

Respondent

COMPETITION TRIBUNAL TRIBUNAL DE LA CONCURRENCE REGISTERED / ENREGISTRÉ FILED / PRODUIT Date: October 4, 2018 CT-2017-012 Andrée Bernier for / pour REGISTRAR / REGISTRAIRE	
OTTAWA, ONT.	# 4

CONSENT AGREEMENT

RECITALS:

- A. Parkland proposes to acquire from Couche-Tard the majority of the Canadian business and assets of CST Brands, Inc., including all of CST’s agent, dealer and lessee retail gasoline sites, certain corporate retail gasoline sites and the bulk, home heating, and cardlock businesses (the “Transaction”).
- B. The Commissioner has concluded that the Transaction is likely to result in a substantial lessening of competition in the supply of gasoline to retail customers in certain local markets in Ontario, and that the implementation of this Agreement is necessary to ensure that any substantial lessening of competition will not result from the Transaction.
- C. Parkland does not admit but will not for the purposes of this Agreement, including execution, registration, enforcement, variation or rescission, contest the

Commissioner's conclusions that (i) the Transaction is likely to result in a substantial lessening of competition in the supply of gasoline to retail customers in certain local markets in Ontario; and (ii) the implementation of this Agreement is necessary to ensure that any substantial lessening of competition will not result from the Transaction.

- D. Prior to the date of this Agreement and further to the Commissioner's approval, Parkland has divested certain assets relating to the supply of retail gasoline in or around Peterborough and Trenton, Ontario to MacEwen Petroleum Inc.
- E. Nothing in this Agreement affects any investigation, inquiry or proceeding other than under section 92 of the Act in respect of the Transaction.

THEREFORE Parkland and the Commissioner agree as follows:

I. DEFINITIONS

- [1] Whenever used in this Agreement, the following words and terms have the meanings set out below:
 - (a) **"Act"** means the *Competition Act*, R.S.C. 1985, c. C-34, as amended;
 - (b) **"Affiliate"** means, in respect of a Person, any other Person controlling, controlled by or under common control with such first Person, whether directly or indirectly, and **"control"** means directly or indirectly hold securities or other interests in a Person (i) to which are attached more than 50% of the votes that may be cast to elect directors or persons exercising similar functions or (ii) entitling the holder to receive more than 50% of the profits of the Person or more than 50% of its assets on dissolution;
 - (c) **"Agreement"** means this Consent Agreement, including the schedules hereto, and references to a "Part", "Section", "Paragraph" or "Schedule" are, unless otherwise indicated, references to a part, section, paragraph or schedule of or to this Agreement;
 - (d) **"Business Day"** means a day on which the Competition Bureau's Gatineau, Quebec office is open for business;
 - (e) **"Closing"** means the completion of the Transaction under the Transaction Agreement;
 - (f) **"Closing Date"** means the date on which Closing occurs;
 - (g) **"Commissioner"** means the Commissioner of Competition appointed under the Act and includes his authorized representatives;
 - (h) **"Confidential Information"** means competitively sensitive, proprietary and all other information that is not in the public domain, and that is

owned by or pertains to a Person or a Person's business, and includes, but is not limited to, manufacturing, operations and financial information, customer lists, price lists, contracts, cost and revenue information, marketing methods, patents, technologies, processes, or other trade secrets;

- (i) **“Couche-Tard”** means Alimentation Couche-Tard Inc. and its Affiliates and their respective directors, officers, employees, agents, representatives, successors and assigns;
- (j) **“CST”** means CST Canada Holding Inc., CST Canada Co., CST Services Canada Inc. and The CST Foundation/Fondation CST and their predecessors, divisions, Affiliates and their respective directors, officers, employees, agents, representatives, successors and assigns;
- (k) **“CST Divested Business”** means the business of marketing and supply of gasoline, diesel, and ancillary products and services at the retail gas station owned or operated by CST as listed in Schedule B;
- (l) **“CST Divestiture Assets”** means all of the right, title and interest in, to and under, or relating to, the CST Divested Business and all of the assets of the CST Divested Business of every kind and description wheresoever situated, including but not limited to, the following:
 - (i) all fuel supply agreements relating to the station listed in Schedule B;
 - (ii) all applicable site-specific licences, permits, contracts, agreements and authorizations, including the lease, to which CST is a party or a beneficiary, used in the operation of the station listed in Schedule B;
 - (iii) the Intangible Assets;
 - (iv) the tangible assets and equipment used at the station listed in Schedule B;
 - (v) all petroleum products and other inventories at the station listed in Schedule B;
 - (vi) all books, records and files specific to the site listed in Schedule B (for greater certainty, to the extent that there are any books, records or files which are common to the CST Divested Business and to Parkland's ongoing business, Parkland shall provide copies of such books, records and files to the Purchaser);
 - (vii) any assets used in any ancillary businesses operated at the station listed in Schedule B, including, but not limited to, any automobile

mechanical service, convenience store, restaurant or car wash, operated in connection with each station, including, but not limited to, all permits, contracts, agreements and authorizations, to which CST is a party or a beneficiary, used in the operation of the ancillary businesses;

- (viii) related computer hardware and software, including all rights under licenses and other agreements or instruments relating thereto (including for greater certainty, the back office, transactional/credit/debit systems, loyalty systems, price reporting software, point of sale software and related equipment);
 - (ix) any brands and branding agreements (including without limitation brand elements such as signs and facia) used in association with the station in Schedule B;
 - (x) any marketing or promotional program materials and equipment, including without limitation, any loyalty programs, branded bank machines and back wall advertising screen software; and
 - (xi) existing agreements for the supply of products or services to all or part of CST's retail network in which any of the stations listed in Schedule B are included;
- (m) **“Designated Personnel”** means the employees of Parkland listed in Schedule A, as modified from time to time by agreement of Parkland and the Commissioner, who shall have signed a confidentiality agreement in a form satisfactory to the Commissioner;
 - (n) **“Divested Business”** means CST Divested Business and Parkland Divested Business;
 - (o) **“Divestiture”** means the sale, conveyance, transfer, assignment or other disposal of the Divestiture Assets to one or more Purchasers pursuant to this Agreement and with the prior approval of the Commissioner, such that Parkland will have no direct or indirect interest in the Divestiture Assets;
 - (p) **“Divestiture Agreement”** means the MacEwen Divestiture Agreement, the McDougall Divestiture Agreement and any other binding and definitive agreement between Parkland and a Purchaser to effect the Divestiture pursuant to this Agreement and subject to the prior approval of the Commissioner;
 - (q) **“Divestiture Areas”** means the areas within a radius of 10 kilometres from each retail gasoline site listed in Schedules B, D and E;

- (r) **“Divestiture Assets”** means CST Divestiture Assets and Parkland Divestiture Assets, as modified, where applicable by Confidential Schedule C;
- (s) **“Divestiture Process Agreement”** means the agreement described in Section [5] of this Agreement;
- (t) **“Divestiture Trustee”** means the Person appointed pursuant to Part [III] of this Agreement (or any substitute appointed thereto) and any employees, agents or other Persons acting for or on behalf of the Divestiture Trustee;
- (u) **“Divestiture Trustee Sale”** means the Divestiture to be conducted by the Divestiture Trustee pursuant to Part [III] and Confidential Schedule C of this Agreement;
- (v) **“Divestiture Trustee Sale Period”** means the 6 month period commencing 10 days after Closing;
- (w) **“First Reference Date”** shall have the meaning set out in Paragraph [21(d)] of this Agreement;
- (x) **“Hold Separate Assets”** means the CST Divestiture Assets;
- (y) **“Hold Separate Employees”** means those employees of Parkland who are employed in connection with the Hold Separate Assets, and **“Hold Separate Employee”** means any one of them;
- (z) **“Hold Separate Manager”** means the Person appointed pursuant to Part [V] of this Agreement (or any substitute appointed thereto) to manage the operation of the Hold Separate Assets, and any employees, agents or other Persons acting for or on behalf of the Hold Separate Manager;
- (aa) **“Hold Separate Period”** means, in the event that Parkland does not complete the Divestitures to MacEwen and McDougall in accordance with Section [2] of the Agreement, the period commencing 10 days after Closing and continuing until the Divestiture to one or more Purchasers is completed pursuant to the terms of this Agreement;
- (bb) **“Intangible Assets”** means intellectual property of any nature and kind used in connection with or relating to the Divestiture Assets or Divested Business, including:
 - (i) patents, copyrights, trademarks and software;
 - (ii) trade dress, industrial designs, distinguishing guises, trade secrets, know-how, techniques, data, inventions, practices, methods and other confidential or proprietary technical, business, research,

development and other information, and all rights in any jurisdiction to limit the use or disclosure thereof;

- (iii) rights to obtain and file for patents and registrations thereof; and
- (iv) rights to sue and recover damages or obtain injunctive relief for infringement, dilution, misappropriation, violation or breach of any of the foregoing;
- (cc) **“MacEwen”** means MacEwen Petroleum Inc. and its Affiliates, successors and assigns;
- (dd) **“MacEwen Divestiture Agreement”** means the transaction agreement by and between Parkland and MacEwen, to be dated June 27, 2017;
- (ee) **“McDougall”** means McDougall Energy Inc. and its Affiliates, successors and assigns;
- (ff) **“McDougall Divestiture Agreement”** means the transaction agreement by and between Parkland and McDougall, to be dated June 27, 2017;
- (gg) **“Management Agreement”** means the agreement described in Section [28] of this Agreement;
- (hh) **“Monitor”** means the Person appointed pursuant to Part [XII] of this Agreement (or any substitute appointed thereto), and any employees, agents or other Persons acting for or on behalf of the Monitor, provided that if no Monitor is appointed, other than in Part [XII] of this Agreement Monitor means the Commissioner;
- (ii) **“Monitor Agreement”** means the agreement described in Section [45] of this Agreement;
- (jj) **“Parkland”** means Parkland Fuel Corporation and its Affiliates and their directors, officers, employees, agents, representatives, successors and assigns;
- (kk) **“Parkland Divested Business”** means the business of marketing and supplying gasoline, diesel, and ancillary products and services by Parkland to the retail gas stations listed in Schedule D;
- (ll) **“Parkland Divestiture Assets”** means all of the right, title and interest in, to and under, or relating to the Parkland Divested Business and all of the assets of the Parkland Divested Business of every kind and description wheresoever situated, including but not limited to, the following:
 - (i) all fuel supply agreements relating to the stations listed in Schedule D;

- (ii) all applicable site-specific licences, permits, contracts, agreements and authorizations, to which Parkland is a party or a beneficiary, used in the supply of fuel to each station listed in Schedule D;
 - (iii) the Intangible Assets;
 - (iv) the tangible assets and equipment used at each station listed in Schedule D;
 - (v) all books, records and files specific to the sites listed in Schedule D (for greater certainty, to the extent that there are any books, records or files which are common to the Parkland Divested Business and to Parkland's ongoing business, Parkland shall provide copies of such books, records and files to the Purchaser); and
 - (vi) related computer hardware and software, including all rights under licenses and other agreements or instruments relating thereto, the back office, transactional/credit/debit systems, loyalty systems, price reporting software, point of sale software and related equipment;
- (mm) **"Parkland's Continuing Employees"** means those employees of Parkland who are not employed in connection with the Hold Separate Assets;
- (nn) **"Parties"** means the Commissioner and Parkland collectively, and **"Party"** means any one of them;
- (oo) **"Person"** means any individual, corporation or partnership, sole proprietorship, trust or other unincorporated organization capable of conducting business, and any Affiliates thereof;
- (pp) **"Purchaser"** means a Person that acquires Divestiture Assets pursuant to this Agreement and a Divestiture Agreement;
- (qq) **"Records"** means records within the meaning of subsection 2(1) of the Act;
- (rr) **"Second Reference Date"** shall have the meaning set out in Paragraph [21(e)] of this Agreement;
- (ss) **"Third Party"** means any Person other than the Commissioner, Parkland or a Purchaser;
- (tt) **"Transaction"** means the transaction described in the first recital to this Agreement;

- (uu) **“Transaction Agreement”** means the Closing Agreement to be entered into by and between Couche-Tard and Parkland on June 28, 2017;
- (vv) **“Transitional Services Agreements”** means the Operational Transition Agreement to be entered into by and between Couche-Tard and Parkland on June 28, 2017 and the Transitional Services Agreement to be entered into by and between Couche-Tard and Parkland on June 28, 2017; and
- (ww) **“Tribunal”** means the Competition Tribunal established by the *Competition Tribunal Act*, R.S.C. 1985, c.19 (2nd Supp.).

II. OBLIGATION TO COMPLETE DIVESTITURE

- [2] Parkland shall use commercially reasonable efforts to complete, within 10 days of Closing, the Divestiture to: (i) MacEwen pursuant to the MacEwen Divestiture Agreement, and (ii) McDougall pursuant to the McDougall Divestiture Agreement.
- [3] Prior to the date of this Agreement Parkland divested the assets relating to the marketing and supply of gasoline, diesel, and ancillary products and services at the retail gas stations listed in Schedule E that are owned, operated or supplied by Parkland, as applicable, in or around Peterborough and Trenton, Ontario to MacEwen pursuant to a Bill of Sale dated June 27, 2017.

III. DIVESTITURE TRUSTEE SALE PROCESS

- [4] In the event that Parkland fails to complete the Divestitures to MacEwen and McDougall within 10 days of Closing, the Commissioner shall appoint a Divestiture Trustee to complete the Divestiture in accordance with this Agreement. Such appointment may be made at any time the Commissioner so determines.
- [5] Within 5 Business Days after the appointment of the Divestiture Trustee, Parkland shall submit to the Commissioner for approval the terms of a proposed Divestiture Process Agreement with the Divestiture Trustee and the Commissioner that confers on the Divestiture Trustee all rights and powers necessary to permit the Divestiture Trustee to effect the Divestiture.
- [6] Within 5 Business Days after receipt of the proposed Divestiture Process Agreement referred to in Section [5], the Commissioner shall advise Parkland whether or not he approves the terms of the proposed Divestiture Process Agreement. If the Commissioner does not approve the terms of the proposed Divestiture Process Agreement, he shall prescribe alternative terms that Parkland shall incorporate into a final Divestiture Process Agreement with the Divestiture Trustee and the Commissioner.
- [7] Without limiting the Commissioner’s discretion to require additional terms, Parkland consents to the following terms and conditions regarding the Divestiture

Trustee's rights, powers and duties, and shall include such terms in the Divestiture Process Agreement:

- (a) The Divestiture Trustee shall complete the Divestiture as expeditiously as possible, and in any event prior to expiry of the Divestiture Trustee Sale Period.
- (b) The Divestiture Trustee shall use reasonable efforts to negotiate terms and conditions for the Divestiture that are as favourable to Parkland as are reasonably available at that time; however, the Divestiture shall not be subject to any minimum price. The Divestiture Trustee's opinion of what constitutes favourable terms and conditions and what constitutes reasonably available terms and conditions, is subject to review and approval by the Commissioner.
- (c) Subject to oversight and approval by the Commissioner, the Divestiture Trustee shall have full and exclusive authority during the Divestiture Trustee Sale Period:
 - (i) to complete the Divestiture in accordance with the provisions of this Part and Confidential Schedule C;
 - (ii) to solicit interest in a possible Divestiture by whatever process or procedure the Divestiture Trustee believes is suitable to allow a fair opportunity for one or more prospective good faith Purchasers to offer to acquire the Divestiture Assets, and for greater certainty, in determining whether to pursue negotiations with a prospective Purchaser, may have regard to the approval criteria in Section [22];
 - (iii) to enter into a Divestiture Agreement with a Purchaser that will be legally binding on Parkland;
 - (iv) to negotiate reasonable commercial covenants, representations, warranties and indemnities to be included in a Divestiture Agreement; and
 - (v) to employ, at the expense of Parkland, such consultants, accountants, legal counsel, investment bankers, business brokers, appraisers, and other representatives and assistants as the Divestiture Trustee believes are necessary to carry out the Divestiture Trustee's duties and responsibilities.
- (d) Where any Person makes a good faith inquiry respecting a possible purchase of Divestiture Assets, the Divestiture Trustee shall notify such Person that the Divestiture is being made pursuant to this Agreement and shall provide to such Person a copy of this Agreement, with the exception of the provisions hereof that are confidential pursuant to Section [70] of this Agreement.

- (e) Where, in the opinion of the Divestiture Trustee, a Person has a good faith interest in purchasing Divestiture Assets and has executed a confidentiality agreement, in a form satisfactory to the Commissioner, with the Divestiture Trustee protecting any Confidential Information that such Person may receive in the course of its due diligence review of the Divestiture Assets, the Divestiture Trustee shall:
 - (i) promptly provide to such Person all information respecting the Divestiture Assets that is determined by the Divestiture Trustee to be relevant and appropriate;
 - (ii) permit such Person to make reasonable inspection of the Divestiture Assets and of all financial, operational or other non-privileged Records and information, including Confidential Information, that may be relevant to the Divestiture; and
 - (iii) give such Person as full and complete access as is reasonable in the circumstances to the personnel involved in managing the Divestiture Assets.
 - (f) The Divestiture Trustee shall have no obligation or authority to operate or maintain the Divestiture Assets.
 - (g) The Divestiture Trustee shall provide to the Commissioner and to the Monitor, within 14 days after the later of the Divestiture Trustee's appointment and the commencement of the Divestiture Trustee Sale Period and thereafter every 21 days, a written report describing the progress of the Divestiture Trustee's efforts to complete the Divestiture. The report shall include a description of contacts, negotiations, due diligence and offers regarding the Divestiture Assets, the name, address and phone number of all parties contacted and of prospective Purchasers who have come forward. The Divestiture Trustee shall, within 3 Business Days, respond to any request by the Commissioner for additional information regarding the status of the Divestiture Trustee's efforts to complete the Divestiture.
 - (h) The Divestiture Trustee shall notify Parkland and the Commissioner immediately upon the signing of any letter of intent or agreement in principle relating to the Divestiture Assets, and shall provide to Parkland a copy of any executed Divestiture Agreement upon receipt of the Commissioner's approval of the Divestiture contemplated in such Divestiture Agreement.
- [8]** Parkland shall not be involved in the Divestiture process during the Divestiture Trustee Sale Period or in any negotiations with prospective Purchasers undertaken by the Divestiture Trustee, nor will Parkland have contact with prospective Purchasers during the Divestiture Trustee Sale Period.

- [9] Subject to any legally recognized privilege, Parkland and the Hold Separate Manager shall provide to the Divestiture Trustee full and complete access to all personnel, Records, information (including Confidential Information) and facilities relating to the Divestiture Assets, to enable the Divestiture Trustee to conduct its own investigation of the Divestiture Assets and to provide access and information to prospective Purchasers.
- [10] Parkland shall take no action that interferes with or impedes, directly or indirectly, the Divestiture Trustee's efforts to complete the Divestiture.
- [11] Parkland and the Hold Separate Manager shall fully and promptly respond to all requests from the Divestiture Trustee and shall provide all information the Divestiture Trustee may request. Parkland shall identify an individual who shall have primary responsibility for fully and promptly responding to such requests from the Divestiture Trustee on behalf of Parkland.
- [12] Parkland will do all such acts and execute all such documents, and will cause the doing of all such acts and the execution of all such documents as are within its power to cause the doing or execution of, as may be reasonably necessary to ensure that the Divestiture Assets are divested in the Divestiture Trustee Sale Period and that agreements entered into by the Divestiture Trustee are binding upon and enforceable against Parkland.
- [13] Parkland shall be responsible for all reasonable fees and expenses properly charged or incurred by the Divestiture Trustee in the course of carrying out the Divestiture Trustee's duties and responsibilities under this Agreement. The Divestiture Trustee shall serve without bond or security, and shall account for all fees and expenses incurred. Parkland shall pay all reasonable invoices submitted by the Divestiture Trustee within 30 days after receipt and, without limiting this obligation, Parkland shall comply with any agreement it reaches with the Divestiture Trustee regarding interest on late payments. In the event of any dispute: (i) such invoice shall be subject to the approval of the Commissioner; and (ii) Parkland shall promptly pay any invoice approved by the Commissioner. Any outstanding monies owed to the Divestiture Trustee by Parkland shall be paid out of the proceeds of the Divestiture.
- [14] Parkland shall indemnify the Divestiture Trustee and hold the Divestiture Trustee harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation or defence of any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence or bad faith by the Divestiture Trustee.
- [15] Parkland shall indemnify the Commissioner and hold the Commissioner harmless against any losses, claims, damages, liabilities or expenses arising out of, or in

connection with, the performance of the Divestiture Trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation or defence of any claim, whether or not resulting in any liability.

- [16] If the Commissioner determines that the Divestiture Trustee has ceased to act or has failed to act diligently, the Commissioner may remove the Divestiture Trustee and appoint a substitute Divestiture Trustee. The provisions of this Agreement respecting the Divestiture Trustee shall apply in the same manner to any substitute Divestiture Trustee.
- [17] Parkland may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, legal counsel, investment bankers, business brokers, appraisers, and other representatives and assistants to sign an appropriate confidentiality agreement in a form satisfactory to the Commissioner; provided, however, that such agreement shall not restrict the Divestiture Trustee from providing any information to the Commissioner.
- [18] The Commissioner may require the Divestiture Trustee and each of the Divestiture Trustee's consultants, accountants, legal counsel, investment bankers, business brokers, appraisers, and other representatives and assistants to sign an appropriate confidentiality agreement relating to materials and information the Divestiture Trustee may receive from the Commissioner in connection with the performance of the Divestiture Trustee's duties.
- [19] Notwithstanding any term of this Agreement, the rights, powers and duties of the Divestiture Trustee under this Agreement shall not expire until the Divestiture is completed.

IV. COMMISSIONER APPROVAL OF DIVESTITURE

- [20] In the event Parkland fails to complete the Divestitures to MacEwen and McDougall in accordance with this Agreement within 10 days of Closing, the Divestiture may proceed only with the prior approval of the Commissioner in accordance with this Part. For greater certainty, if a Divestiture is a notifiable transaction nothing in this Agreement affects the operation of Part IX of the Act.
- [21] The Divestiture Trustee shall comply with the following process for seeking and obtaining a decision of the Commissioner regarding his approval of a proposed Divestiture:
 - (a) The Divestiture Trustee shall promptly:
 - (i) inform the Commissioner of any negotiations with a prospective Purchaser that may lead to a Divestiture; and

- (ii) forward to the Commissioner copies of any agreement that is signed with a prospective Purchaser, including non-binding expressions of interest.
- (b) The Divestiture Trustee shall immediately notify the Commissioner that it intends to enter a Divestiture Agreement with a prospective Purchaser, or has entered into an agreement that, if approved by the Commissioner, will be a Divestiture Agreement within the meaning of this Agreement. If the Divestiture Trustee has entered into or intends to enter into more than one agreement in respect of the same Divestiture Assets, the Divestiture Trustee shall identify the agreement in respect of which it seeks the Commissioner's approval and the remainder of this Part shall apply only to that agreement unless the Divestiture Trustee designates a substitute agreement.
- (c) The notice described in Paragraph **[21(b)]** shall be in writing and shall include: the identity of the proposed Purchaser; the details of the proposed Divestiture Agreement and any related agreements; and information concerning whether and how the proposed Purchaser would, in the view of the Divestiture Trustee, likely satisfy the terms of this Agreement.
- (d) Within 14 days following receipt of the notice described in Paragraph **[21(b)]**, the Commissioner may request additional information concerning the proposed Divestiture from any or all of Parkland, the Monitor, the Hold Separate Manager, the prospective Purchaser and the Divestiture Trustee. These Persons shall each provide any additional information requested from them. When they have provided a complete response to the Commissioner's request, these Persons shall comply with the following procedures:
 - (i) the Divestiture Trustee shall provide written confirmation to the Commissioner that the Divestiture Trustee has provided to the Commissioner all additional information requested from the Divestiture Trustee;
 - (ii) the Monitor shall provide written confirmation to the Commissioner that the Monitor has provided to the Commissioner all additional information requested from the Monitor;
 - (iii) an officer or other duly authorized representative of Parkland shall certify that he or she has examined the additional information provided by Parkland in response to the Commissioner's request and that such information is, to the best of his or her knowledge and belief, correct and complete in all material respects;
 - (iv) an officer or other duly authorized representative of the Hold Separate Manager shall certify that he or she has examined the

additional information provided by the Hold Separate Manager in response to the Commissioner's request and that such information is, to the best of his or her knowledge and belief, correct and complete in all material respects; and

- (v) an officer or other duly authorized representative of the prospective Purchaser shall certify that he or she has examined the additional information provided by the prospective Purchaser in response to the Commissioner's request and that such information is, to the best of his or her knowledge and belief, correct and complete in all material respects.

The date on which the last of the Divestiture Trustee, Parkland, the Monitor, the Hold Separate Manager and the prospective Purchaser provides to the Commissioner a confirmation or certification required under this Paragraph is the "**First Reference Date**".

- (e) Within 7 days after the First Reference Date, the Commissioner may request further additional information concerning the proposed Divestiture from any or all of the Persons identified in Paragraph [21(d)]. These Persons shall each provide any further additional information requested from them. When they have provided a complete response to the Commissioner's request, if any, these Persons shall comply with the procedures outlined in Paragraph [21(d)] in regard to the further additional information provided. The date on which the last of the Divestiture Trustee, Parkland, the Monitor, the Hold Separate Manager and the prospective Purchaser provides to the Commissioner a confirmation or certification required under this Paragraph is the "**Second Reference Date**".
- (f) The Commissioner shall notify the Divestiture Trustee of the approval of, or the objection to, the proposed Divestiture as soon as possible, and in any event within 14 days after the date on which the Commissioner receives the notice described in Paragraph [21(b)] or, if he requests any additional information under Paragraph [21(d)] or further additional information under Paragraph [21(e)], within 14 days after the later of:
 - (i) the First Reference Date; and
 - (ii) the Second Reference Date, if any.
- (g) The Commissioner's determination as to whether to approve a proposed Divestiture shall be in writing.

[22] In exercising his discretion to determine whether to approve a proposed Divestiture, the Commissioner shall take into account the likely impact of the Divestiture on competition, and may consider any other factor he considers

relevant. Prior to granting his approval, the Commissioner must also be satisfied that:

- (a) the proposed Purchaser is fully independent of and operates at arm's length from Parkland;
- (b) Parkland will have no direct or indirect interest in the Divestiture Assets following the Divestiture;
- (c) the proposed Purchaser is committed to carrying on the Divested Business;
- (d) the proposed Purchaser has the managerial, operational and financial capability to compete effectively in the wholesale supply of fuel to, or retailing of fuel at, those retail gasoline assets listed in Schedules B and E, as applicable; and
- (e) the proposed Purchaser will if the Commissioner grants his approval during the Divestiture Trustee Sale Period, complete the Divestiture during the Divestiture Trustee Sale Period.

V. PRESERVATION OF DIVESTITURE ASSETS

[23] In order to preserve the Parkland Divestiture Assets pending completion of the Divestiture, and the CST Divestiture Assets pending the completion of the Divestiture to McDougall, Parkland shall maintain the economic viability, marketability and competitiveness of the Divestiture Assets and Divested Business, and shall comply with any decision of or direction given by the Monitor that relates to preservation of the Divestiture Assets. Until Closing, Parkland shall make reasonable efforts to ensure that Couche-Tard preserves the CST Divestiture Assets in a manner consistent with this Part [V] of this Agreement. Without limiting the generality of the foregoing, Parkland shall:

- (a) maintain and hold the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, in good condition and repair, normal wear and tear excepted, and to standards that are, in the view of the Monitor, at least equal to those that existed at Closing;
- (b) ensure that the management and operation of the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, continues in the ordinary course of business and in a manner that is, in the view of the Monitor, reasonably consistent in nature, scope and magnitude with past practices and generally accepted industry practices, and in compliance with all applicable laws;
- (c) not knowingly take or allow to be taken any action that, in the view of the Monitor, adversely affects the competitiveness, operations, financial status

or value, viability and saleability of the Parkland Divestiture Assets and CST Divestiture Assets, as applicable;

- (d) ensure that the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, are not engaged in any type of business other than the type of business conducted as of the date of this Agreement, except with the prior approval of the Monitor and the Commissioner;
- (e) maintain all approvals, registrations, consents, licences, permits, waivers, and other authorizations that are, in Monitor's view subject to consultation with Parkland, advisable for the operation of the Parkland Divestiture Assets and Parkland Divested Business and CST Divestiture Assets and CST Divested Business, as applicable;
- (f) take commercially reasonable steps to honour all customer contracts and to maintain quality and service standards for customers of the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, that are, in the view of the Monitor, at least equal to the standards that existed during the fiscal year prior to this Agreement;
- (g) not curtail marketing, sales, promotional or other activities of the Parkland Divestiture Assets or Parkland Divested Business and CST Divestiture Assets and CST Divested Business, as applicable, except with the prior approval of the Monitor;
- (h) not alter, or cause to be altered, the management of the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, as it existed during the fiscal year prior to the date of this Agreement, except with the prior approval of the Monitor;
- (i) not terminate or alter any employment, salary or benefit agreements, as they existed at the date of this Agreement, for Persons employed in connection with the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, without the prior approval of the Monitor;
- (j) ensure that the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, are staffed with sufficient employees to ensure their viability and competitiveness, including by replacing any departing employees with other qualified employees provided that the Monitor has approved both the qualifications and the need for such replacement employees;
- (k) maintain inventory levels and payment terms consistent with the practices of Parkland that existed, with respect to the Parkland Divestiture Assets and CST Divestiture Assets, as applicable, during the fiscal year prior to the date of this Agreement; and
- (l) maintain in accordance with Canadian generally accepted accounting principles, separate and adequate financial ledger books and records of

material financial information with respect to the Parkland Divestiture Assets and the Parkland Divested Business and CST Divestiture Assets and CST Divested Business, as applicable.

- [24] Pending completion of the Divestiture, Parkland shall not, without the Commissioner's prior written approval:
- (a) create any new encumbrances on the Parkland Divestiture Assets or Parkland Divested Business and CST Divestiture Assets or CST Divested Business, as applicable, other than ordinary course obligations that are not due or delinquent;
 - (b) enter into, withdraw from, amend or otherwise take steps to alter any obligations in material contracts relating to the Parkland Divestiture Assets or Parkland Divested Business and CST Divestiture Assets or CST Divested Business, as applicable, except as necessary to comply with this Agreement; or
 - (c) make any material changes to the Parkland Divestiture Assets or Parkland Divested Business and CST Divestiture Assets or CST Divested Business, as applicable, except as required to comply with this Agreement.
- [25] Parkland shall provide sufficient financial resources, including general funds, capital funds, working capital and reimbursement for any operating, capital or other losses, to maintain the Parkland Divestiture Assets and CST Divestiture Assets in accordance with this Part. If the Monitor believes that Parkland has not provided, is not providing or will not provide sufficient financial and other resources under this Part, the Monitor shall forthwith refer the matter to the Commissioner, who shall make a final determination respecting the financial and other resources that Parkland must provide. Parkland shall comply with any determination made by the Commissioner on this issue.

VI. HOLD SEPARATE

- [26] During the Hold Separate Period, Parkland shall:
- (a) hold the Hold Separate Assets separate, apart and independent of Parkland and shall confer on the Hold Separate Manager all rights and powers necessary to conduct the business of the Hold Separate Assets;
 - (b) not exercise direction or control over, or influence directly or indirectly, the Hold Separate Assets or the Hold Separate Manager; and
 - (c) take no action that interferes with or impedes, directly or indirectly, the Hold Separate Manager's duties and responsibilities.

- [27] Prior to or at the commencement of the Hold Separate Period, the Commissioner shall appoint a Hold Separate Manager, responsible for managing and operating the Hold Separate Assets independently of Parkland during the Hold Separate Period.
- [28] Within 5 Business Days after the appointment of the Hold Separate Manager, Parkland shall submit to the Commissioner for approval the terms of a proposed Management Agreement with the Hold Separate Manager and the Commissioner that confers on the Hold Separate Manager all rights and powers necessary to permit the Hold Separate Manager to manage and operate the Hold Separate Assets independently of Parkland during the Hold Separate Period in accordance with this Agreement.
- [29] Within 5 Business Days after receipt of the proposed Management Agreement referred to in Section [28], the Commissioner shall advise Parkland whether or not he approves the terms of the proposed Management Agreement. If the Commissioner does not approve the terms of the proposed Management Agreement, he shall prescribe alternative terms for the Management Agreement that Parkland shall incorporate into a final Management Agreement with the Hold Separate Manager and the Commissioner.
- [30] Without limiting the Commissioner's discretion to require additional terms, Parkland consents to the following terms and conditions regarding the Hold Separate Manager's rights, powers and duties, and shall include such terms in the Management Agreement:
- (a) The Hold Separate Manager shall report solely and exclusively to the Monitor.
 - (b) The Hold Separate Manager shall not have any involvement with, or receive any Confidential Information respecting, the businesses or assets of Parkland other than in respect of the Hold Separate Assets.
 - (c) Subject to the oversight of the Monitor, the Hold Separate Manager shall manage and maintain the operation of the Hold Separate Assets independently and separately from Parkland, in the regular and ordinary course of business and in accordance with past practice, and shall use commercially reasonable efforts to ensure the ongoing economic viability, marketability and competitiveness of the Hold Separate Assets.
 - (d) Without limiting the generality of Paragraph [30(c)] above, the Hold Separate Manager shall:
 - (i) maintain and hold the Hold Separate Assets in good condition and repair, normal wear and tear excepted, and to standards at least equal to those that existed prior to the date of this Agreement;

- (ii) take all commercially reasonable steps to honour all customer contracts and to maintain quality and service standards for customers of the Hold Separate Assets at least equal to those that existed prior to the date of this Agreement;
 - (iii) not knowingly take or allow to be taken any action that adversely affects the competitiveness, operations, financial status or value of the Hold Separate Assets;
 - (iv) not alter or cause to be altered, to any material extent, the management of the Hold Separate Assets as it existed prior to the date of this Agreement, except with the prior approval of the Monitor;
 - (v) not terminate or alter any employment, salary or benefit agreements, as they existed at the date of this Agreement, for Persons employed in connection with the Hold Separate Assets, except with the prior approval of the Monitor;
 - (vi) ensure that the Hold Separate Assets are staffed with sufficient employees to ensure their viability and competitiveness, including by replacing any departing employees with other qualified employees subject to the prior approval of the Monitor; and
 - (vii) maintain inventory levels and payment terms consistent with the practices of CST that existed, with respect to the Hold Separate Assets, prior to the date of this Agreement.
- (e) Parkland shall provide sufficient financial resources, including general funds, capital funds, working capital and reimbursement for any operating, capital or other losses, to permit the Hold Separate Manager to comply with its obligations under this Section. The Hold Separate Manager, subject to the prior approval of the Monitor, may request funds at any time, and Parkland shall comply with any such request. If the Monitor believes that Parkland has not provided, is not providing or will not provide sufficient financial and other resources under this Paragraph, the Monitor shall forthwith refer the matter to the Commissioner, who shall make a final determination respecting the financial and other resources that Parkland must provide. Parkland shall comply with any determination made by the Commissioner on this issue.
- (f) The Hold Separate Manager shall have no financial interests affected by Parkland's revenues, profits or profit margins, except that Parkland shall provide to the Hold Separate Manager reasonable incentives to undertake this position. The Monitor shall determine the type and value of such incentives, which shall include continuation of all employee benefits, and such additional incentives as the Monitor determines may be necessary to

assure the continuation and prevent any diminution of the viability, marketability and competitiveness of the Hold Separate Assets.

- (g) In addition to those Persons employed in connection with the Hold Separate Assets on the Closing Date, the Hold Separate Manager may employ such other Persons as the Monitor believes are necessary to assist the Hold Separate Manager in managing and operating the Hold Separate Assets.
 - (h) Subject to any legally recognized privilege, the Hold Separate Manager shall provide to the Monitor full and complete access to all personnel, Records, information (including Confidential Information) and facilities relevant to monitoring Parkland's compliance with this Agreement.
 - (i) The Hold Separate Manager shall fully and promptly respond to all requests from the Monitor and shall provide all information the Monitor may request.
- [31] Parkland shall be responsible for all reasonable fees and expenses properly charged or incurred by the Hold Separate Manager in the course of carrying out the Hold Separate Manager's duties under this Agreement. The Hold Separate Manager shall serve without bond or security, and shall account for all fees and expenses incurred. Parkland shall pay all reasonable invoices submitted by the Hold Separate Manager within 30 days after receipt and, without limiting this obligation, Parkland shall comply with any agreement it reaches with the Hold Separate Manager regarding interest on late payments. In the event of any dispute: (i) such invoice shall be subject to the approval of the Commissioner; and (ii) Parkland shall promptly pay any invoice approved by the Commissioner.
- [32] Parkland shall indemnify the Hold Separate Manager and hold the Hold Separate Manager harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Hold Separate Manager's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation or defence of any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence or bad faith by the Hold Separate Manager.
- [33] If the Commissioner determines that the Hold Separate Manager has ceased to act or has failed to act diligently, the Commissioner may remove the Hold Separate Manager and appoint a substitute Hold Separate Manager. The provisions of this Agreement respecting the Hold Separate Manager shall apply in the same manner to any substitute Hold Separate Manager.
- [34] Parkland and the Hold Separate Manager shall jointly implement, and at all times during the Hold Separate Period maintain in operation, a system, as approved by the Monitor in consultation with the Commissioner of access and data controls to

prevent unauthorized access to or dissemination of Confidential Information. The system shall include the following protocols:

- (a) The Monitor shall review all proposed communications between the Hold Separate Manager and Parkland before such communications occur.
- (b) Parkland's Continuing Employees shall not receive, have access to or use any Confidential Information respecting the Hold Separate Assets. If any of Parkland's Continuing Employees possesses Confidential Information respecting the Hold Separate Assets as of the date of this Agreement, such Person shall, within 5 Business Days following appointment of the Hold Separate Manager, (i) deliver any Records containing such Confidential Information to the Hold Separate Manager (or, at the Hold Separate Manager's option, destroy such Records) and a signed statement confirming that he or she is no longer in possession of any Records containing Confidential Information respecting the Hold Separate Assets; and (ii) submit to the Monitor a signed statement confirming that he or she undertakes not to share any Confidential Information respecting the Hold Separate Assets with any of Parkland's Continuing Employees.
- (c) Notwithstanding Paragraph **[34(b)]**, Designated Personnel of Parkland may receive aggregate financial and operational information relating to the Hold Separate Assets only to the extent necessary to comply with securities laws, prepare financial and regulatory reports, tax returns, administer employee benefits, defend litigation and comply with this Agreement. Any such information shall be: (i) reviewed by the Monitor prior to its receipt by any Designated Personnel; (ii) maintained in a separate confidential file that is accessible only to the Designated Personnel; and (iii) used only for the purposes set forth in this Section.
- (d) Neither the Hold Separate Manager nor any Hold Separate Employee shall receive, have access to or use any Confidential Information relating to Parkland's businesses other than the Hold Separate Assets.

VII. THIRD PARTY CONSENTS

[35] It shall be a condition in any Divestiture Agreement (whether negotiated by Parkland or by the Divestiture Trustee) that Parkland shall, as a condition of closing, obtain any consents and waivers from Third Parties that are necessary to permit the assignment to, and assumption by, a Purchaser of all material contracts, approvals and authorizations relating to the Divestiture Assets; provided, however, that Parkland may satisfy this requirement by certifying that the Purchaser has executed agreements directly with one or more Third Parties which make such assignment and assumption unnecessary. Parkland has certified that it has provided the Commissioner with detailed information relating to any concerns

communicated to Parkland by Third Parties who may be directly affected by this Agreement and shall continue to provide notice of any such concerns and detailed information relating thereto pending completion of the Divestiture.

VIII. CONFIDENTIALITY OBLIGATIONS

- [36] Parkland shall ensure that Confidential Information in its possession, power and control relating to the CST stations to be retained by Couche-Tard is not communicated to employees of Parkland except with the prior approval of the Monitor where such information must be communicated for the purpose of providing the services set out in the Transitional Services Agreements.
- [37] Parkland shall ensure that Confidential Information in its possession, power or control that is confidential to Parkland is not communicated to employees of Couche-Tard except with the prior approval of the Monitor where such information must be communicated for the purpose of providing the services as set out in the Transitional Services Agreements.

IX. TRANSITIONAL SUPPORT ARRANGEMENTS

- [38] Parkland shall provide to Couche-Tard the transitional services in accordance with the terms of the Transitional Services Agreements.
- [39] Parkland shall provide to MacEwen and McDougall or any other Purchaser, transition services of a sufficient kind, quantity, quality and nature to facilitate the orderly and efficient transition of the Divestiture Assets to Purchaser. In the event of any dispute regarding the transition services to be provided, such services shall be subject to the direction and approval of the Monitor.

X. EMPLOYEES

- [40] Parkland, the Divestiture Trustee (during the Divestiture Trustee Sale Period) and the Hold Separate Manager (for the Hold Separate Employees) shall provide to any prospective Purchaser, the Commissioner and the Monitor information relating to the employees whose responsibilities involve the operation of the Divestiture Assets (including the Hold Separate Assets), to enable such Purchaser to make decisions regarding offers of employment to such employees. The Monitor shall review the information provided to ensure that it is sufficient to enable the Purchaser to make such decisions.
- [41] Parkland shall:

- (a) not interfere, directly or indirectly, with any negotiations by a Purchaser to employ any employees whose responsibilities involve the operation of the Divestiture Assets;
- (b) not offer any incentive to such employees to decline employment with the Purchaser or to accept other employment with Parkland;
- (c) remove any impediment that may deter such employees from accepting employment with the Purchaser;
- (d) waive any non-compete or confidentiality provisions of employment or other contracts that could impair the ability of such employees to be employed by the Purchaser; and
- (e) pay or transfer to or maintain for the employees subsequently employed by the Purchaser all current and accrued bonuses, pensions and other current and accrued benefits to which such employees would otherwise have been entitled had they remained in the employment of Parkland.

[42] For a period of one year following completion of the Divestiture, Parkland shall not, without the prior written consent of the Commissioner, directly or indirectly solicit or employ any Persons employed in connection with the Divestiture Assets who has accepted an offer of employment with the Purchaser unless such Person's employment has been terminated by the Purchaser. This Section does not apply in respect of any Person who responds to a general solicitation or advertisement not specifically directed at such Person or employees employed in connection with the Divestiture Assets.

XI. FAILURE OF DIVESTITURE TRUSTEE SALE

[43] If, by the end of the Divestiture Trustee Sale Period, the Divestiture has not been completed, or if the Commissioner is of the opinion that the Divestiture likely will not be completed prior to the end of the Divestiture Trustee Sale Period, the Commissioner may apply to the Tribunal, at his election, for either (i) such order as is necessary to complete the Divestiture; or (ii) such order as is necessary to ensure that the Transaction is not likely to prevent or lessen competition substantially.

XII. MONITOR

[44] The Commissioner shall appoint Ernst & Young Orenda Corporate Finance Inc as a Monitor, responsible for monitoring compliance by Parkland with this Agreement. Such appointment may occur at any time following the signature of this Agreement. A reference in this Agreement to specific monitoring functions or tasks that are to be undertaken by the Monitor shall in no way detract from the Monitor's general right, power and duty to monitor all aspects of Parkland's compliance with this Agreement.

- [45] Within 5 Business Days after the appointment of the Monitor, Parkland shall submit to the Commissioner for approval the terms of a proposed Monitor Agreement with the Monitor and the Commissioner that confers on the Monitor all rights and powers necessary to permit the Monitor to monitor compliance by Parkland with this Agreement.
- [46] Within 5 Business Days after receipt of the proposed Monitor Agreement referred to in Section [45], the Commissioner shall advise Parkland whether or not he approves the terms of the proposed Monitor Agreement. If the Commissioner does not approve the terms of the proposed Monitor Agreement, he shall prescribe alternative terms for the Monitor Agreement that Parkland shall incorporate into a final Monitor Agreement with the Monitor and the Commissioner.
- [47] Parkland consents to the following terms and conditions regarding the Monitor's rights, powers and duties, and shall include such terms in the Monitor Agreement:
- (a) The Monitor shall have the power and authority to monitor Parkland's compliance with this Agreement, and shall exercise such power and authority and carry out the duties and responsibilities of the Monitor in a manner consistent with the purposes of this Agreement and in consultation with the Commissioner.
 - (b) The Monitor shall have the authority to employ, at the expense of Parkland, such consultants, accountants, legal counsel and other representatives and assistants as the Monitor believes are necessary to carry out the Monitor's duties and responsibilities.
 - (c) The Monitor shall have no obligation or authority to operate or maintain the Divestiture Assets or Hold Separate Assets.
 - (d) The Monitor shall act for the sole benefit of the Commissioner, maintain all confidences and avoid any conflict of interest.
 - (e) The Monitor shall have no duties of good faith, of a fiduciary nature, or otherwise, to Parkland.
 - (f) The Monitor shall provide to the Commissioner every 30 days after the date of the Monitor's appointment until the Divestiture is complete and thereafter annually on or before the anniversary of the Divestiture, a written report concerning performance by Parkland of its obligations under this Agreement. The Monitor shall, within 3 Business Days, respond to any request by the Commissioner for additional information regarding Parkland's compliance.
- [48] Subject to any legally recognized privilege, Parkland shall provide to the Monitor full and complete access to all personnel, Records, information (including Confidential Information) and facilities relevant to monitoring Parkland's compliance with this Agreement.

- [49] Parkland shall take no action that interferes with or impedes, directly or indirectly, the Monitor's efforts to monitor Parkland's compliance with this Agreement.
- [50] Parkland shall fully and promptly respond to all requests from the Monitor and shall provide all information the Monitor may request. Parkland shall identify an individual who shall have primary responsibility for fully and promptly responding to such requests from the Monitor on behalf of Parkland.
- [51] Parkland may require the Monitor and each of the Monitor's consultants, accountants, legal counsel and other representatives and assistants to sign an appropriate confidentiality agreement in a form satisfactory to the Commissioner; provided, however, that such agreement shall not restrict the Monitor from providing any information to the Commissioner.
- [52] The Commissioner may require the Monitor and each of the Monitor's consultants, accountants, legal counsel and other representatives and assistants to sign an appropriate confidentiality agreement relating to materials and information the Monitor may receive from the Commissioner in connection with the performance of the Monitor's duties.
- [53] Parkland shall be responsible for all reasonable fees and expenses properly charged or incurred by the Monitor in the course of carrying out the Monitor's duties under this Agreement. The Monitor shall serve without bond or security, and shall account for all fees and expenses incurred. Parkland shall pay all reasonable invoices submitted by the Monitor within 30 days after receipt and, without limiting this obligation, Parkland shall comply with any agreement it reaches with the Monitor regarding interest on late payments. In the event of any dispute: (i) such invoice shall be subject to the approval of the Commissioner; and (ii) Parkland shall promptly pay any invoice approved by the Commissioner. Any outstanding monies owed to the Monitor by Parkland shall be paid out of the proceeds of the Divestiture.
- [54] Parkland shall indemnify the Monitor and hold the Monitor harmless against any losses, claims, damages, liabilities or expenses arising out of, or in connection with, the performance of the Monitor's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation or defence of any claim, whether or not resulting in any liability, except to the extent that such losses, claims, damages, liabilities, or expenses result from malfeasance, gross negligence or bad faith by the Monitor.
- [55] If the Commissioner determines that the Monitor has ceased to act or has failed to act diligently, the Commissioner may remove the Monitor and appoint a substitute Monitor. The provisions of this Agreement respecting the Monitor shall apply in the same manner to any substitute Monitor.
- [56] The Monitor shall serve for such time as is necessary to monitor Parkland's compliance with this Agreement.

XIII. COMPLIANCE

- [57] Within 5 Business Days after the Closing Date, Parkland shall provide written confirmation to the Commissioner of the date on which the Transaction was completed.
- [58] Parkland shall provide a copy of this Agreement to each of its own and its Affiliates' directors, officers, employees and agents having managerial responsibility for any obligations under this Agreement, within 3 Business Days after the date of registration of this Agreement. Parkland shall ensure that its directors, officers, employees and agents with responsibility for any obligations under this Agreement receive sufficient training respecting Parkland's responsibilities and duties under this Agreement, and the steps that such individuals must take in order to comply with this Agreement.
- [59] Parkland shall not, for a period of 10 years after the date when the Divestiture is completed, directly or indirectly acquire any interest in the Divestiture Assets, without the prior written approval of the Commissioner.
- [60] For a period of 2 years after the date when the Divestiture is completed, Parkland shall not, without providing advance written notification to the Commissioner in the manner described in this Section, directly or indirectly:
- (a) acquire any assets or shares of, or any other interest in any business that supplies gasoline to retail customers in any Divestiture Area; or
 - (b) consummate any merger or other combination relating to the supply of gasoline to retail customers in any Divestiture Area.

If a transaction described in (a) or (b) is one for which notice is not required under section 114 of the Act, Parkland shall supply to the Commissioner the information described in section 16 of the *Notifiable Transactions Regulations* at least 30 days before completing such transaction. Parkland shall certify such information in the same manner as would be required if section 118 of the Act applied. The Commissioner may accept a competitive impact brief from Parkland instead of such information. The Commissioner may, within 30 days after receiving the information described in this Section, request that Parkland supply additional information that is relevant to the Commissioner's assessment of the transaction. In the event that the Commissioner issues such a request for additional information, Parkland shall supply information to the Commissioner in the form specified by the Commissioner and shall not complete such transaction until at least 30 days after Parkland has supplied all such requested information in the form specified by the Commissioner.

- [61] Six months after the date of registration of this Agreement and annually for the next 5 years on the six month anniversary of the date of registration, and at such other times as the Commissioner may require, Parkland shall file an affidavit or

certificate, substantially in the form of Schedule F to this Agreement, certifying its compliance with Parts **[VII]**, **[VIII]**, **[IX]**, **[X]** and **[XIII]** of this Agreement and setting out the following information in detail:

- (a) the steps taken to ensure compliance;
- (b) the controls in place to verify compliance; and
- (c) the names and titles of employees who have oversight of compliance.

[62] If any of Parkland, the Hold Separate Manager, the Divestiture Trustee or the Monitor becomes aware that there has been a breach or possible breach of any of the terms of this Agreement, such Person shall, within 5 Business Days after becoming aware of the breach or possible breach, notify the Commissioner thereof, and shall provide details sufficient to describe the nature, date and effect (actual and anticipated) of the breach or possible breach, provided that notification of a possible breach is not required if such Person determines within those 5 Business Days that it could not reasonably be considered a breach of any of the terms of this Agreement. Parkland shall provide confirmation of its compliance with this provision in all affidavits and certificates of compliance filed with the Commissioner pursuant to Section **[61]** of this Agreement.

[63] Parkland shall notify the Commissioner at least 30 days prior to:

- (a) any proposed dissolution of Parkland; or
- (b) any other change in Parkland if such change may affect compliance obligations arising out of this Agreement including, but not limited to, a reorganization, material acquisition, disposition or transfer of assets, or any fundamental change for purposes of Parkland's incorporating statute.

[64] For the period commencing when this Agreement is registered and ending 10 years after the Divestiture is completed, for purposes of determining or securing compliance with this Agreement, and subject to any legally recognized privilege, Parkland shall, upon written request given at least 5 Business Days in advance to Parkland, permit any authorized representative(s) of the Commissioner, without restraint or interference:

- (a) to access, during regular office hours of Parkland on any Business Day(s), all facilities and to inspect and copy all Records in the possession or control of Parkland related to compliance with this Agreement, which copying services shall be provided by Parkland at its expense; and
- (b) to interview such officers, directors or employees of Parkland as the Commissioner requests regarding such matters.

XIV. DURATION

[65] This Agreement shall become effective on the date when it is registered, and shall remain in effect for 10 years following the Divestiture, except that:

- (a) Parts [II, III, IV, V and VI] of this Agreement shall be effective only until the Divestiture is completed;
- (b) Part [IX] of this Agreement shall be effective only until the Transitional Services Agreements are terminated; and
- (c) Part [VIII] of this Agreement shall be effective only until 5 years after the Divestiture is completed.

XV. NOTICES

[66] A notice or other communication required or permitted to be given under this Agreement is valid if it is:

- (a) in writing and delivered by personal delivery, registered mail, courier service, facsimile or electronic mail; and
- (b) addressed to the receiving party at the address(es) listed below, or to any other address designated by the receiving party in accordance with this Section.

if to the Commissioner:

Commissioner of Competition
Competition Bureau Canada
Place du Portage, 21st Floor
50 Victoria Street, Phase I
Gatineau, Quebec K1A 0C9

Attention: Commissioner of Competition
Fax: (819) 953-5013
Email address: ic.avisdefusionmergernotification.ic@canada.ca

with a copy to:

Executive Director and Senior General Counsel
Competition Bureau Legal Services
Department of Justice
Place du Portage, 22nd Floor
50 Victoria Street, Phase I
Gatineau, Quebec K1A 0C9
Fax: (819) 953-9267

Email address: ic.cb_lsu_senior_general_counsel-
avocat_general_principal_usj_bc.ic@canada.ca

if to Parkland:

Pierre Magnan
Vice President, General Counsel and Corporate Secretary
Parkland Fuel Corporation
Legal Department
Harvest Hills Office Park, Building 6000
Suite 6302, 333 – 96th Ave NE, Calgary, AB T3K 0S3
Fax: 403 567 2599
Email address: pierre.magnan@parkland.ca

with a copy to:

Omar Wakil
Torys LLP
79 Wellington Street West, 30th Floor
Toronto, Ontario M5K 1N2
Fax: (416) 865-7380
Email address: owakil@torys.com

- [67]** A notice or other communication under this Agreement is effective on the day that it is received by the receiving party and is deemed to have been received as follows:
- (a) if it is delivered in person, by registered mail or by courier, upon receipt as indicated by the date on the signed receipt;
 - (b) if it is delivered by facsimile, upon receipt as indicated by the time and date on the facsimile confirmation slip; or
 - (c) if it is delivered by electronic mail, when the recipient, by an email sent to the email address for the sender stated in this Section or by a notice delivered by another method in accordance with this Section, acknowledges having received that email, with an automatic “read receipt” not constituting acknowledgment of an email for purposes of this Section.

If a notice or other communication is received after 5:00 p.m. local time, or on a day that is not a Business Day, it shall be deemed to have been received on the next Business Day.

- [68]** Notwithstanding Sections **[66]** and **[67]**, a notice or other communication that is not communicated in accordance with Sections **[66]** and **[67]** is valid if a representative of the party to this Agreement that is the recipient of such

communication confirms the receipt of such communication and does not, at the time of such confirmation, request that it be delivered differently.

XVI. GENERAL

[69] In this Agreement:

- (a) **Number and Gender** – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (b) **Time Periods** – Computation of time periods shall be in accordance with the *Interpretation Act*, R.S.C. 1985, c. I-21, and the definition of “holiday” in the *Interpretation Act* shall include Saturday.

[70] The Commissioner shall file this Agreement with the Tribunal for registration in accordance with section 105 of the Act. Parkland hereby consents to such registration. Following the filing of this Agreement, the Commissioner shall promptly issue a letter to Parkland indicating that, subject to the implementation of this Agreement, the Commissioner does not intend to make an application under section 92 of the Act in respect of the Transaction.

[71] Information in Confidential Schedule C shall be made public upon the completion of the Divestiture.

[72] The Commissioner may, after informing Parkland, extend any of the time periods contemplated by this Agreement other than Sections [59], [60] and [65]. If any time period is extended, the Commissioner shall promptly notify Parkland of the revised time period.

[73] Nothing in this Agreement precludes Parkland or the Commissioner from bringing an application under section 106 of the Act. Parkland will not, for the purposes of this Agreement, including execution, registration, enforcement, variation or rescission, contest the Commissioner’s conclusions that: (i) the Transaction is likely to result in a substantial lessening of competition in the supply of gasoline to retail customers in certain local markets in Ontario; and (ii) the implementation of this Agreement is necessary to ensure that any substantial lessening of competition will not result from the Transaction.

[74] Parkland attorns to the jurisdiction of the Tribunal for the purposes of this Agreement and any proceeding initiated by the Commissioner relating to this Agreement.

[75] This Agreement constitutes the entire agreement between the Commissioner and Parkland, and supersedes all prior agreements, understandings, negotiations and discussions, whether written or oral, with respect to the subject matter hereof.

- [76] This Agreement shall be governed by and interpreted in accordance with the laws of Ontario and the laws of Canada applicable therein, without applying any otherwise applicable conflict of law rules.
- [77] In the event of a dispute regarding compliance with or the interpretation, implementation or application of this Agreement, the Commissioner or Parkland may apply to the Tribunal for directions or an order. In the event of any discrepancy between the English language version of this Agreement and the French language version of this Agreement, the English language version of this Agreement shall prevail. In no event shall any dispute suspend the Divestiture Trustee Sale Period.
- [78] This Agreement may be executed in two or more counterparts, each of which shall be an original instrument, but all of which shall constitute one and the same Agreement.

[The remainder of this page is intentionally left blank.]

The undersigned hereby agree to the filing of this Agreement with the Tribunal for registration.

DATED this 27th day of June, 2017

COMMISSIONER OF COMPETITION

Name: John Pecman
Title: Commissioner of Competition

PARKLAND FUEL CORPORATION

I/We have authority to bind the corporation
Name: Pierre Magnan
Title: Vice President, General Counsel and
Corporate Secretary

**SCHEDULE A
DESIGNATED PERSONNEL**

Function	Name	Title
Tax	Tracey Osmond	Director Indirect Tax
Tax	Shelly Flawse	Director, Tax
Tax	Linda Yuan	Manager, Canadian Taxation
Tax	Verdun Yeomans	Tax Accountant
Tax	Bhagwant Dhillon	Tax manager
Tax	Terry Geldreich	Tax Accountant
Tax	Amandeep Sekhon	Tax Accountant
Tax	Yan Li	Tax Accountant
Tax	Ping Ran	Tax Analyst
Controller	Arne Lazzarotto	Controller, Retail
Controller	Jason Park	Assistant Controller, Retail
Controller	Andrea Porkristl	Sr. Financial Analyst, Retail
Capital Assets	Mike Lam	Capital Asset Supervisor
Capital Assets	Kevin Albertson	Capital Asset Technician
Corporate Consolidations	Patricia Van de Sande	VP Finance
Corporate Consolidations	Christina Kim	Controller - Internal Reporting
Corporate Consolidations	Eddie Ho	Controller – External Reporting
Corporate Consolidations	Habib Arshad	Assistant Controller, Internal Reporting
Corporate Consolidations	Rufai Momodu	Senior Financial Analyst
Corporate Consolidations	Luminita Cobzaru	Senior Financial Analyst
Budgeting & Forecasting	Bruce Gustafson	Corporate Planning Manager
Asset Retirement Obligation	Adam Cooney	Environmental Manager
General Ledger	Jane Visser	Manager, General Ledger
General Ledger	Agee Gibson	Financial Analyst, Corporate Services
Legal Support and Litigation	Tariq Remtulla	Legal Counsel
Legal Support and Litigation	Christy Elliott	Legal Counsel

**SCHEDULE B
CST DIVESTITURE ASSETS**

CST Station ID	Station Type	Address	Municipality	Province	Relevant Agreements
32539	Dealer	230 King Street East	Gananoque	Ontario	Agreements of Lease and Sublease, both dated March 10 2015, among 2087417 Ontario Limited and CST Canada Co; Motor Fuels Consignment Agreement, dated February 8, 2008 among Ultramar Ltd. and 2087417 of the town of Gananoque Province of Ontario

CONFIDENTIAL SCHEDULE C

DIVESTITURE TRUSTEE SALE TERMS

Where the Divestiture Trustee has become aware of a significant problem relating to a Divested Business or a Third Party with an interest in a Divested Business and who may be directly affected by this Agreement has communicated significant concerns to the Divestiture Trustee relating to the Divestiture of such Divested Business, the Divestiture Trustee may, at his, her or its discretion, substitute for any CST Divested Business listed on Schedule **[B]** or Parkland Divested Business listed on Schedule **[D]**, any alternative CST or Parkland retail station or fuel supply agreement, as applicable, within the same Divestiture Area (in which case such substitute station shall be referred to herein as a “Divestiture Trustee Divested Station”) provided that (i) the Divestiture Trustee Divested Station shall have an equivalent sales volume to the retail station for which it is being substituted, based on the 12 month period prior to the date of this Agreement, and (ii) the Divestiture Trustee shall have confirmed with Parkland that Parkland has not received any concerns from any Third Party who may be directly affected by this Agreement relating to the Divestiture of the Divestiture Trustee Divested Station, and (iii) the Commissioner shall have approved the selection of the Divestiture Trustee Divested Station.

**SCHEDULE D
PARKLAND DIVESTITURE ASSETS**

Parkland Station ID	Station Type	Address	Municipality	Province	Relevant Agreement
51351	Dealer	91 Bridge St. S.	Hastings	Ontario	Esso-Branded Motor Fuel Supply Agreement dated July 9, 2014 among Parkland Industries Ltd., 7154267 Canada Inc. and Yuren Chen, Sheng Xiang Lin and Yong Qiang Li, as amended by the Amending Agreement dated May 6, 2016 between Parkland Industries Ltd., and 7154267 Canada Inc.
50601	Dealer	2254 Country Rd 45	Norwood	Ontario	Esso-Branded Motor Fuels Supply Agreement dated January 22, 2013 among Parkland Industries Ltd., 2156646 Ontario Inc. and Jiju Thomas, as amended by the Extension and Amending Agreement dated July 1, 2015 among Parkland Industries Ltd., 2156646 Ontario Inc. and Jiju Thomas
50930	Dealer	2239 Asphodel 8th Line	Norwood	Ontario	Race Trac Petroleum Products Supply and Purchase Agreement dated February 4, 2013 between Parkland Industries Ltd. and 1496952 Ontario Ltd.
50218	Dealer	168 East Street South	Bobcaygeon	Ontario	Esso-Branded Motor Fuels Supply Agreement dated June 15, 2015 among Parkland Industries Ltd., 1875645 Ontario Inc. and Shahid Mahmood
51593	Dealer	12 Centre Street	Manilla	Ontario	Esso-Branded Motor Fuel Supply Agreement dated October 7, 2010 between

Parkland Station ID	Station Type	Address	Municipality	Province	Relevant Agreement
					Pioneer Petroleums Limited Partnership and Mary Eleanor Pindar, as amended by the Amending Agreement dated October 29, 2010 between Pioneer Petroleums Limited Partnership and Mary Eleanor Pindar.
51279	Dealer	1185 RR #2	Port Perry	Ontario	Esso-Branded Motor Fuel Assignment and Assumption Agreement dated July 30, 2015 among 2141962 Ontario Inc., 2360037 Ontario Inc., 224133 Ontario Inc., Kanesimoorthy Selliah and Parkland Industries Ltd.
51322	Dealer	1625 Scugog St	Port Perry	Ontario	Race Trac Petroleum Products Supply and Purchase Agreement dated April 15, 2014 between Parkland Industries Ltd. and 1632671 Ontario Inc.
50700	Dealer	114 Sydenham Street	Markdale	Ontario	Esso-Branded Motor Fuel Supply Agreement dated December 1, 2016 between Parkland Fuel Corporation, 1835022 Ontario Inc., Sukhdev Singh Sidhu and Kuldip Singh

SCHEDULE E
ASSETS DIVESTED IN AND AROUND PETERBOROUGH AND TRENTON

Parkland Station ID	Station Type	Address	Municipality	Province	Relevant Agreement
41193	Corporate	6868 Highway 7	Peterborough	Ontario	n/a
51282	Dealer	422 Aylmer St.	Peterborough	Ontario	Agreement dated April 15, 2015 among Parkland Fuel Corporation, J.M.C. Sabatino Enterprises Inc. and Joseph Sabatino and John Sabatino
50326	Dealer	116 Parkhill Road East	Peterborough	Ontario	Agreement dated January 23, 2012 among Parkland Fuel Corporation, PSJEGAN Inc. and Ponniah Saravanamuttu Jegachandran
51265	Dealer	59 Bridge St.	Lakefield	Ontario	Agreement dated June 23, 2015 among Parkland Fuel Corporation, Yas Fuels Inc. and Tariq Sundhu
51313	Dealer	2093 Buckhorn Rd., RR #1	Selwyn Township	Ontario	Agreement dated December 5, 2013 among Parkland Fuel Corporation, 2380630 Ontario Inc. and Naseem Ahmad and Shahid Mahmood
41226	Corporate	130 Dundas St E	Trenton	Ontario	n/a

SCHEDULE F

FORM OF COMPLIANCE CERTIFICATION/AFFIDAVIT

I, [name], of [place], hereby certify in accordance with the terms of the Registered Consent Agreement dated June ●, 2017 between Parkland Fuel Corporation (“Parkland”) and the Commissioner of Competition, that:

1. I am the [title] of Parkland, and have personal knowledge of the matters deposed to herein, unless they are stated to be on information and belief, in which cases I state the source of such information and believe it to be true.
2. On [date], Parkland entered into a Consent Agreement (the “Consent Agreement”) with the Commissioner of Competition (the “Commissioner”) in connection with its acquisition from Alimentation Couche-Tard (the “Transaction”).
3. The Transaction closed on [date] (the “Closing Date”).
4. The Divestiture (as defined in the Consent Agreement) to [Purchaser] was completed on [date].
5. Pursuant to Section [61] of the Consent Agreement, Parkland is required to file [annual reports/reports when requested by the Commissioner] certifying its compliance with Parts [VII], [VIII], [IX], [X] and [XIII] of the Consent Agreement.

Oversight of Compliance

6. [Names/titles] have primary responsibility for overseeing compliance with this Agreement.

Closing Date

7. Pursuant to Section [57] of the Consent Agreement, Parkland is required to provide written confirmation to the Commissioner of the date on which the Transaction was completed. Such notice was provided on [date].

Circulation of Consent Agreement

8. Pursuant to Section [59] of the Consent Agreement, Parkland is required to provide a copy of the Consent Agreement to each of its own and its Affiliates’ directors, officers, employees and agents having managerial responsibility for any obligations under the Consent Agreement, within 3 Business Days after the date of registration of the Consent Agreement. The Consent Agreement was circulated by [whom] to [provide list] on [dates].

9. Pursuant to Section [59] of the Consent Agreement, Parkland is required to ensure that its directors, officers, employees and agents with responsibility for any obligations under the Consent Agreement receive sufficient training respecting Parkland's responsibilities and duties under the Consent Agreement. The following training has been provided: **[provide list of who was trained and by whom as well as a general statement of the content of the training]**

Transitional Support Arrangements

10. **[Describe any compliance obligations arising from the Parkland's transitional support commitments, and confirm compliance with each – to be tailored to specific terms of consent agreement.]**

Employees

11. Sections [41] and [42] of the Consent Agreement require Parkland to take various steps in regard to its employees whose responsibilities involved the operation of the Divestiture Assets. Parkland has fully complied with the terms of those Sections and, more particularly:

[Note: Describe steps taken to facilitate employee transfer to Purchaser, having regard to the terms of Sections [41 and 42]; provide data on the # of employees who have transferred to the Purchaser.]

Notification of Breach

12. Based on my personal knowledge and my inquiries of **[provide names]**, I am not aware of any breach or possible breach of any of the terms of the Consent Agreement within the meaning of Section [58] of the Consent Agreement.

DATED ●.

Commissioner of Oaths

Name and Title of Certifying Officer