

COMBINATION AGREEMENT

AMONG

PRIME RESTAURANTS ROYALTY INCOME FUND

- and -

PRIME RESTAURANT HOLDINGS INC.

- and -

PRIME RESTAURANTS OF CANADA INC.

- and -

PRC TRADEMARKS INC.

- and -

2234567 ONTARIO LIMITED

February 25, 2010

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COMBINATION AGREEMENT

THIS AGREEMENT is dated February 25, 2010

AMONG:

PRIME RESTAURANTS ROYALTY INCOME FUND, a trust
established under the Laws of Ontario

(the “**Fund**”)

- and -

PRIME RESTAURANTS HOLDINGS INC., a corporation
incorporated under the Laws of Ontario

(“**PRH**”)

- and -

PRIME RESTAURANTS OF CANADA INC., a corporation
amalgamated under the Laws of Ontario

(“**PRC**”)

- and -

PRC TRADEMARKS INC., a corporation continued under the Laws of
Ontario

(“**TradeMarkCo**”)

- and -

2234567 ONTARIO LIMITED, a corporation incorporated under the
Laws of Ontario

(“**Newco**”)

WHEREAS PRH owns all of the issued and outstanding shares in the capital of PRC (the “**PRC Shares**”) and all of the issued and outstanding shares (the “**PRA Shares**”) in the capital of Prime Restaurants of America Inc. (“**PRA**”);

AND WHEREAS TradeMarkCo owns the trade-marks and other intellectual property used by PRC in connection with the Business (as described below);

AND WHEREAS the Fund and PRC own all of the issued and outstanding shares of TradeMarkCo;

AND WHEREAS PRC operates the Business and uses the trade-marks and other intellectual property owned by TradeMarkCo pursuant to the License and Royalty Agreement (as defined below), and makes royalty payments in connection therewith;

AND WHEREAS the parties wish to consolidate the ownership of the Business and the related trade-marks and other intellectual property in conjunction with a reorganization whereby the parties shall be reorganized and continued as a publicly traded corporation;

AND WHEREAS the foregoing transactions will be implemented through a Plan of Arrangement under the OBCA;

AND WHEREAS the trustees of the Fund (“**Trustees**”) have: (a) determined that this business combination and reorganization to be effected pursuant to the Arrangement (as defined below) is in the best interests of the Fund and its unitholders (“**Unitholders**”), (b) unanimously approved the transactions contemplated by this Agreement and the Plan of Arrangement, and (c) determined to recommend approval of the transactions contemplated hereby and under the Arrangement to the Unitholders (other than PRC and John Rothschild).

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, including the recitals hereto, the following words and terms have the meanings set out below.

- 1.1.1 “**Affiliate**” means, in respect of a Person, another Person that would be considered an “affiliated entity” in respect of such Person for the purposes of MI 61-101;
- 1.1.2 “**Amalco**” means Prime Restaurants Inc., the corporation that will result from the amalgamation of TradeMarkCo, PRC and Newco, pursuant to Article 4 of the Plan of Arrangement;
- 1.1.3 “**Amalco Shares**” means the Class A Limited Voting Shares, the Class B Shares and the Class C Shares;
- 1.1.4 “**annuitant**” has the meaning set out in Section 8.6;
- 1.1.5 “**Appropriate Regulatory Approvals**” means those sanctions, rulings, consents, orders, exemptions, permits and other approvals (including the lapse, without objection, of a prescribed time under a statute or regulation that states that a transaction may be implemented if a prescribed time lapses following the giving of notice without an objection being made) of Governmental Authorities, or self-regulatory organizations, as set out in Schedule A annexed to this Agreement;

- 1.1.6 “**Arbitration Act**” means the *Arbitration Act, 1991* (Ontario);
- 1.1.7 “**Arrangement**” means the arrangement under Section 182 of the OBCA on the terms and subject to the conditions set out in the Plan of Arrangement, subject to any amendments or variations thereto made in accordance with Section 1.9 hereof or Article 6 of the Plan of Arrangement, or made at the direction of the Court in the Final Order;
- 1.1.8 “**Arrangement Resolution**” has the meaning set out in the Plan of Arrangement;
- 1.1.9 “**Authorization**” means, with respect to any Person, any order, permit, approval, waiver, licence or similar authorization of any Governmental Authority having jurisdiction over such Person;
- 1.1.10 “**Books and Records**” means all books of account, financial statements, tax records, audit working papers, general ledgers, personnel records, sales and purchase records, supplier lists, referral sources, operating guides and manuals, business reports, plans and projections and all other documents, files, correspondence, minute books and corporate records and other information (whether in written, printed, electronic or computer printout form) relating to the Business;
- 1.1.11 “**Business**” means the restaurant franchise and management business presently carried on by the PRC Entities;
- 1.1.12 “**Business Day**” means any day, other than Saturday, Sunday or any statutory holiday, when banks are generally open in Toronto, Ontario, for the transaction of banking business;
- 1.1.13 “**Charges**” means any security interest, Lien, charge, pledge, encumbrance, mortgage, adverse claim, leasehold or subleasehold estate or title retention agreement of any nature or kind;
- 1.1.14 “**Circular**” means the management information circular of the Fund, including all schedules and exhibits thereto, to be sent by the Fund to Unitholders, together with the notice of the Meeting;
- 1.1.15 “**Claim**”, “**Claimant**” and “**Third Party Claim**” have the meanings set out in Section 6.3;
- 1.1.16 “**Class A Limited Voting Shares**” means the class A limited voting shares in the share capital of Amalco;
- 1.1.17 “**Class B Shares**” means the class B shares in the share capital of Amalco;
- 1.1.18 “**Class C Shares**” means the class C shares in the share capital of Amalco;
- 1.1.19 “**Competition Act**” means the *Competition Act* (Canada) and the Notifiable Transactions Regulations thereunder;

- 1.1.20 “**Contract**” means any agreement, undertaking, commitment, guarantee, indenture, lease, or other legally binding instrument, whether written or oral;
- 1.1.21 “**Conversion Agreement**” means the share conversion agreement substantially in the form attached hereto as Schedule C;
- 1.1.22 “**Corporate Restaurant**” means a Prime Restaurant owned or leased and operated by any of the PRC Entities;
- 1.1.23 “**Court**” means the Ontario Superior Court of Justice;
- 1.1.24 “**Damages**” means any losses, liabilities, damages (excluding incidental, special, consequential and punitive damages and lost profits) or expenses (including legal fees and expenses) whether resulting from an action, suit, proceeding, arbitration, claim or demand that is instituted or asserted by a third party, including a Governmental Authority, or a cause, matter, thing, act, omission or state of facts not involving a third party;
- 1.1.25 “**Declaration of Trust**” means the declaration of trust dated May 28, 2002, pursuant to which the Fund was created, as further amended, supplemented or restated from time to time;
- 1.1.26 “**Disclosure Letter**” means the letter dated the date of this Agreement and delivered by PRC and PRH to TradeMarkCo and the Fund concurrently herewith;
- 1.1.27 “**Disputes**” has the meaning set out in Section 7.1;
- 1.1.28 “**Effective Date**” has the meaning set out in the Plan of Arrangement;
- 1.1.29 “**Effective Time**” has the meaning set out in the Plan of Arrangement;
- 1.1.30 “**Employee Plans**” means all plans, arrangements, agreements, programs, policies, practices or undertakings (whether written or oral, formal or informal, funded or unfunded, registered or unregistered) with respect to some or all of the current or former directors, officers, employees, independent contractors or agents of PRC and its Subsidiaries (or their dependants or beneficiaries) which provide for or relate to any one or more of the following:
- (a) bonus, profit sharing or deferred profit sharing, performance compensation, deferred or incentive compensation, share compensation, share purchase or share option purchase, share appreciation rights, phantom stock, termination and severance pay, vacation or vacation pay, sick pay, employee loans, or any other compensation in addition to salary; or
 - (b) insured or self-insured benefits for or relating to income continuation or other benefits during absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident,

death or survivor's benefits, supplementary, employment and unemployment insurance, day care, tuition; or

- (c) professional commitments or expenses or similar employment benefits or retirement savings plans;
- 1.1.31 **“Environmental Laws”** means all applicable common Law and federal, provincial and local Laws, rules, regulations, codes, ordinances, orders, decrees, directives, permits, licences and judgments, agreements or requirements of any Governmental Authority which relates to, or imposes liability or standards of conduct, concerning discharges, spills, releases or threatened releases or the presence of Hazardous Materials in the environment or otherwise relating to environmental or health matters or the manufacture, processing, generation, labelling, distribution, use, treatment, storage, discharge, release, disposal, clean up, transport or handling of Hazardous Materials;
- 1.1.32 **“Exchange Agreement”** means the exchange agreement between the Fund, PRC and TradeMarkCo dated July 22, 2002;
- 1.1.33 **“Final Order”** means the final order of the Court approving the Arrangement, as such order may be amended by the Court at any time prior to the Effective Date, or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended on appeal;
- 1.1.34 **“Financial Information”** means the draft audited consolidated comparative financial statements of the Fund for the years ended December 31, 2009 and 2008, in the form provided to the Trustees on February 25, 2010;
- 1.1.35 **“Financial Statements”** means the PRC Financial Statements and the PRA Financial Statements;
- 1.1.36 **“Financial Statements Reference Date”** means January 3, 2010;
- 1.1.37 **“Franchise Agreements”** means the franchise agreements among a PRC Entity and a Franchisee pursuant to each of which a Franchisee is, subject to the terms and conditions contained therein, permitted to operate a Prime Restaurant somewhere within the Territory;
- 1.1.38 **“Franchised Restaurant”** means a Prime Restaurant owned, leased or subleased and operated by a Franchisee, pursuant to a Franchise Agreement;
- 1.1.39 **“Franchisee”** means the Person identified as a franchisee or licensee pursuant to a Franchise Agreement and includes a permitted sub-franchisee or sub-licensee;
- 1.1.40 **“Fund”** means Prime Restaurants Royalty Income Fund, a limited purpose trust established under the Laws of Ontario pursuant to the Declaration of Trust;
- 1.1.41 **“Fund’s Counsel”** means Goodmans LLP;

- 1.1.42 **“Governmental Authority”** means any foreign, international, federal, provincial, local, municipal, regional, territorial, aboriginal or other government, governmental or public department, branch, ministry, or court, tribunal, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory or taxing authority or power of any nature as well as any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them;
- 1.1.43 **“Governmental Charges”** means (a) all Federal, provincial, municipal, state, local, foreign or other taxes, levies, duties, assessments, reassessments and other charges together with all related penalties, interest and fines, due and payable to any government, or imposed by any court or any other Law, regulation or rulemaking entity having jurisdiction in relevant circumstances, including, without limitation income, gross receipts, capital, license, payroll, employment, excise, severance, stamp, occupation, premium, windfall profits, environmental, customs duties, franchise, profits, withholding, social security, health, Canada Pension Plan and provincial pension plan contributions, workers’ compensation premiums, real property, land transfer, personal property, sales, use, transfer, registration, value added, alternative or add-on minimum, estimated or other tax surtax, fee, levy, withholding, assessment or duty, and (b) any liability for the payment of any amounts of the type described in (a) of this definition as a result of any tax sharing, tax allocation or tax indemnification agreement, arrangement or understanding or as a result of being liable for another Person’s taxes as a transferee or successor by contract or otherwise;
- 1.1.44 **“Guaranteed Real Property Leases”** has the meaning set out in Section 3.2.23(g);
- 1.1.45 **“Hazardous Materials”** means any substance, material or waste which is prohibited, controlled or regulated pursuant to any Law or other requirement relating to such substance or otherwise relating to the environment or human or worker health or safety, including any substance which is deemed to be alone or in any combination “hazardous”, “hazardous waste”, “hazardous material”, “hazardous substance”, “pollutant”, “radioactive”, “toxic”, “caustic”, “dangerous”, “dangerous goods”, “special waste”, “source of contamination”, “source of pollution” or “contaminant” under any provision of Environmental Law, whether such substances are defined as hazardous under the Environmental Law involved, and including any sound, heat, vibration, radiation or other form of energy, petroleum, petroleum products, asbestos, asbestos-containing material, urea formaldehyde and polychlorinated biphenyls mould, mildew or fungi and any other material or substance which may pose a threat to the environment or human health and safety;
- 1.1.46 **“Information Technology”** means all computer hardware, software (including source code and object code, documentation, interfaces and development tools), websites for the Business, databases, telecommunications equipment and facilities

and other information technology systems owned, used or held by PRC and its Subsidiaries;

- 1.1.47 **“Interim Order”** means the interim order of the Court in a form acceptable to the parties to this Agreement, providing for, among other things, the calling and holding of the Meeting, as the same may be amended by the Court with the consent of the parties to this Agreement, acting reasonably;
- 1.1.48 **“Intellectual Property Rights”** means:
- (a) any and all proprietary rights provided under: (i) patent Law; (ii) copyright Law (including moral rights); (iii) trade-mark Law; (iv) design patent or industrial design Law; (v) semi-conductor chip Law; or (vi) any other statutory provision or common Law principle, including trade secret Law, which may provide a right in either hardware, Software, documentation, ideas, formulae, algorithms, concepts, inventions, processes or know-how generally, or the expression or use of such hardware, Software, documentation, ideas, formulae, algorithms, concepts, inventions, processes or know-how;
 - (b) any and all applications, registrations, licenses, sub-licenses, franchises, agreements or any other evidence of a right in any of the foregoing; and
 - (c) all licenses and waivers and benefits of waivers of the rights set out in Sections 1.1.48(a) and 1.1.48(b) and all rights to damages and profits by reason of the infringement of any of the rights set out in Sections 1.1.48(a) and 1.1.48(b);
- 1.1.49 **“Jurisdictions”** means, collectively, each of the provinces and territories of Canada;
- 1.1.50 **“Knowledge of PRC”** means the actual knowledge of John Rothschild, Nick Perpick, Brian Elliot, Ross Bain and Dave Jaipersaud, after reasonable due and diligent inquiry;
- 1.1.51 **“Law” or “Laws”** means all laws, statutes, codes, ordinances, decrees, rules, regulations, by-laws (includes without limitation zoning by-laws), statutory rules, principles of law, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, rulings or awards, including general principles of common and civil law, and the terms and conditions of any grant of approval, permission, authority or licence of any Governmental Authority, and the term “applicable” with respect to Laws and in a context that refers to one or more Persons, means that the Laws apply to the Person or Persons, or its or their business, undertaking, property or securities, and emanate from a Governmental Authority having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities;
- 1.1.52 **“Leased Real Property”** has the meaning set out in Section 3.2.23(b);

- 1.1.53 **“Licence and Royalty Agreement”** means the licence and royalty agreement between TradeMarkCo and PRC dated July 22, 2002, as amended and restated on March 13, 2008, and as further amended on January 1, 2009 and January 1, 2010;
- 1.1.54 **“Liens”** means any mortgage, charge, pledge, hypothecation, security interest, assignment, lien (statutory or otherwise), charge, title retention agreement or arrangement, restrictive covenant or other encumbrance of any nature, or any other arrangement or condition which, in substance, secures payment or performance of an obligation;
- 1.1.55 **“liquidity event”** has the meaning set out in Section 3.5.4(b);
- 1.1.56 **“Material Adverse Effect”** or **“Material Adverse Change”** means any effect or change that is or, as far as can be reasonably determined, is reasonably likely to be materially adverse to the results of operations, financial condition, assets, properties, or business of the Person and its Subsidiaries, collectively, taken as a whole;
- 1.1.57 **“Meeting”** means the annual and special meeting of Unitholders (including any adjournment or postponement thereof), that is to be convened to consider and, if deemed advisable, to approve the Arrangement Resolution;
- 1.1.58 **“MI 61-101”** means Multilateral Instrument 61-101—Protection of Minority Security Holders in Special Transactions;
- 1.1.59 **“Minority Unitholders”** means Unitholders whose votes may be counted for purposes of obtaining minority approval of the Arrangement Resolution in accordance with Section 8.1 of MI 61-101;
- 1.1.60 **“misrepresentation”** has the meaning ascribed thereto in the Securities Act;
- 1.1.61 **“Newco”** means 2234567 Ontario Limited, a wholly owned subsidiary of the Fund incorporated under the Laws of Ontario;
- 1.1.62 **“OBCA”** means the *Business Corporations Act*, R.S.O. 1990, c. B-16, and the regulations thereto, as now in effect and as it may be amended from time to time prior to the Effective Date;
- 1.1.63 **“Permits”** has the meaning set out in Section 3.2.31;
- 1.1.64 **“Person”** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;
- 1.1.65 **“Personal Information”** means the type of information regulated by Privacy Laws and collected, used, disclosed or retained by PRC and its Subsidiaries, including information regarding their suppliers, employees and agents, such as an

individual's name, address, age, gender, identification number, income, family status, citizenship, employment, assets, liabilities, source of funds, payment records, credit information, personal references and health records;

- 1.1.66 **"Plan of Arrangement"** means the plan of arrangement substantially in the form and content of Schedule B attached hereto and any amendments or variations thereto made in accordance with Article 6 of the Plan of Arrangement or made at the direction of the Court in the Final Order, as such terms are defined and as further described under the Plan of Arrangement;
- 1.1.67 **"PRA"** means Prime Restaurants of America Inc., a corporation incorporated under the Laws of Delaware, and includes its successors;
- 1.1.68 **"PRA Financial Statements"** means the unaudited consolidated comparative financial statements of PRA for the financial years ended January 3, 2010 and January 4, 2009;
- 1.1.69 **"PRA Shares"** means all of the issued and outstanding shares in the capital of PRA;
- 1.1.70 **"PRC"** means Prime Restaurants of Canada Inc. and includes its successors;
- 1.1.71 **"PRC Entities"** means, collectively, (i) PRC and the PRC Subsidiaries, and (ii) PRA and Prime Pubs of America, LLC;
- 1.1.72 **"PRC Financial Statements"** means the draft audited consolidated financial statements of PRC for the financial years ended January 3, 2010 and January 4, 2009, in the form provided to the Trustees on February 25, 2010;
- 1.1.73 **"PRC Shares"** means all the issued and outstanding shares in the capital of PRC;
- 1.1.74 **"PRC Subsidiaries"** means Prime Restaurant Systems Inc., Prime Pubs Atlantic Inc., BM King Inc., The BM King Limited Partnership and The Ricmar Limited Partnership;
- 1.1.75 **"PRH"** means Prime Restaurant Holdings Inc. and includes its successors;
- 1.1.76 **"PRH's Counsel"** means Stikeman Elliott LLP;
- 1.1.77 **"Prime Restaurant"** includes restaurants, pubs and other facilities selling food and beverage products intended for point-of-sale consumption, and shall include, but not be limited to, restaurants and pubs operated under the East Side Mario's, Casey's, Fionn MacCool's, D'Arcy McGee's, Paddy Flaherty's, Tir nan Óg, Bier Markt and Pat and Mario's brands;
- 1.1.78 **"Privacy Laws"** means the *Personal Information Protection and Electronic Documents Act* (Canada), the *Personal Information Protection Act* (Alberta), the *Freedom of Information and Protection of Privacy Act* (British Columbia) and *An Act Respecting the Protection of Personal Information in the Private Sector*

(Quebec), and the regulations thereunder, as may be amended from time to time, and all applicable federal, provincial, municipal or other Laws governing the collection, use, disclosure and retention of Personal Information;

- 1.1.79 “**Privacy Policies**” means all privacy, data protection and similar policies adopted or used by the PRC Entities in respect of Personal Information, including any complaints process;
- 1.1.80 “**Proceedings**” has the meaning set out in Section 3.2.15;
- 1.1.81 “**Real Property Leases**” means all leases and subleases of real property by which a PRC Entity is a tenant or subtenant;
- 1.1.82 “**Securities Act**” means the *Securities Act* (Ontario), as now in effect and as it may be amended from time to time prior to the Effective Time;
- 1.1.83 “**Securities Commission**” means the applicable securities commission or regulatory authority in each of the Jurisdictions;
- 1.1.84 “**Securities Laws**” means, collectively, the applicable securities Laws of each of the Jurisdictions and the respective regulations and rules made under those securities Laws together with all applicable policy statements, blanket orders and rulings of the Securities Commissions and all discretionary orders or rulings, if any, of the Securities Commissions made in connection with the transactions contemplated by this Agreement and the securities legislation and policies of each other relevant jurisdiction, together with applicable published policy statements of the Canadian Securities Administrators;
- 1.1.85 “**Shareholder Loan**” means the outstanding loan from PRC to PRH in the principal amount of \$577,500;
- 1.1.86 “**Subsidiary**” means, with respect to any Person, any corporation, partnership, limited partnership, trust or other Person controlled, directly or indirectly, by that Person, where “control” has the meaning attributed to such term in the Securities Act;
- 1.1.87 “**Tax Act**” means the *Income Tax Act* (Canada) and the regulations thereunder, as may be amended from time to time;
- 1.1.88 “**Tax Reassessment Period**” has the meaning set out in Section 3.5.4(a);
- 1.1.89 “**Tax Return**” means any return, declaration, report, election, notice, designation, form, claim for refund or information return or similar statement relating to Governmental Charges, including any schedule or attachment thereto, and including any amendment thereof;
- 1.1.90 “**Territory**” means all of the provinces and territories of Canada as currently constituted, other than the Northwest Territories;

- 1.1.91 **“TradeMarkCo”** means PRC Trademarks Inc., and includes its successors;
- 1.1.92 **“TSX”** means The Toronto Stock Exchange;
- 1.1.93 **“Trustees”** means the trustees of the Fund as of the date hereof;
- 1.1.94 **“Unitholder Approval”** means the approval of the Arrangement Resolution by:
(i) a majority of the votes cast by Minority Unitholders present in person or represented by proxy at the Meeting; and (ii) at least two-thirds of the votes cast by Unitholders present in person or represented by proxy at the Meeting in accordance with the Declaration of Trust;
- 1.1.95 **“Unitholders”** means the holders of Units;
- 1.1.96 **“Units”** means the trust units of the Fund as defined in the Declaration of Trust.

1.2 Schedules

Schedule A - Appropriate Regulatory Approvals

Schedule B - Plan of Arrangement

Schedule C - Conversion Agreement

1.3 Headings and Table of Contents

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

1.4 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing gender include all genders or the neuter, and words importing the neuter include all genders.

1.5 Currency

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian currency.

1.6 Generally Accepted Accounting Principles

In this Agreement, except to the extent otherwise expressly provided, references to “generally accepted accounting principles” mean, for all principles stated in the Handbook of the Canadian Institute of Chartered Accountants, such principles so stated.

1.7 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent

jurisdiction shall not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable Law, the parties waive any provision of Law which renders any provision of this Agreement invalid or unenforceable in any respect. The parties shall engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.8 Entire Agreement

This Agreement constitutes the entire agreement between the parties pertaining to the subject matter of this Agreement. There are no warranties, conditions or representations (including any that may be implied by statute) and there are no agreements in connection with such subject matter except as specifically set forth or referred to in this Agreement. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into this Agreement, or any amendment or supplement thereto, by any party to this Agreement or its directors, officers, employees or agents, to any other party to this Agreement or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement, and none of the parties to this Agreement has been induced to enter into this Agreement or any amendment or supplement by reason of any such warranty, representation, opinion, advice or assertion of fact. Accordingly, there shall be no liability, either in tort or in contract, assessed in relation to any such warranty, representation, opinion, advice or assertion of fact, except to the extent contemplated above.

1.9 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

1.10 Governing Law

This Agreement shall be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein. Each party hereto accepts and hereby irrevocably and unconditionally consents to submit to the jurisdiction of the courts of the Province of Ontario and all courts of appeal therefrom for any actions, suits and proceedings occurring out of or relating to this Agreement and the transactions contemplated thereby and agrees not to commence any action, suit or proceeding relating thereto except in such courts other than those matters agreed to be arbitrated hereunder.

1.11 Disclosure Letter

Contemporaneously with the execution and delivery of this Agreement, PRC and PRH are delivering to TradeMarkCo and the Fund the Disclosure Letter required to be delivered pursuant to this Agreement in order to qualify certain representations and warranties of PRH contained in this Agreement in the manner described in the following sentence. For greater clarity, each

reference in a section of this Agreement to the Disclosure Letter should be deemed to refer to the corresponding section of the Disclosure Letter.

ARTICLE 2 PLAN OF ARRANGEMENT

2.1 Pre-Arrangement Implementation Steps

The parties hereto covenant and agree to take all actions necessary to implement the pre-Arrangement steps set out in Sections 3.1(a), (b) and (c) of the Plan of Arrangement in accordance with and subject to the terms of this Agreement and as more fully set forth in the Circular and the Plan of Arrangement.

In connection with the pre-Arrangement steps, PRC covenants and agrees that it shall not make an eligible dividend designation in respect of any dividend that it may declare.

2.2 Arrangement Steps

The parties hereto covenant and agree that the Arrangement will be implemented in accordance with and subject to the terms of this Agreement and as more fully set forth in the Circular and the Plan of Arrangement.

Upon the receipt by Amalco of the Final Order, and upon the conditions contained in Article 4 hereof being complied with or waived, the Arrangement shall be effective at the Effective Time on the Effective Date.

2.3 Termination of Exchange Agreement

After giving effect to (i) the cancellation of the class A shares and class B shares of TradeMarkCo held by PRC, and (ii) the consolidation and cancellation of the common shares of TradeMarkCo held by PRC, as set out under Sections 4.1(c), (d) and (h) of the Plan of Arrangement, the Exchange Agreement shall be terminated in accordance with its terms.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.1 Representations and Warranties of PRH

PRH represents and warrants to the Fund and to TradeMarkCo as follows, as at the date hereof, and acknowledges and confirms that the Fund and TradeMarkCo are relying upon such representations and warranties in connection with the completion of the Arrangement.

3.1.1 Incorporation and Status.

PRH is duly incorporated and validly existing under the Laws of Ontario.

3.1.2 Corporate Power and Due Authorization.

PRH has the corporate power and capacity to enter into, and to perform its obligations under, this Agreement. Each of this Agreement and the other agreements, contracts and instruments required by this Agreement to be delivered by PRH prior to the Effective Time have been duly authorized by PRH. This Agreement has been duly executed and delivered by PRH and is a valid and binding obligation of PRH, enforceable in accordance with its terms, subject to the usual exceptions as to bankruptcy and the availability of equitable remedies.

3.1.3 Title to, and Right to Transfer, PRA Shares.

PRH is the sole registered owner of the PRA Shares with good and valid title thereto, free of all Charges. There are no agreements or restrictions which in any way limit or restrict the transfer of any of the PRA Shares and there are no shareholders agreements, pooling agreements, voting trusts or other agreements or understandings with respect to the voting of the PRA Shares or any of them. PRH will have full legal right, power and authority to sell the PRA Shares to PRC free of all Charges.

3.1.4 No Options, etc. on PRA Shares

Except for PRC under this Agreement, no Person has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming such under which PRH is, or may become, obligated to assign, sell or transfer the PRA Shares.

3.1.5 Title to PRC Shares

PRH is the sole registered owner of the PRC Shares with good and valid title thereto, free of all Charges. There are no agreements or restrictions which in any way limit or restrict the transfer of any of the PRC Shares and there are no shareholders agreements, pooling arrangements, voting trusts or other agreements or understandings with respect to the voting of the PRC Shares or any of them.

3.1.6 No Options, etc. on PRC Shares

No Person has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming such under which PRH is, or may become, obligated to assign, sell or transfer the PRC Shares.

3.1.7 Residence of PRH.

PRH is not a non-resident of Canada within the meaning of the Tax Act.

3.1.8 Competition Act.

Immediately prior to the amalgamation contemplated by the Plan of Arrangement of TradeMarkCo, PRC and Newco to form Amalco, PRH and its affiliates (as

defined in the Competition Act) will not have assets in Canada that exceed \$65 million, or gross revenues from sales in, from or into Canada, that exceed \$65 million, all as determined in accordance with the Competition Act.

3.2 Representations and Warranties of PRC and PRH

PRC and PRH represent and warrant jointly and severally to and in favour of TradeMarkCo and the Fund as follows, as of the date hereof, and acknowledge that TradeMarkCo and the Fund are relying upon such representations and warranties in connection with the completion of the Arrangement.

3.2.1 Incorporation and Status.

Each of the PRC Entities is:

- (a) duly incorporated or formed and organized and validly existing under the Laws of its jurisdiction of incorporation or formation, as the case may be;
- (b) duly registered, licensed or qualified to carry on business in each jurisdiction where the failure to be so registered, licensed or qualified would have a Material Adverse Effect;
- (c) up-to-date in the filing of all corporate and similar returns, under the Laws of the Provinces of British Columbia, Alberta, Saskatchewan, Ontario, Quebec, Nova Scotia, New Brunswick, and Prince Edward Island, and the State of Delaware, as applicable, which are the only jurisdictions in which the nature of the Business or the assets owned or leased by it makes such registration, licensing or qualification necessary.

PRH has made available for inspection by the Fund a correct and complete copy of the articles, by-laws, constating documents, partnership agreements and other organizational documents of each of the PRC Entities, in each case as amended to the date hereof.

3.2.2 Corporate Power and Due Authorization.

PRC has the corporate power and capacity to enter into, and to perform its obligations under, this Agreement. Each of this Agreement and the other agreements, contracts and instruments required by this Agreement to be delivered by PRC prior to the Effective Time have been duly authorized by PRC. This Agreement has been duly executed and delivered by PRC and is a valid and binding obligation of PRC, enforceable in accordance with its terms, subject to the usual exceptions as to bankruptcy and the availability of equitable remedies.

3.2.3 Corporate Power.

Each of the PRC Entities has the corporate or partnership power and capacity to own, lease or operate its property and carry on the Business as the same is presently conducted by it.

3.2.4 Subsidiaries.

A complete list of the direct and indirect Subsidiaries of PRC and PRA and their respective shareholders is set out in Schedule 3.2.4 of the Disclosure Letter.

3.2.5 No Obligations to Issue Securities.

There are no agreements, options, warrants, rights of conversion or other rights pursuant to which any of the PRC Entities is, or may become, obligated to issue any shares, units or other securities, or any securities convertible or exchangeable, directly or indirectly, into shares, units or other securities of such PRC Entity.

3.2.6 Validity of Agreement.

Except as set forth in Schedule 3.2.6 of the Disclosure Letter, the execution, delivery and performance by PRC and PRH of this Agreement:

- (a) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) result in a breach or a violation of, or conflict with or result in a default under, or allow any other Person to exercise any rights under, any of the terms or provisions of:
 - (i) its constating documents or by-laws or resolutions of its board of directors (or any committee thereof) or shareholders or any judgment, decree, order or award of any court, Governmental Authority or arbitrator having jurisdiction over it; or
 - (ii) any Contracts or Authorizations to which it or a Subsidiary of it is a party which would reasonably be expected to result in a Material Adverse Effect; and
- (b) will not result in the violation of any Laws.

3.2.7 Required Authorizations.

Except in connection with Appropriate Regulatory Approvals, there is no requirement to make any filing with, or to give any notice to, or obtain any Authorization as a condition to the lawful completion of the transactions contemplated by this Agreement, except where the failure to make such filing, give such notice or obtain such Authorization would not have a Material Adverse Effect.

3.2.8 Approvals and Consents.

Except as set forth in Schedule 3.2.8 of the Disclosure Letter and except in connection with Appropriate Regulatory Approvals, no Authorization, consent or approval of, or filing with or notice to, any Governmental Authority or other Person is required in connection with the execution, delivery or performance of this Agreement by PRC except where the failure to obtain such Authorization,

consent or approval of, or make or give such filing with or notice to any such Government Authority would not have a Material Adverse Effect.

3.2.9 Third Party Consents.

Except for the consents set out in Schedule 3.2.9 of the Disclosure Letter, no consents, waivers or approvals from other parties to Contracts, or other commitments or obligations to which any of the PRC Entities is a party or by which it is bound, is required in connection with the execution and delivery of this Agreement by PRC or the consummation of the transactions contemplated hereby, the failure of which to obtain would reasonably be expected to result in a Material Adverse Effect.

3.2.10 Residence of PRC.

PRC is not a non-resident of Canada within the meaning of the Tax Act and is a “taxable Canadian corporation” for purposes of the Tax Act.

3.2.11 Franchise Agreements.

- (a) Schedule 3.2.11 of the Disclosure Letter contains a complete and accurate list of the names and addresses of all Franchised Restaurants in existence as at the date of this Agreement.
- (b) The right of the applicable PRC Entity under each Franchise Agreement to collect royalties and enforce trade-mark protection is valid, binding and enforceable by the applicable PRC Entities against the Franchisees, except in each case as such enforceability may be affected by bankruptcy, insolvency, arrangement, moratorium or other Laws affecting the enforcement of creditors’ rights generally and the availability of equitable remedies may be limited by equitable principles of general application.
- (c) Each of the PRC Entities is in compliance in all respects with the Franchise Agreements to which each is a party except where non-compliance would not reasonably be expected to result in a Material Adverse Effect.
- (d) Except as disclosed in Schedule 3.2.11(d) of the Disclosure Letter, to the Knowledge of PRC, as at the date of this Agreement, (i) each of the Franchisees is up to date in all royalty payments owing to PRC, and (ii) no event has occurred or has failed to occur that would, with the giving of notice or the passing of time, constitute a breach of any of the Franchise Agreements in a manner that would reasonably be expected to result in a Material Adverse Effect.
- (e) Except as disclosed in Schedule 3.2.11(e) of the Disclosure Letter, PRC has not received any written notice of any litigation which is current or pending between or among any Franchisees and the PRC Entities or any

previous Franchisees of the Franchised Restaurants or in respect of any of the Franchise Agreements.

- (f) All of the Franchise Agreements have been entered into by the PRC Entities or their predecessors, as the franchisor.
- (g) Each of the PRC Entities has complied in full with its obligations, under applicable franchise Laws, including, without limitation, in regard to the sale of franchises, the offering of franchises not yet sold and the performance and enforcement of any franchise or license agreements except for any non-compliance which would not reasonably be expected to result in a Material Adverse Effect.

3.2.12 Corporate Restaurants.

Schedule 3.2.12 of the Disclosure Letter contains a complete and accurate list of the names and addresses of all Corporate Restaurants in existence as at the date of this Agreement.

3.2.13 Compliance with Laws.

Each of the PRC Entities is conducting the Business in compliance with all applicable Laws of each jurisdiction in which the Business is carried on by it, except for any non-compliance which would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect.

3.2.14 Financial Statements.

The Financial Statements have been prepared in accordance with generally accepted accounting principles consistently applied throughout the periods indicated and fairly present the consolidated financial positions of PRC and PRA, respectively, and the results of their operations as of the dates and for the periods indicated in accordance with generally accepted accounting principles, and there has been no Material Adverse Change in the consolidated financial position of PRC or PRA from that reflected in the Financial Statements.

3.2.15 Litigation and Other Proceedings

Except as set out in Schedule 3.2.15 of the Disclosure Letter: (a) there is no court, administrative, regulatory or similar proceeding (whether civil, quasi-criminal or criminal); arbitration or other dispute settlement procedure; investigation or inquiry by any Governmental Authority; or any similar matter or proceeding (collectively “**Proceedings**”) against or involving the PRC Entities or any Employee Plan (whether in progress or, to the Knowledge of PRC, threatened) which, if determined adversely to the PRC Entities, would reasonably be expected to have a Material Adverse Effect or adversely affect the consummation of the transactions contemplated herein; (b) to the Knowledge of PRC, no event has occurred which might give rise to any such material Proceedings; (c) there is no judgment, decree, injunction, rule, award or order of any Governmental Authority

outstanding against the PRC Entities which would reasonably be expected to result in a Material Adverse Effect; and (d) no complaint, grievance, claim, work order or, to the Knowledge of PRC, investigation has been filed, made or commenced against the PRC Entities which, if determined adversely to the PRC Entities, would reasonably be expected to result in a Material Adverse Effect or adversely affect the consummation of the transactions contemplated herein.

3.2.16 Liabilities and Guarantees.

Except as set out in Schedule 3.2.16 of the Disclosure Letter, none of the PRC Entities has any outstanding liabilities, contingent or otherwise, and the PRC Entities are not a party to or bound by any agreement of guarantee, support, indemnification, assumption, or endorsement of, or any other similar commitment with respect to the obligations, liabilities (contingent or otherwise) or indebtedness of any Person, other than:

- (a) those set out in the Financial Statements, including the notes thereto; and
- (b) liabilities in respect of trade or business obligations incurred after the Financial Statements Reference Date in the ordinary course of the Business, consistent with past practice.

3.2.17 Indebtedness.

Except as set out in the Financial Statements or in Schedule 3.2.17 of the Disclosure Letter, none of the PRC Entities has any outstanding bonds, debentures, notes, mortgages, interest bearing debt or other indebtedness, and none of the PRC Entities has agreed to create or issue any such bonds, debentures, notes, mortgages or other indebtedness, except, in each case, indebtedness in the ordinary course (such as accounts payable).

3.2.18 Sufficient Working Capital.

The PRC Entities have sufficient working capital for the continued operation of the Business in the ordinary course consistent with past practice.

3.2.19 Absence of Unusual Transactions and Events.

Except as contemplated in this Agreement or as disclosed in Schedule 3.2.19 the Disclosure Letter, none of the PRC Entities has, since the Financial Statements Reference Date:

- (a) paid or satisfied any obligation or liability, absolute or contingent, other than current liabilities or obligations disclosed in the Financial Statements and current liabilities or obligations incurred since the Financial Statements Reference Date in the ordinary course of the Business, consistent with past practice;

- (b) waived or cancelled any rights or claims or made any gift, other than donations made in the ordinary course of the Business, consistent with past practice;
- (c) sold or otherwise disposed of any fixed or capital assets having a fair market value, in the case of any single sale or disposition, in excess of \$50,000 and, in the case of all sales and dispositions, in excess of \$250,000 in the aggregate;
- (d) made any capital expenditures, in the case of any single capital expenditure, in excess of \$50,000 and, in the case of all capital expenditures, in excess of \$250,000 in the aggregate;
- (e) made or suffered any change or changes in its financial condition, assets, liabilities or the Business which, singly or in the aggregate would reasonably be expected to result in a Material Adverse Effect;
- (f) suffered or incurred any damage, destruction or loss, whether or not covered by insurance, which would reasonably be expected to result in a Material Adverse Effect;
- (g) made any increase in the compensation payable or to become payable to its directors, officers, employees, independent contractors or agents, including, without limitation, any improvements to severance or termination pay, except as required by Law or normal annual adjustments consistent with past practice;
- (h) declared or paid any dividend or made any distribution, whether in cash, stock or in specie, in respect of any of its shares or repurchased, redeemed or otherwise acquired any of its securities; or
- (i) authorized or agreed or otherwise become committed to do any of the foregoing.

3.2.20 Non-Arm's Length Transactions.

- (a) Except as disclosed in Schedule 3.2.20(a) of the Disclosure Letter, none of the PRC Entities has made any payment or loan to, or borrowed any monies from or is otherwise indebted to, any officer, director, employee, shareholder or any other Person with whom PRC is not dealing at arm's length (within the meaning of the Tax Act) or any Affiliate of any of the foregoing, except as disclosed in the Financial Statements or in the Disclosure Letter and except for usual compensation paid in the ordinary course of the Business, consistent with past practice.
- (b) Except as disclosed in Schedule 3.2.20(b) of the Disclosure Letter, none of the PRC Entities is a party to any Contract with any officer, director, employee, shareholder or any other Person with whom PRC is not dealing

at arm's length (within the meaning of the Tax Act) or any Affiliate of any of the foregoing.

3.2.21 As to Certain Contracts Out of the Ordinary Course.

Except as set out in section 3.2.21 of the Disclosure Letter, none of the PRC Entities is a party to or bound by any:

- (a) Contract for the purchase or sale of any equipment or fixed or capital assets having a fair market value in excess of \$150,000, other than restaurant construction commitments incurred in the ordinary course of business;
- (b) licence or other agreement relating to Intellectual Property, other than the Licence and Royalty Agreement and the Franchise Agreements;
- (c) Contract to make any gift of any of its property, other than donations made in the ordinary course of the Business, consistent with past practice; or
- (d) Contract to purchase any real property.

3.2.22 No Default Under Agreements.

Except as set forth in Schedule 3.2.22 of the Disclosure Letter, none of the PRC Entities is in default or breach of any Contract, and there exists no state of facts which after notice or the passage of time, or both, would constitute such a default or breach, and all such Contracts are now in good standing and the respective PRC Entities are entitled to all benefits, rights and privileges thereunder (except, in each case, where such default or breach would not reasonably be expected to have a Material Adverse Effect).

3.2.23 Real Property.

- (a) None of the PRC Entities owns or is party to any agreement to own any real property.
- (b) Schedule 3.2.23(b) of the Disclosure Letter contains a complete and accurate list of the address of all real properties which are leased by any of the PRC Entities as tenant or subtenant ("**Leased Real Property**") pursuant to leases (or subleases) and all amendments thereto (the "**Real Property Leases**"). Except as set forth in Schedule 3.2.23(b) of the Disclosure Letter, none of the PRC Entities has entered into any Contract to sell, transfer, assign, mortgage, charge, hypothecate, encumber or otherwise dispose of any Leased Real Property or its interest under any Real Property Lease except Liens arising in connection with the credit facilities or to sublet or share possession of all or any part of any Leased Real Property or to acquire or lease any other real property or interest therein, except subleases, transfers or assignments to Franchisees.

- (c) Pursuant to the Real Property Leases, each of the PRC Entities has a good and valid leasehold interest in the real property leased by it thereunder.
- (d) Except as disclosed in Schedule 3.2.23(d) of the Disclosure Letter or as would not cause a Material Adverse Effect: (i) each Real Property Lease is in full force and effect; (ii) none of the PRC Entities is currently in default or breach of, nor has it received any notice of default or termination under any of the Real Property Leases, except where such default, breach or termination has previously been resolved and is no longer outstanding and, to the Knowledge of PRC, no event has occurred or circumstances exist that, with the passage of time or the giving of notice or both, would result in any default or breach or entitle the landlord under any Real Property Lease to give notice of default or termination, other than an event related to default, breach, or termination that has previously been resolved and is no longer outstanding; and (iii) none of the Real Property Leases contains any restriction on a change of control of any of the PRC Entities or any notice requirement that is triggered by the execution of this Agreement or the consummation of the transactions contemplated hereby. To the Knowledge of PRC, each of the landlords is in compliance in all material respects with its obligations under the Real Property Leases and no PRC Entity has given notice of default to any landlord.
- (e) Except as disclosed in Schedule 3.2.23(e) of the Disclosure Letter, no notice of any non-compliance with any applicable Laws or advising of any defects in the construction, state of repair or ordering of any work to be done, which would reasonably be expected to result in a Material Adverse Effect, has been received by any PRC Entity which has not been complied with.
- (f) There are no expropriation or similar proceedings, actual or threatened, of which either PRH, or any of the PRC Entities, has received notice against any of the real properties which are leased by each of the PRC Entities as tenant or subtenant or any part thereof.
- (g) Schedule 3.2.23(g) of the Disclosure Letter contains a complete and accurate list of the name and address of all real properties which are leased by Franchisees as tenant or subtenant, and for which any of the PRC Entities has provided a guarantee of any lease or similar payments (“**Guaranteed Real Property**”). True, correct and complete copies of all of the leases (or subleases) and all amendments thereto for each of the Guaranteed Real Properties (the “**Guaranteed Real Property Leases**”) have been made available to the Fund.
- (h) Pursuant to the Guaranteed Real Property Leases, to the Knowledge of PRC, each of the Franchisees has a good and valid leasehold interest in the real property leased thereunder.

- (i) Except as disclosed in Schedule 3.2.23(i) of the Disclosure Letter, or as would not cause a Material Adverse Effect, and to the Knowledge of PRC: (i) each Guaranteed Real Property Lease is in full force and effect; (ii) none of the Franchisees is in default or breach of, nor has it received any notice of default or termination under, any of the Guaranteed Real Property Leases and, to the Knowledge of PRC, no event has occurred or circumstances exist that, with the passage of time or the giving of notice or both, would result in any default or breach or entitle the landlord under any Guaranteed Real Property Lease to give notice of default or termination; and (iii) none of the Guaranteed Real Property Leases contains any restriction on a change of control of any of the PRC Entities or any notice requirement that is triggered by the execution of this Agreement or the consummation of the transactions contemplated hereby.

3.2.24 **Title to Assets.**

Except as set out in Schedule 3.2.24 of the Disclosure Letter, each of the PRC Entities is the absolute beneficial owner of, and has good and valid title, free of all Charges, to all the assets (other than the real property leased by the PRC Entities), computer systems software licensed by third parties to the PRC Entities pursuant to and subject to the terms of computer systems Contracts and leased or rented equipment used in restaurants used in connection with the Business which are owned by such entity.

3.2.25 **Sufficiency of Assets.**

The property leased and assets owned or leased by each of the PRC Entities include all rights and property necessary to enable each of the PRC Entities to carry on the Business as currently conducted by it.

3.2.26 **Environmental Matters.**

- (a) Each of the PRC Entities and the tenants under the Guaranteed Real Property Leases (the “**Guaranteed Tenants**”) and all of their respective assets, are, and have been, in compliance with all Environmental Laws except where non-compliance would not reasonably be expected to result in a Material Adverse Effect, and, to the Knowledge of PRC, there are no facts that could give rise to such non-compliance by any of them with any Environmental Law.
- (b) The PRC Entities and, to the Knowledge of PRC, the Guaranteed Tenants are in possession of all environmental Permits necessary to carry on their business at the Leased Real Properties and at the properties that are subject to a Guaranteed Real Property Lease (collectively, the “**Locations**”). All such Permits are validly issued, in full force and effect, have been complied with and there are no Proceedings in progress, pending or threatened by any Governmental Authority, which may result in the cancellation, revocation, suspension or modification of any such

environmental Permit except where any such cancellation, revocation, suspension or modification would not reasonably be expected to result in a Material Adverse Effect.

- (c) None of the PRC Entities or, to the Knowledge of PRC, the Guaranteed Tenants has received any written request for information, complaint, demand, administrative inquiry, notice of claim, notice of responsibility, notice of violation, notice of intent to bring a “citizens suit” under any Environmental Laws with respect to any Locations, or any other information indicating that it is or may be liable or held responsible under Environmental Laws.
- (d) None of the PRC Entities or, to the Knowledge of PRC, the Guaranteed Tenants has used any of their respective Locations, or permitted them to be used, to generate, manufacture, refine, treat, transport, store, handle, dispose, transfer, use, produce or process Hazardous Materials, except in compliance with all applicable Environmental Laws or except in a manner that would not have a Material Adverse Effect.
- (e) PRH has made available to the Fund copies of all documents, records, and information in PRH’s, and the PRC Entities’, possession or control concerning any environmental matter and with respect to any of the Locations, including documentation regarding waste disposal, reports, correspondence, related to environmental matters issued by any Governmental Authority, and analyses and monitoring data for soil, groundwater and surface water and all material third party reports pertaining to any environmental assessments or audits that were obtained by, or are in the possession or control of, PRH and with respect to any of the Locations (the “**Environmental Reports**”).
- (f) None of the PRC Entities or, to the Knowledge of PRC, any Guaranteed Tenant has any liability, nor are there required or expected compliance costs, under any Environmental Laws.

3.2.27 **Tax Matters.**

Except as set out in Schedule 3.2.27 of the Disclosure Letter:

- (a) each of the PRC Entities has duly and timely filed all Tax Returns required to be filed by it prior to the date hereof with any Governmental Authority in all applicable jurisdictions. All such Tax Returns are true, correct and complete in all material respects. Each of the PRC Entities has timely paid all Governmental Charges, including instalments or prepayments of Governmental Charges, which are required to have been paid to any Governmental Authority prior to the date hereof, whether or not shown as being due on any tax return;

- (b) each of the PRC Entities has withheld or collected and remitted to the appropriate Governmental Authority, on a timely basis, all Governmental Charges that are required to have been withheld or collected and remitted by it;
- (c) the Financial Statements reflect an appropriate reserve in accordance with generally accepted accounting principles for all Governmental Charges, and all professional fees related thereto, owing by the PRC Entities that are not yet due and payable, whether or not assessed and whether or not shown as being due on any Tax Return, for all periods up to the date of the balance sheet comprising part of the Financial Statements;
- (d) there are no assessments, reassessments, audits, investigations or other Proceedings in progress, pending or, to the Knowledge of PRC, threatened against the PRC Entities in respect of any Governmental Charges and, in particular, there are no currently outstanding reassessments or written enquiries which have been issued to, or raised in respect of, any of the PRC Entities by any Governmental Authority relating to any Governmental Charges;
- (e) there are no Liens against any of the assets of the PRC Entities that arose in connection with any failure (or alleged failure) to pay any Governmental Charges when due, other than Liens for Governmental Charges that are not yet due and payable or that are being contested in good faith and for which adequate provision has been made in the Financial Statements;
- (f) none of the PRC Entities is a party to any agreement, waiver or arrangement with any Governmental Authority that relates to any extension of time with respect to the filing of any Tax Return, any payment or remittance of Governmental Charges or any assessment;
- (g) no facts, circumstances or events exist or have existed that have resulted in or may result in the application of any of sections 78, 79 or 80 to 80.04 of the Tax Act, or any equivalent provisions of the taxation Laws of any other jurisdiction, to the PRC Entities;
- (h) none of the PRC Entities has entered into any agreement with, or provided any undertaking to, any Person pursuant to which it has assumed liability for, or agreed to indemnify in respect of, the payment of Governmental Charges owing by such Person, and none of the PRC Entities is subject to liability for Governmental Charges of any other Person;
- (i) the value of the consideration paid, agreed to be paid or received by any of the PRC Entities for the acquisition, sale, transfer or provision of property (including intangibles) or the provision of services (including financial transactions) from or to a Person with whom the PRC Entity was not dealing at arm's length within the meaning of the Tax Act was equal to the

estimated fair market value of such property acquired, provided or sold or services purchased or provided;

- (j) none of the PRC Entities has ever been required to file any Tax Return with, or has ever been liable to pay any Governmental Charges to, any Governmental Authority outside Canada, and no claim has ever been made by any Governmental Authority in a jurisdiction where the PRC Entities do not file Tax Returns that they are or may be subject to the imposition of any Governmental Charge by that jurisdiction;
- (k) PRC is duly registered with the Canada Revenue Agency for purposes of the goods and services tax (“GST”) under Part IX of the *Excise Tax Act* (Canada) and its registration number is 88786 0039. PRC is not and has never been a “financial institution” within the meaning of the *Excise Tax Act* (Canada). PRC is duly registered with Revenue Quebec for purposes of the Quebec Sales Tax (“QST”) and its registration number is 1011835640 TQ0001. All input tax credits claimed by any of the PRC Entities that are registered for GST purposes were calculated in accordance with the *Excise Tax Act* (Canada). All input tax refunds claimed by any of the PRC Entities that are registered for QST were calculated in accordance with the *Tax Act* (Quebec). The PRC Entities have duly and timely complied with all registration, reporting, payment, collection and remittance requirements in respect of GST, QST and any other applicable provincial sales tax or harmonized sales tax legislation;
- (l) correct and complete copies of all federal, provincial and state income tax returns, including schedules thereto, filed by each PRC Entity since its fiscal year ended January 1, 2006 and all written communications relating thereto, have been made available to the Fund;
- (m) no dividends paid by TradeMarkCo to PRC were subject to tax under Part VI.I of the *Tax Act*; and
- (n) no dividend paid by any PRC Entity has been designated as an “eligible dividend” pursuant to subsection 89(14) of the *Tax Act*.

3.2.28 **Employment Matters.**

- (a) A correct and complete list of employees who work at the head offices of PRC is set out in section 3.2.28(a) of the Disclosure Letter that provides the following information by employee name, title and total compensation for 2009.
- (b) No employee, director, officer, independent contractor or agent is party to a Contract pursuant to which any payment or entitlements to such employee, director, officer, independent contractor or agent are triggered on the completion of the transactions completed herein, including on a change of control of the PRC Entities.

- (c) There are no outstanding, pending, or, to the Knowledge of PRC, information and belief, threatened or anticipated assessments, penalties, fines, Liens, Charges, actions, causes of action, claims, complaints, demands, orders, prosecutions or suits against the PRC Entities, their respective directors, officers or agents pursuant to or under any applicable Laws, including Canada Pension Plan, employment insurance, Governmental Charges, employer health tax, employment standards, labour relations, occupational health and safety, human rights, workers' compensation and pay equity Laws, other than those which, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. There are no claims or, to the Knowledge of PRC, potential claims that may adversely affect any of the PRC Entities' accident cost experience in respect of the Business pursuant to any applicable workplace and insurance/workers' compensation Laws, other than claims that in the aggregate would not reasonably be expected to result in a Material Adverse Effect.
- (d)
 - (i) None of the PRC Entities has made any agreements, whether directly or indirectly, with any labour union, council of trade unions, employee bargaining agency, affiliated bargaining agent, employee association or other similar entity or made commitments to or conducted negotiations with any labour union or employee association or similar entity with respect to any future agreements;
 - (ii) No trade union, council of trade unions, employee bargaining agency, affiliated bargaining agent, employee association or other similar entity has any bargaining rights acquired by either certification, interim certification, voluntary recognition or succession rights with respect to the Business or the employees of each of the PRC Entities; and
 - (iii) To the Knowledge of PRC, there are no attempts in progress to organize or establish any labour union, council of trade unions, employee bargaining agency, affiliated bargaining agent, employee association or other similar entity with respect to the Business or the employees of any of the PRC Entities.
- (e) Each of the PRC Entities is in compliance in all material respects with all terms and conditions of employment and all Laws respecting employment including, pay equity, wages and hours of work, occupational health and safety and there are no outstanding claims, complaints, investigations or orders under any such Laws other than any such non-compliance, claims, complaints, investigations or orders that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.
- (f) To the Knowledge of PRC, none of the PRC Entities has or is engaged in any unfair labour practice and no unfair labour practice complaint,

grievance or arbitration proceeding is pending or, to the Knowledge of PRC, threatened against any of the PRC Entities.

- (g) No collective agreement is currently being negotiated by any of the PRC Entities or any other Person in respect of the Business or the employees of the PRC Entities.
- (h) There is no labour strike, dispute, work slowdown or stoppage pending or involving or, to the Knowledge of PRC, threatened against any of the PRC Entities, and no such event has occurred within the last three years.
- (i) No trade union has applied to have any of the PRC Entities declared a related employer pursuant to the *Labour Relations Act* (Ontario) or any similar Laws in any jurisdiction in which the PRC Entities carry on the Business.
- (j) No employee of the PRC Entities who works at the head office of PRC has any contractual entitlement to notice of termination or pay in lieu of such notice, and severance pay, that is materially greater than the potential common law entitlement to reasonable notice or pay in lieu thereof, for such employee.
- (k) All amounts due or accrued due for all salaries, wages, vacation pay, bonuses, commissions and benefits relating to the employees of the PRC Entities have either been paid or are accurately reflected and have been accrued in the Books and Records of the each of the PRC Entities, other than such amounts which would not reasonably be expected to result in a Material Adverse Effect.

3.2.29 **Employee Plans.**

Except as set out in Schedule 3.2.29 of the Disclosure Letter, PRC is not a party to, is not bound by, and has no actual or contingent liability in respect of, any Employee Plan.

None of the PRC Entities currently sponsors, administers, contributes to or has any obligation or liability under, or has ever sponsored, contributed to or had any obligation or liability under a “registered pension plan”, a “retirement compensation arrangement” or a “deferred profit sharing plan”, as each is defined under the Tax Act, a “pension plan” as defined under applicable pension benefits standards Laws (including, for greater certainty, any multi-employer pension plan), or any other plan organized and administered to provide pensions for employees or former employees (or any beneficiaries or survivors of employees or former employees).

Correct and complete copies of all Employee Plans as set out in the Disclosure Letter and all related documents, or, where oral, correct and complete written summaries of their terms, have been made available to the Fund. The employee

data respecting each Employee Plan is correct and complete in all material respects and is sufficient for the proper administration of each Employee Plan.

Except as set out in Schedule 3.2.29 of the Disclosure Letter, to the Knowledge of PRC:

- (a) each Employee Plan has been established and administered in accordance in all material respects with: (i) all Laws and all applicable regulatory policies (for the purposes of this Section 3.2.29, collectively, “**Applicable Law**”); (ii) the terms of the plan and all employee plan summaries and booklets; and (iii) all understandings, written or oral, between the PRC Entities and plan participants;
- (b) all obligations to be performed prior to the Effective Time respecting each Employee Plan (including, without limitation, those respecting the making, remitting or payment of contributions or premiums, as applicable) have been or will have been performed in accordance with the relevant terms of each plan and all Applicable Law, and no Governmental Charges are owing or exigible under any Employee Plan, and there are no liabilities or contingent liabilities in respect of any pension, benefit or compensation plan for the benefit of the employees or former employees of the PRC Entities that has been discontinued;
- (c) no Employee Plans are required to be funded or invested;
- (d) no amendments or improvements have been made or promised respecting any Employee Plan other than those required by Applicable Law, and no promise or commitment has been made to create any additional pension or Employee Plan;
- (e) there are no outstanding actions, suits or claims pending or threatened concerning the assets held in the funding media for the Employee Plans (other than routine claims for the payment of benefits submitted by members or beneficiaries in the normal course) that could reasonably be expected to result in a Material Adverse Effect;
- (f) there is no litigation, legal action, suit, investigation, claim, counterclaim or proceeding pending or threatened against or affecting any Employee Plan that could reasonably be expected to result in a Material Adverse Effect;
- (g) no Employee Plan provides benefits on or following retirement or other termination of services to employees or former employees or to the beneficiaries or dependents of such employees;
- (h) there are no participants or other individuals entitled to participate in any Employee Plan other than current or former employees, directors or officers of the PRC Entities;

- (i) none of the Employee Plans require or permit a retroactive increase in premiums or payments, or require additional payments or premiums on the termination of any Employee Plan or insurance contract in respect thereof, and the level of insurance reserves, if any, under any insured Employee Plan is reasonable and sufficient to provide for all incurred but unreported claims;
- (j) all contributions and premiums required to be paid to all statutory plans which the PRC Entities are required to comply with, including the Canada or Quebec pension plans and plans administered pursuant to applicable provincial health tax, workers compensation and employment insurance Laws, have been paid by the PRC Entities in accordance with applicable Law; and
- (k) none of the Employee Plans provide for benefit increases, premium increases, retroactive charges, or the acceleration or increase in funding obligations that are contingent on, or will be triggered by the completion of the transactions contemplated herein.

3.2.30 **Insurance.**

All physical assets of each of the PRC Entities are covered by fire and other insurance with responsible insurers against such risks and in such amounts as are reasonable for prudent owners of comparable assets. None of the PRC Entities is in default with respect to any of the provisions contained in any such policies of insurance or has failed to give any notice or pay any premium or present any claim under any such insurance policy.

3.2.31 **Permits and Registrations.**

Each of the PRC Entities holds all permits, licences, approvals, consents, Authorizations, registrations, certificates and franchises, which it requires, or is required to have, to own its properties and assets and to carry on the Business as presently conducted by it other than those, the failure of which to have would not reasonably be expected to result in a Material Adverse Effect (collectively, the “**Permits**”). Each of the PRC Entities is in compliance in all material aspects with the terms and conditions relating to the Permits. There are no Proceedings in progress, pending or, to the Knowledge of PRC, threatened which may result in revocation, cancellation, suspension, rescission or any adverse modification of any of the Permits nor, to the Knowledge of PRC, after appropriate inquiries and investigations, are there any facts upon which such Proceedings could reasonably be based. Neither the terms and conditions relating to the Permits nor the Laws pursuant to which the same were issued require that any consent or approval of, or filing with or notice to, any Governmental Authority or other Person be made to assure the continued holding by the PRC Entities of the Permits after completion of the transactions contemplated by this Agreement, save and except approval from the Alcohol and Gaming Commission of Ontario.

3.2.32 Competition Act.

Immediately prior to the amalgamation contemplated by the Plan of Arrangement of TradeMarkCo, PRC and Newco to form Amalco, PRC and its affiliates (as defined in the Competition Act), will not have assets in Canada that exceed \$65 million, or gross revenues from sales in, from or into Canada, that exceed \$65 million, all as determined in accordance with the Competition Act.

3.2.33 Corporate Records.

The corporate and partnership records and minute books of each of the PRC Entities are complete and up-to-date and contain complete and accurate minutes of all meetings of directors and committees thereof and shareholders and partners held since July 22, 2002, and all such meetings were duly called and held. The share certificate books, register of shareholders, register of transfers and register of directors of the PRC Entities are complete and accurate.

3.2.34 Books of Account.

The Books and Records of each of the PRC Entities contain all material financial transactions of each of the PRC Entities and all such material financial transactions have been accurately recorded in such Books and Records.

3.2.35 Suppliers and Franchisees.

Since the Financial Statements Reference Date, there has been no termination or cancellation of, and no material modification or change in, the business relationship with any supplier or Franchisee or respective groups thereof which individually or in the aggregate would reasonably be expected to result in a Material Adverse Effect. PRC has no reason to believe that the benefits of any relationship with any of the suppliers or Franchisees of the PRC Entities will not continue after the completion of the Arrangement in substantially the same manner as prior to the date hereof.

3.2.36 Intellectual Property Rights.

Schedule 3.2.36 of the Disclosure Letter sets forth a correct and complete list of all material Intellectual Property Rights owned or used by the PRC Entities in the Business. The PRC Entities own all right, title, interest and all associated goodwill in and to, or have valid licenses to use, all Intellectual Property Rights used by them in the Business, the failure of which to have would have a Material Adverse Effect. No Intellectual Property Rights used by any of the PRC Entities is the subject of any challenge received by any of the PRC Entities. None of the PRC Entities have breached any Intellectual Property Rights license to which the PRC Entity is a party or by which it is bound (other than delays for payment of amounts due under the Licence and Royalty Agreement). To the Knowledge of PRC, the conduct of the Business of each of the PRC Entities does not infringe, misappropriate, or otherwise violate any other Person's Intellectual Property

Rights, and there has been no such claim asserted or, to the Knowledge of PRC, threatened against any of the PRC Entities. The consummation of the transactions contemplated by this Agreement will not result in the loss or impairment of any of the PRC Entities' right to own or use any Intellectual Property Rights.

3.2.37 Information Technology.

The Information Technology is either owned by, or properly licensed or leased to, the PRC Entities. The PRC Entities are not in default under the licenses or leases and there are no grounds on which they might be terminated. There are no circumstances in which the ownership, benefit, or right to use the Information Technology may be lost by virtue of the performance of this Agreement.

The PRC Entities have, in accordance with best industry practice, taken precautions to preserve the availability, security and integrity of the Information Technology and the data and information stored on the Information Technology.

The Information Technology:

- (a) is suitable for the purposes for which it is being used;
- (b) is free from known material defects or deficiencies.

No material upgrade to or replacement of the Information Technology after the completion of the Arrangement has been approved by any of the PRC Entities.

3.2.38 Compliance with Privacy Legislation.

To the Knowledge of PRC, the collection, use and retention of the Personal Information by each of the PRC Entities, the disclosure or transfer of the Personal Information by each of the PRC Entities to any third parties and transfer of the Personal Information by each of the PRC Entities to the Fund as part of the Fund's due diligence and as contemplated by this Agreement complies in all material respects with all Privacy Laws and is consistent with the PRC Entities' own Privacy Policies.

3.2.39 No Material Adverse Change.

Except as has been publicly disclosed or as is set forth in Schedule 3.2.39 of the Disclosure Letter, since the Financial Statements Reference Date, there has not been any Material Adverse Change with respect to the PRC Entities, and, to the Knowledge of PRC, no event has occurred or circumstance exists which would reasonably be expected to result in a Material Adverse Change with respect to the PRC Entities, provided however that this representation and warranty does not include any effects which the transactions contemplated in this Agreement or the announcement thereof may have.

3.3 Representations and Warranties of the Fund

The Fund represents and warrants to PRH, as follows, as at the date hereof and acknowledges and confirms that PRH is relying upon such representations and warranties in connection with the completion of the Arrangement:

3.3.1 Formation and Status of the Fund.

The Fund has been duly created and is validly existing as a trust under the Laws of the Province of Ontario and the Trustees have been appointed as trustees of the Fund. The Fund is duly qualified to carry on the activities and affairs of the Fund in compliance with the terms and provisions of the Declaration of Trust in each jurisdiction in which the same requires such qualification, except to the extent that any failure to be so qualified, either individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Fund has the power and legal capacity to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated herein.

The Fund has the power to own its property and to carry on its proposed affairs in compliance with the terms and provisions of the Declaration of Trust.

3.3.2 Due Authorization.

Each of this Agreement and the other agreements, Contracts and instruments required by this Agreement to be delivered by the Fund prior to the Effective Time has been duly authorized by the Fund. This Agreement has been duly executed and delivered by the Fund and is a valid and binding obligation of the Fund, enforceable in accordance with its terms, subject to the usual exceptions as to bankruptcy and inability of equitable remedies.

3.3.3 Competition Act.

- (a) TradeMarkCo, immediately before the time of the amalgamation of TradeMarkCo, PRC and Newco to form Amalco will not have assets in Canada that exceed \$170 million, or gross revenues from sales in, from or into Canada, that exceed \$50 million, all as determined in accordance with the Competition Act.
- (b) The Fund does not have assets in Canada that exceed \$100 million, or gross revenues from sales in, from or into Canada, that exceed \$50 million, all as determined in accordance with the Competition Act.
- (c) Newco, immediately before the time of the amalgamation of TradeMarkCo, PRC and Newco to form Amalco will not have assets in Canada that exceed \$65 million, or gross revenues from sales in, from or into Canada, that exceed \$20 million, all as determined in accordance with the Competition Act .

- (d) Amalco, immediately before the time it issues shares to the Fund and PRH pursuant to the amalgamation, will not have assets in Canada that exceed \$150 million, or gross revenues from sales in, from or into Canada, that exceed \$70 million, all as determined in accordance with the Competition Act.

3.3.4 **No Contravention.**

The execution, delivery and performance by the Fund of this Agreement:

- (a) has been, or will at the Effective Time be, duly authorized by all necessary action on the part of the Fund, as applicable;
- (b) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require the consent, approval, Authorization, registration or qualification of or with, or notice to, any Governmental Authority, stock exchange, Securities Commission or other securities regulatory authority or other Person, except: (A) those which have been obtained; (B) those as may be required (and will be obtained prior to the Effective Time) under applicable Securities Laws; (C) those that would not individually or in the aggregate reasonably be expected to result in a Material Adverse Effect; or (D) those required as a condition to closing under this Agreement;
- (c) does not (or will not with the giving of notice, the lapse of time or the happening of any other event or condition) result in a breach or a violation of, or conflict with or result in a default under, or allow any Person to exercise any rights (including any right of termination or right of first refusal) under, any of the terms or provisions of the Declaration of Trust or resolutions of the Trustees (or any committee thereof) or any judgment, decree, order, writ, injunction or award of any Governmental Authority or arbitrator having or purporting to have jurisdiction over the Fund, or any Contract, license or permit to which the Fund is a party or by which its business may be affected, except in each case, any breach, violation, conflict, default or right of, with or under any such Contract, license or permit, that would not individually or in the aggregate reasonably be expected to result in a Material Adverse Effect to the Fund;
- (d) will not result in the violation of any applicable Law, except such as would not individually or in the aggregate reasonably be expected to result in a Material Adverse Effect;
- (e) will not result in a breach of, or cause the termination or revocation of, any Authorization held by any of the Fund or necessary to the ownership of the assets owned by the Fund or the operations carried on by it;
- (f) will not result in the termination or amendment of or the acceleration of or the maturity of any debt under any Contract of the Fund; and

- (g) will not result in the imposition of a Lien on any of the assets now owned or hereafter acquired by the Fund or the acceleration of or the maturity of any debt under any material indenture, mortgage, lease, agreement or instrument binding or affecting it or any of its properties.

3.3.5 No Obligations.

Except as contemplated by this Agreement, and the Exchange Agreement, no Person has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming such under which the Fund or TradeMarkCo is, or may become, obligated to issue any of its securities or to sell any of its property or assets.

3.3.6 Litigation.

There is no court, administrative, regulatory or similar Proceeding against or involving the Fund (whether in progress or threatened) which, if determined adversely to the Fund would materially adversely affect the operations or the financial condition or future prospects of the Fund or adversely affect the consummation of the transactions contemplated herein; no event has occurred which might give rise to any Proceedings and there is no judgment, decree, injunction, rule, award or order of any court, government department, board, commission, agency, arbitrator or similar body outstanding against the Fund.

3.3.7 No Liabilities.

Except as disclosed in the Financial Information, or as incurred in the ordinary course, there are no liabilities (whether accrued, absolute, contingent or otherwise) nor any outstanding material commitments or obligations of any kind whether or not such obligations or commitments are presently considered liabilities of the Fund under Canadian generally accepted accounting principles relating to the operations.

3.3.8 Residence of the Fund.

The Fund is a resident of Canada.

3.4 No Brokers' or Finders' Fees

Except with respect to the fees payable to TD Securities Inc., National Bank Financial Inc., and Capital Canada Limited, each of the parties represents and warrants to the other that such party has not taken, and agrees that it will not take, any action that would cause the other party to become liable to any claim or demand for any commission or brokers' or finders' fee or other similar payment in connection with any of the transactions contemplated by this Agreement.

3.5 Survival of Covenants, Representations and Warranties

To the extent that they have not been fully performed at or prior to the Effective Time, the covenants, representations and warranties contained in this Agreement and in all certificates and

documents delivered pursuant to or contemplated by this Agreement shall survive the completion of the Arrangement and shall continue until the date that is two years after the date hereof provided, however, that:

- 3.5.1 the representations and warranties in Sections 3.1.1 to 3.1.7 inclusive, 3.2.1(a), 3.2.2 to 3.2.4 inclusive, 3.2.10, 3.3.1 (first and last sentence of the first paragraph) and 3.3.2, shall survive without limitations of time;
- 3.5.2 the representations and warranties set out in Section 3.2.27 and the covenants set out in Section 5.6 shall, subject to Section 3.5.3, terminate at the expiration of the Tax Reassessment Period;
- 3.5.3 there shall be no termination of the representations and warranties set out in Section 3.2.27 to the extent that any intentional misrepresentation has been made or fraud has been committed in filing a return or in supplying information for the purposes of any applicable Laws imposing Governmental Charges; and
- 3.5.4 no claim for breach of representation or warranty shall be valid unless the party against whom such claim is made has been given written notice thereof before the date on which the applicable representation or warranty shall have terminated in accordance with the foregoing.

Notwithstanding the foregoing, all representations and warranties and claims in respect thereof shall cease to survive on the date of any “liquidity event” of Amalco and no claim may be made in respect of any breach thereof following the date of any “liquidity event”.

For the purposes of this Agreement:

- (a) **“Tax Reassessment Period”** means the period ending 90 days after the first date on which no assessment, reassessment or other document assessing liability for Governmental Charges, interest or penalties may be issued to the PRC Entities in respect of any taxation year or other period ended prior to the Effective Date, or within which the Effective Date occurs, pursuant to any applicable Laws imposing Governmental Charges, including for greater certainty any period in circumstances where the Governmental Authority seeking to impose Governmental Charges alleges in making an assessment or reassessment that an PRC Entity has made a misrepresentation that is attributable to neglect, carelessness or willful default or has committed any fraud in filing a return or in supplying any information under the applicable Laws imposing the relevant Governmental Charges; and
- (b) **“liquidity event”** of Amalco means (i) the sale, lease, license or exchange of all or substantially all of the assets of Amalco, on a consolidated basis, or (ii) a take-over bid, merger, amalgamation, consolidation, reorganization or other transaction following which the holders of the Amalco Shares prior to such transaction hold less than 50% of the equity securities of Amalco or the amalgamated or surviving entity, as the case may be, after such transaction.

ARTICLE 4 CONDITIONS

4.1 Mutual Conditions Precedent

The respective obligations of the parties hereto to complete the transactions contemplated herein shall be subject to the satisfaction, on or before the Effective Time, of the following conditions precedent, each of which may be waived only by the mutual consent of the Fund and PRH:

- 4.1.1 the Arrangement and transactions contemplated by this Agreement shall have received Unitholder Approval at the Meeting in accordance with any conditions imposed by the Interim Order;
- 4.1.2 the Interim Order and the Final Order shall each have been obtained in form and on terms satisfactory to each of the Fund and PRH, acting reasonably, and shall not have been set aside or modified in a manner unacceptable to such parties, acting reasonably, on appeal or otherwise;
- 4.1.3 each of PRH and Amalco shall have duly authorized, executed and delivered the Conversion Agreement;
- 4.1.4 no provision of any applicable Laws and no judgment, injunction, order or decree shall be in effect which restrains or enjoins or otherwise prohibits the consummation of the Arrangement or the transactions contemplated by this Agreement;
- 4.1.5 the Class A Limited Voting Shares, Class B Shares and Class C Shares issuable pursuant to the Arrangement shall be issued pursuant to exemptions from the registration and prospectus requirements of applicable Canadian Securities Laws, and the TSX shall have approved the substitutional listing and posting for trading of the Class A Limited Voting Shares, subject to official notice of issuance;
- 4.1.6 prior to the Effective Time, there shall not have been, or be then outstanding, a formal offer by a third party to acquire more than 20% of the outstanding Units, or any agreement between the Fund and a third party with respect to the change of control, combination or exchange of securities of the Fund;
- 4.1.7 the Appropriate Regulatory Approvals shall have been obtained and be in full force and effect and shall not be subject to any stop-order or proceeding seeking a stop-order or revocation;
- 4.1.8 no legislation (whether by statute, regulation, order-in-council, notice of ways and means motion, by-law or otherwise) shall have been enacted, introduced or tabled introduced or tabled which, if enacted would have a Material Adverse Effect on the Business;
- 4.1.9 no action or proceeding shall be pending or, to the Knowledge of PRC, threatened by any Person to restrain or prohibit:

- (a) the completion of the Arrangement; or
 - (b) the PRC Entities from carrying on the Business as the Business is being carried on at the date hereof;
- 4.1.10 all other consents, waivers, permits, orders and approvals of any Governmental Authority, and the expiry of any waiting periods, in connection with, or required to permit, the consummation of the Arrangement, the failure to obtain or the non-expiry of which would constitute a criminal offense, or would, individually or in the aggregate, have a Material Adverse Effect on Amalco, shall have been obtained or received; and
- 4.1.11 this Agreement shall not have been terminated in accordance with its terms.

4.2 Conditions for the Benefit of the Fund

The obligation of the Fund to complete the Arrangement pursuant to this Agreement is subject to the satisfaction of, or compliance with, at or prior to the Effective Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Fund):

4.2.1 Accuracy of Representations and Compliance With Covenants.

The representations and warranties of PRH and PRC made in or pursuant to this Agreement shall be true and correct in all respects at the Effective Time with the same force and effect as if made at and as of the Effective Time (and for such purpose disregarding any reference to materiality, Material Adverse Change or Material Adverse Effect) except (i) where the failure to be so true and correct would not, individually or in the aggregate, result in a Material Adverse Effect; (ii) where such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement; and (iii) where such representations and warranties are limited by their terms to a specified date, in which case such representations and warranties shall be true and correct as of such date (except where the failure to do so would not, individually or in the aggregate, result in a Material Adverse Effect).

The covenants contained in this Agreement to be performed by PRH and PRC at or prior to the Effective Time shall have been performed; and the Fund shall have received certificates confirming the foregoing, signed for and on behalf of PRH and PRC by senior officers or directors of PRH and PRC or other Persons acceptable to the Fund (but without personal liability) in form and substance satisfactory to the Fund and the Fund's Counsel, acting reasonably.

4.2.2 Closing Documents and Proceedings.

All documents relating to the authorization and completion of the transactions contemplated by this Agreement and all actions and proceedings taken at or prior to the Effective Time in connection with the performance by PRH of its obligations under this Agreement shall be satisfactory to the Fund and to the Fund's Counsel, acting reasonably, and the Fund shall have received copies of all

such documents and evidence that all such actions and proceedings have been taken as it may reasonably request, in form and substance satisfactory to the Fund and the Fund's Counsel, acting reasonably.

4.2.3 No Change in Shareholders of PRC.

No direct, or indirect, change to the current shareholders of PRC shall have occurred prior to the Effective Time, and John Rothschild shall continue to control PRH.

4.2.4 Sufficient Working Capital.

PRC shall deliver to the Fund a certificate of the Chief Executive Officer of PRC certifying on behalf of PRC, and not in his personal capacity, that the PRC Entities have sufficient working capital for the continued operation of the Business in the ordinary course consistent with past practice.

4.2.5 No Substantial Damage.

No substantial damage by fire or other hazard to the assets of the PRC Entities which would have a Material Adverse Effect, shall have occurred prior to the Effective Time.

4.2.6 Consents and Approvals.

The consents and approvals set forth in the Disclosure Letter pursuant to Section 3.2.8 and Section 3.2.9 of this Agreement shall have been delivered to the Fund, in form and substance satisfactory to the Fund and the Fund's Counsel, acting reasonably, except for consents on approvals the failure of which to obtain would not reasonably be expected to result in a Material Adverse Effect.

4.2.7 Termination Related to Conditions.

If any of the conditions contained in this Section 4.2 shall not be fulfilled or performed at or prior to the Effective Time to the satisfaction of the Fund (acting reasonably), the Fund may, by notice to PRH, terminate this Agreement and the obligations of the parties under this Agreement, other than the obligations contained in Sections 3.4, 8.1, 8.2 and Article 7. Any condition may be waived in whole or in part by the Fund without prejudice to any claims it may have for breach of covenant, representation or warranty.

4.3 Conditions for the Benefit of PRH

The obligation of PRH to complete the Arrangement hereunder is subject to the satisfaction of, or compliance with, at or prior to the Effective Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of PRH):

4.3.1 Accuracy of Representations of the Fund and Compliance With Covenants.

The representations and warranties of the Fund made in or pursuant to this Agreement shall be true and correct in all respects at the Effective Time with the same force and effect as if made at and as of the Effective Time (and for such purpose disregarding any reference to materiality, Material Adverse Change or Material Adverse Effect) except (i) where the failure to be so true and correct would not, individually or in the aggregate, result in a Material Adverse Effect; (ii) where such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement; and (iii) where such representations and warranties are limited by their terms to a specified date, in which case such representations and warranties shall be true and correct as of such date (except where the failure to do so would not, individually or in the aggregate, have a Material Adverse Effect).

The covenants contained in this Agreement to be performed by the Fund at or prior to the Effective Time shall have been performed; and PRH shall have received a certificate confirming the foregoing, signed for and on behalf of the Fund by a Trustee or other Persons acceptable to PRH (but without personal liability), in form and substance satisfactory to PRH and PRH's Counsel, acting reasonably.

4.3.2 Closing Documents and Proceedings.

All documents relating to the authorization and completion of the transactions contemplated by this Agreement and all actions and proceedings taken at or prior to the Effective Time in connection with the performance by the Fund of its obligations under this Agreement shall be satisfactory to the PRH and to PRH's Counsel, acting reasonably, and PRH shall have received copies of all such documents and evidence that all such actions and proceedings have been taken as it may reasonably request, in form and substance satisfactory to PRH and PRH's Counsel, acting reasonably.

4.3.3 Termination Related to Conditions.

If any of the conditions contained in this Section 4.3 shall not be fulfilled or performed at or prior to the Effective Time to the satisfaction of PRH (acting reasonably), PRH may, by notice to the Fund, terminate this Agreement and the obligations of PRH and the Fund under this Agreement, other than the obligations contained in Sections 3.4, 8.1, 8.2 and Article 7. Any condition may be waived in whole or in part by PRH without prejudice to any claims it may have for breach of covenant, representation or warranty.

4.4 Termination Related to Effective Time

Any party may terminate this Agreement if the Effective Date shall not have occurred by June 30, 2010, provided that the right to terminate this Agreement under this Section 4.4 shall not be

available to any party whose failure to fulfill any obligation under this Agreement is the cause of the failure to complete the Arrangement on or before such date;

ARTICLE 5

ADDITIONAL AGREEMENTS OF THE PARTIES

5.1 Access to Information

PRH shall cause the PRC Entities to give, until the Effective Time, to the Fund and its accountants, legal advisers and representatives during normal business hours full access to their premises, all their assets, books, accounts, Tax Returns, Contracts, commitments and records and to their personnel and to furnish them with all such information relating to the Business and their affairs and assets as the Fund may reasonably request. No investigation made by the Fund or its representatives shall affect the Fund's right to rely on any representation or warranty made by PRH in this Agreement or in any document contemplated by this Agreement or derogate from PRH's acknowledgement of such reliance in Sections 3.1 and 3.2.

5.2 Conduct of Business Until Effective Time

Except as expressly provided in this Agreement or except with the prior written consent of the Fund, prior to the Effective Time PRH shall cause each of the PRC Entities to:

- 5.2.1 operate the Business only in the ordinary course, consistent with past practice and, to the extent consistent with such operation, use commercially reasonable efforts to preserve its business organization, including the services of its officers and employees, and its business relationships with suppliers and others having business dealings with it;
- 5.2.2 maintain all its assets, whether owned or leased, in good condition and repair and maintain insurance upon all its assets comparable in amount, scope and coverage to that in effect on the date of this Agreement;
- 5.2.3 maintain its books, records and accounts in the ordinary course on a basis consistent with past practice; and
- 5.2.4 do or refrain from doing all reasonable acts and things in order to ensure that the representations and warranties in Sections 3.1 and 3.2, remain true and correct at the Effective Time as if such representations and warranties were made at and as of such date and to satisfy or cause to be satisfied the conditions in Sections 4.1 and 4.2 which are within its control.

5.3 Negative Covenant

Except as expressly provided in this Agreement or except with the prior written consent of the Fund, prior to the Effective Time PRH shall ensure that the PRC Entities do not:

- 5.3.1 amend their respective articles, by-laws, constating documents or other organizational documents, provided, however that either or both of Prime Restaurant Systems Inc. and Prime Pubs Atlantic Inc. may be dissolved;

- 5.3.2 amalgamate, merge or consolidate with, or acquire all or substantially all the shares or assets of, any Person;
- 5.3.3 transfer, lease, license, sell or otherwise dispose of any of its assets other than inventory in the ordinary course of the Business or obsolete assets for nominal amounts, consistent with past practice;
- 5.3.4 transfer, sell, or otherwise dispose of any Corporate Restaurant;
- 5.3.5 transfer, sell or otherwise dispose of any Franchised Restaurant, other than where the Franchisee of such Franchised Restaurant is in material default under the related Franchise Agreement;
- 5.3.6 amend, terminate or surrender or agree to amend, terminate or surrender any Real Property Leases other than in the ordinary course of the Business, consistent with past practice;
- 5.3.7 make any payments with respect to the Shareholder Loan;
- 5.3.8 acquire or lease or agree to acquire or lease any real property other than in the ordinary course of the Business, consistent with past practice;
- 5.3.9 do any act or thing of the kind described in Sections 3.2.19 or 3.2.20(a) or enter into any Contract of the kind described in Section 3.2.20(b) or 3.2.28(b); provided, however, nothing in this Section shall prevent the PRC Entities from continuing, in the ordinary course of the Business, consistent with past practice, (i) to sell or renew franchises and execute Franchise Agreements, (ii) to sign leases for restaurants or (iii) to enter into agreements with suppliers; or
- 5.3.10 incur any Governmental Charges, other than in the ordinary course of business.

5.4 PRH's Covenant

Except as expressly provided in this Agreement or except with the prior written consent of the Fund, prior to the Effective Time, PRH shall, reasonably, do or refrain from doing all acts and things in order to ensure that the representations and warranties of PRH in Sections 3.1 and 3.2 remain true and correct at the Effective Time as if such representations and warranties were made at and as of such date and to satisfy or cause to be satisfied the conditions in Sections 4.1 and 4.2 which are within the control of PRH.

5.5 The Fund's Covenant

Except as expressly provided in this Agreement or except with the prior written consent of PRH, prior to the Effective Time, the Fund shall, reasonably, do or refrain from doing all acts and things in order to ensure that the representations and warranties in Section 3.3 remain true and correct at the Effective Time as if such representations and warranties were made at and as of such date and to satisfy or cause to be satisfied the conditions in Sections 4.1 and 4.3 which are under its control.

5.6 Additional Covenants

Each of the parties covenants and agrees that:

- 5.6.1 if it is determined that any of the PRC Entities made an “excessive eligible dividend designation” (as defined in subsection 89(1) of the Tax Act) at any time prior to the Effective Time, they shall use (and shall cause their Affiliates to use) their best efforts to cause such entity (or any successor corporation) to make an election under subsections 185.1(2) and 185.1(3) of the Tax Act (and any corresponding provincial equivalent) in a timely fashion to deem the amount of such excessive eligible dividend designation to be a separate taxable dividend (other than an eligible dividend); and
- 5.6.2 if any of the PRC Entities is assessed under subsection 184(2) of the Tax Act in respect of a dividend paid at any time prior to the Effective Time on the basis that the dividend paid exceeded the capital dividend account at the time the dividend was paid, they shall (and shall cause their Affiliates to) cause such entity (or any successor corporation) to make an election under subsections 184(3) of the Tax Act (and any corresponding provincial equivalent) in a timely fashion to deem the amount of such excessive capital dividend to be treated as a separate taxable dividend and PRH hereby irrevocably concurs with the making of any such election by PRC (or any successor corporation, including, without limitation, Amalco).

5.7 Obtaining of Consents and Approvals

PRC shall use its commercially reasonable efforts to deliver, at or prior to the Effective Time, the consents and approvals referred to in Section 4.2.6 of this Agreement. If, notwithstanding such efforts, PRC is unable to obtain any of such consents and approvals and third party consents, PRC shall not be liable to the Fund for any breach of covenant, provided that nothing contained herein shall effect any condition precedent to the Fund’s obligation to complete the transactions contemplated hereby.

5.8 Director and Officer Run-Off Insurance

- (a) For a period of six years after the Effective Date, Amalco shall maintain directors and officers insurance in the form of a six-year “run off” policy, or such other comparable insurance as is approved by Amalco's board of directors, for the benefit of all current and past directors and officers of the PRC Entities and TradeMarkCo and Trustees and their predecessors (in their capacity as such) covering any claims made during such six-year period.
- (b) As of the Effective Date, Amalco shall maintain an insurance policy for the directors and officers of Amalco (in their capacity as such).

In the case of (a) and (b), such insurance shall be in scope and coverage no less favourable than the insurance the Fund maintains for its Trustees and PRC maintains for its officers and directors on the date hereof.

5.9 Retention by PRH of Shares

In order to provide the Fund (and, following the Effective Time, Amalco) with sufficient assurance that PRH will remain able to satisfy any financial obligation that may continue or arise following the completion of the Arrangement, including without limitation pursuant to the indemnification provisions set out in Article 6, PRH covenants and agrees that it shall retain (other than as permitted in the Articles of Amalco and the Conversion Agreement), free and clear of any Liens or Charges, (i) for a period of one year following the Effective Time, all Amalco Shares received by it pursuant to this Agreement, and (ii) for a period of two years following the Effective Time, one half (1/2) of the number of Amalco Shares received by it pursuant to this Agreement.

For greater certainty, (i) this Section 5.9 shall apply only in respect of the Amalco Shares received by PRH pursuant to the Arrangement (and any other shares into which such shares are convertible) and shall not extend to any such shares subsequently acquired by PRH, including without limitation pursuant to open market purchases; and (ii) the prior written consent of the Fund (and, following the Effective Time, a majority of the independent directors of Amalco) shall be required in respect of any transfer or encumbrance of all or any portion of such shares required to be retained during the periods described above, including, without limitation, a transfer to an Affiliate or Subsidiary; provided that such consent shall not be unreasonably withheld in the case of any such transfer for purposes of tax and/or estate planning, so long as adequate arrangements are made to ensure that an equivalent indemnity, supported by unencumbered value, remains available pursuant to this Section 5.9 following such transfer. The covenants and obligations of PRH set out in this Section 5.9 shall terminate upon completion of any liquidity event.

5.10 Transfer of Class B Shares and Class C Shares to a Permitted Transferee

5.10.1 Notwithstanding Section 5.9, a holder of Class B Shares or Class C Shares may transfer all or part of its Class B Shares or Class C Shares to:

- (a) a Permitted Transferee upon:
 - (i) prior written notice to the Secretary of Amalco or, if there is no Secretary of Amalco, to the Chair of the Board of Directors of Amalco; and
 - (ii) the proposed Permitted Transferee delivering to Amalco an instrument in writing executed by it confirming that it is bound by and shall perform all of the obligations of PRH under this Agreement and the Conversion Agreement with respect to the shares so transferred as if it were an original signatory, and accepting that the PRH Representative (as such term is defined in the Conversion Agreement) may make all decisions for it hereunder and under the Conversion Agreement and the articles of incorporation of Amalco (the “**Articles**”); or

- (b) in the case of the Class B Shares, an offeror pursuant to an Offer (as defined in the Articles) under Section 2.6 of the Articles.

5.10.2 For the purposes of this Agreement, a "**Permitted Transferee**" of a holder of Class B Shares and/or a holder of Class C Shares shall mean any one or more of:

- (a) Mr. John A. Rothschild (and his legal heirs);
- (b) Mr. Nick Perpick (and his legal heirs);
- (c) the spouse of either person in (a) or (b);
- (d) the natural born or legally adopted children of either person in (a) or (b);
- (e) a trust, the sole beneficiaries of which are persons specified in any one or more subsections of this definition; and
- (f) a body corporate or partnership, a majority of the equity securities or other ownership interests of which are owned persons specified in any one or more subsections of this definition.

5.11 Cooperation

The parties shall cooperate fully in good faith with each other and their respective legal advisers, accountants and other representatives in connection with any steps required to be taken as part of their respective obligations under this Agreement.

ARTICLE 6 INDEMNIFICATION

6.1 Indemnification by PRH

PRH shall indemnify and save the Fund (and, on or after the Effective Date, Amalco) harmless of and from any Damages suffered by the Fund (and, on or after the Effective Date, Amalco) as a result of any breach of representation, warranty or covenant on the part of PRH or PRC contained in this Agreement or in any certificate or document delivered pursuant to or contemplated by this Agreement, except to the extent any of the foregoing results from any breach of representation, warranty or covenant on the part of the Fund.

6.2 Indemnification by Amalco

The Fund (and, on or after the Effective Date, Amalco) shall indemnify and save PRH harmless of and from any Damages suffered by PRH as a result of any breach of representation, warranty or covenant on the part of the Fund contained in this Agreement or in any certificate or document delivered pursuant to or contemplated by this Agreement, except to the extent any of the foregoing results from any breach of representation, warranty or covenant on the part of PRH.

6.3 Notice of Claim

Amalco (or the Fund, before the Effective Date) or PRH (each, the “**Claimant**”), as the case may be, shall promptly give notice to Amalco (or the Fund, before the Effective Date) or PRH, as the case may be (each an “**Indemnifying Party**”) of any claim for indemnification pursuant to Section 6.1 or 6.2 (a “**Claim**”, which term shall include more than one Claim). Such notice shall specify whether the Claim arises as result of a claim by a Person against the Indemnifying Party (a “**Third Party Claim**”) or is as a result of a claim by the Claimant and shall also specify with reasonable particularity (to the extent that the information is available):

- (a) the factual basis for the Claim; and
- (b) the amount of the Claim, or, if an amount is not then determinable, an approximate and reasonable estimate of the likely amount of the Claim.

6.4 Procedure for Indemnification

6.4.1 Direct Claims.

- (a) With respect to Claims other than Third Party Claims, following receipt of notice from the Claimant of a Claim, the Indemnifying Party shall have 30 days to make such investigation of the Claim as the Indemnifying Party shall consider necessary or desirable. For the purpose of such investigation, the Claimant shall make available to the Indemnifying Party and its authorized representatives the information relied upon by the Claimant to substantiate the Claim provided that the Claimant shall not be required to disclose any professional advice or any information that would compromise solicitor-client privilege. If the Claimant and the Indemnifying Party agree at or prior to the expiration of such 30-day period (or any mutually agreed upon extension thereof) to the validity and amount of such Claim, the Indemnifying Party shall immediately pay to the Claimant the full agreed upon amount of the Claim.
- (b) If the Claimant and the Indemnifying Party do not agree within such period (or any mutually agreed upon extension thereof), the Claimant be entitled to bring an action in a court of Law or arbitral body to recover the full amount of the Claim and any costs incidental to the action.

6.4.2 Third Party Claims.

- (a) With respect to any Third Party Claim, the Indemnifying Parties shall have the right, at their own expense, to participate in or assume control of the negotiation, settlement or defence of such Third Party Claim and, in such event, the Indemnifying Parties shall reimburse the Claimant for all of the Claimant’s out-of-pocket expenses as a result of such participation or assumption. If the Indemnifying Parties elect to assume such control, the Claimant shall cooperate with the Indemnifying Parties, and shall have the

right to participate in the negotiation, settlement or defence of such Third Party Claim at its own expense.

- (b) If the Indemnifying Parties, having elected to assume control as contemplated in Section 6.4.2(a) thereafter fail to defend any such Third Party Claim within a reasonable time, the Claimant shall be entitled to assume such control and the Indemnifying Parties shall be bound by the results obtained by the Claimant with respect to such Third Party Claim.

6.5 Additional Rules and Procedures

The obligations of PRH to indemnify Amalco on or after the Effective Date in respect of Claims shall also be subject to the following:

- 6.5.1 All payments required to be made by PRH as a result of a Claim, shall, unless PRH chooses to pay in cash, be effected through the purchase for cancellation (for no consideration) by Amalco of Amalco Shares owned by PRH with a value in an amount equal to the amount of the Damages. Any such purchase for cancellation shall be made pro rata from each class of Amalco Shares owned by PRH (initially 16.7% Class A Limited Voting Shares, 60% Class B Shares and 23.3% Class C Shares). If Amalco is prohibited by applicable Laws or otherwise from purchasing any of such shares for cancellation, PRH shall surrender such shares to Amalco for cancellation as a gift. If after the second anniversary of the Effective Date PRH no longer owns sufficient Amalco Shares to satisfy any Claim, it shall satisfy any Claim in cash.
- 6.5.2 For the purposes of Section 6.5.1 above, the value of the Class A Limited Voting Shares shall be calculated on the basis of the volume weighted average trading price of the Class A Limited Voting Shares on the TSX for the five trading days immediately prior to the date upon which the amount of the Damages is agreed by the parties or determined by a judge or arbitrator. The value of the Class B Shares and the Class C Shares shall be determined by agreement between PRH and Amalco. If such an agreement cannot be reached within 20 days of the date upon which the amount of the Claim is agreed by the parties or determined by a judge or arbitrator, then the value of the Class B Shares and Class C Shares shall be determined by an independent valuator, using the procedure set out in Article 7 hereof, *mutatis mutandis*.
- 6.5.3 Any portion of a Claim that is not in dispute shall be paid by PRH to Amalco in the manner set out in Section 6.5.1 above, despite any ongoing dispute regarding the remaining portion of such Claim.
- 6.5.4 Any Claim arising as a result of a breach of a representation, warranty or covenant contained in Sections 3.1, 3.2, 3.3 or 5.9 shall be made not later than the day prior to the date on which, pursuant to Section 3.5, such representation or warranty terminated.

- 6.5.5 Except in the circumstance contemplated by Section 6.4.2(b) and whether or not the Indemnifying Parties assume control of the negotiation, settlement or defence of any Third Party Claim, the Claimant shall not negotiate, settle, compromise or pay any Third Party Claim except with the prior written consent of the Indemnifying Party (which consent shall not be unreasonably withheld).
- 6.5.6 The Claimant shall not permit any right of appeal in respect of any Third Party Claim to terminate without giving the Indemnifying Parties notice thereof and an opportunity to contest such Third Party Claim.
- 6.5.7 Amalco (or before the Effective Date, the Fund) or PRH shall cooperate fully with each other with respect to Third Party Claims, shall keep each other fully advised with respect thereto (including supplying copies of all relevant documentation promptly as it becomes available) and shall designate a senior officer who will keep informed about and be prepared to discuss the Third Party Claim with his counterpart and with counsel at all reasonable times.
- 6.5.8 The Indemnifying Parties shall not on or after the Effective Date settle any Third Party Claim or conduct any related legal or administrative proceeding in a manner which would, in the opinion of Amalco and in consultation with PRH, acting reasonably, have a material adverse impact on Amalco.

6.6 Limitations

- 6.6.1 The indemnification obligations of PRH and Amalco (or the Fund if before the Effective Date) pursuant to Sections 6.1 and 6.2 shall only apply after aggregate Damages with respect to all indemnification claims pursuant to Sections 6.1 and 6.2 (other than claims based on fraud or fraudulent or willful misrepresentation) exceed \$100,000, upon which the obligations of indemnification of PRH and Amalco (or the Fund if before the Effective Date) shall apply to the total amount of the aggregate Damages. Claims based on fraud or fraudulent or willful misrepresentation shall not count towards determining whether the threshold indemnification amount in this Section has been exceeded.
- 6.6.2 The aggregate amount of indemnification obligations of PRH and Amalco (or the Fund if before the Effective Date) shall not exceed \$4,500,000, other than indemnification obligations based on fraud or fraudulent or willful misrepresentation which shall not be subject to this limitation.

ARTICLE 7 DISPUTE RESOLUTION

7.1 Arbitration Procedure

Subject to Section 7.2, all disputes over the validity or the amount of Claims made pursuant to Article 6 (“**Disputes**”) shall be determined by arbitration in accordance with the following provisions:

- 7.1.1 such dispute or difference shall be resolved by arbitration by a single arbitrator, if PRH and Amalco can agree upon one arbitrator. If PRH and Amalco cannot agree upon one arbitrator within 15 clear days of their first attempt to do so, then each of PRH and Amalco shall appoint an arbitrator, and such two arbitrators shall appoint a third arbitrator, who shall then act as the sole arbitrator;
- 7.1.2 PRH and Amalco shall be deemed to have failed to concur in appointing a single arbitrator if such an arbitrator shall not have been appointed within 15 clear days after the service by either PRH or Amalco upon the other of them of a notice requesting it to concur in the appointment of a single arbitrator;
- 7.1.3 if either PRH or Amalco shall neglect or refuse to appoint an arbitrator for 15 clear days after the other of them, having appointed its arbitrator, shall have served whichever of PRH and Amalco in default with a notice to make such appointment, then whichever has appointed its arbitrator shall be entitled to apply to a Justice of the Superior Court of Justice of Ontario to have him or her appoint an arbitrator for whichever of PRH and Amalco is in default;
- 7.1.4 the resolution of Disputes pursuant to the terms of this Section shall be final and binding upon the parties to this Agreement, and there shall be no appeal therefrom, including, without limitation, any appeal to a court on a question of Law, a question of fact, or a question of mixed fact and Law;
- 7.1.5 all arbitration proceedings shall take place in Toronto, Ontario; and
- 7.1.6 except as herein modified, the provisions of the Arbitration Act shall apply to all arbitration proceedings.

7.2 Exceptions

The arbitration provisions in Section 7.1 shall not be available in respect of any Dispute involving a Claim which exceeds \$3,000,000, and such a claim may be pursued in a court of competent jurisdiction.

ARTICLE 8 GENERAL MATTERS

8.1 Public Notices

No press release or other announcement concerning the transactions contemplated by this Agreement shall be made by (a) PRH or PRC, or by (b) the Fund without the prior written consent of the other (such consent not to be unreasonably withheld) provided, however, that any party may, without such consent, make such disclosure if the same is required by the TSX or by any Securities Commission or other similar regulatory authority having jurisdiction over such party or any of its Affiliates, and if such disclosure is required, the party making the disclosure shall use reasonable efforts to give prior oral or written notice to the other, and if such prior notice is not possible, to give such notice immediately following the making of such disclosure.

8.2 Expenses

Upon the completion of the Arrangement, Amalco will be responsible for the fees, costs and expenses of TradeMarkCo, the Fund, PRH and the PRC Entities, including fees of professionals and other advisers incurred by them, respectively, in connection with the negotiation and settlement of this Agreement and the completion of the transactions contemplated hereby.

In the event that the Arrangement is not successfully completed, the Fund (including TradeMarkCo) and PRH (including the PRC Entities) will be responsible for the fees, costs and expenses incurred by them, including fees of professionals and other advisers incurred by them, respectively, in connection with the negotiation and settlement of this Agreement and the partial completion of the transactions contemplated hereby.

8.3 Assignment

No party may assign its rights or benefits under this Agreement.

8.4 Notices

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by personal delivery, delivery by recognized national courier, or sent by facsimile transmission, as hereinafter provided. Any such notice or other communication sent by facsimile shall be deemed to have been received on the Business Day following the sending, or if delivered by personal deliver or courier shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this Section. Notices and other communications shall be addressed as follows:

(a) if to PRH:

10 Kingsbridge Garden Circle, Suite 600
Mississauga, Ontario
L5R 3K6

Attention: John A. Rothschild
Fax: (905) 568-0080

with a copy to PRH's Counsel at:

Stikeman Elliot LLP
1155 René-Lévesque Blvd. West, 40th Floor
Montréal, Quebec
H3B 3V2

Attention: Sidney Horn and Kevin Kyte
Fax: (514) 397-3222

(b) if to the Fund:

The EmBeSa Corporation
2 St. Clair Avenue East, Suite 800
Toronto, Ontario
M4T 2T5

Attention: Steven Sharpe
Fax: (416) 513-0348

with a copy to The Fund's Counsel at:

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, Ontario
M5H 2S7

Attention: Tim Heeney
Fax: (416) 979-1234

Notwithstanding the foregoing, any notice or other communication required or permitted to be given by any party pursuant to or in connection with any arbitration procedures contained herein or in any Schedule hereto may only be delivered by hand.

The failure to send or deliver a copy of a notice to the Fund's Counsel or PRH's Counsel, as the case may be, shall not invalidate any notice given under this Section.

8.5 Time of Essence.

Time is of the essence in this Agreement.

8.6 Contractual Obligations of the Fund

The parties hereto acknowledge that the Trustees are entering into this Agreement solely in their capacity as trustees or as agent, as the case may be, on behalf of the Fund and the obligations of the Fund hereunder shall not be personally binding upon the Trustees, or any of the Unitholders or any annuitant under a trust governed by a registered retirement savings plan, a registered retired income fund, a defined profit sharing plan or a registered education savings plan, all as defined in the Tax Act, or any other plan of which a Unitholder is a trustee or carrier (an “**annuitant**”) and that any recourse against the Fund, the Trustees, or any Unitholder or Fund annuitant in any manner in respect of any indebtedness, obligation or liability of the Fund arising hereunder or arising in connection herewith or from the matters to which this Agreement relates, if any, including without limitation claims based on negligence or otherwise tortious behaviour, shall be limited to, and satisfied only out of, the Trust Assets as defined in the Declaration of Trust dated May 28, 2002 as may be amended. This provision shall be held in trust and enforced by the Fund for the benefit of the Unitholders and Fund annuitants.

8.7 Further Assurances

Each of the parties shall promptly do, make, execute, deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other party hereto may reasonably require from time to time for the purpose of giving effect to this Agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

8.8 Counterparts

This Agreement may be signed in counterparts and each such counterpart shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument.

[Signature pages on next page]

IN WITNESS OF WHICH the parties hereto have duly executed this Agreement.

**PRIME RESTAURANTS ROYALTY
INCOME FUND**

Per: "Steven Sharpe"
Name: Steven Sharpe
Title: Trustee

PRIME RESTAURANT HOLDINGS INC.

Per: "H. Ross R. Bain"
Name: H. Ross R. Bain
Title: Executive VP, Legal Counsel

PRIME RESTAURANTS OF CANADA INC.

Per: "H. Ross R. Bain"
Name: H. Ross R. Bain
Title: Executive VP, Legal Counsel

PRC TRADEMARKS INC.

Per: "Brian Elliot"
Name: Brian Elliot
Title: Secretary

2234567 ONTARIO LIMITED

Per: "Steven Sharpe"
Name: Steven Sharpe
Title: Director

SCHEDULE A

APPROPRIATE REGULATORY APPROVALS

1. Issuance of the Interim Order and the Final Order by the Court
2. Approval by the TSX of the substitutional listing and posting for trading of the Class A Limited Voting Shares
3. Issuance, by the Director appointed under section 278 of the OBCA, of the Certificate pursuant to subsection 183(2) of the OBCA giving effect to the Arrangement
4. Consent of Alcohol and Gaming Commission of Ontario regarding Arrangement

SCHEDULE “B” TO COMBINATION AGREEMENT

Plan of Arrangement

UNDER SECTION 182 OF THE BUSINESS CORPORATIONS ACT (ONTARIO)

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Plan of Arrangement, the following terms have the following meanings:

- (a) **“Amalco”** means Prime Restaurants Inc., the corporation that will result from the amalgamation of PRC, Newco and TradeMarkCo pursuant to the Arrangement as contemplated by Article 4;
- (b) **“Amalco Shares”** means, collectively the Class A Limited Voting Shares, Class B Shares and Class C Shares in the capital of Amalco, which shares will be issued to shareholders of TradeMarkCo and PRC pursuant to this Plan of Arrangement;
- (c) **“Arrangement”, “herein”, “hereof”, “hereto”, “hereunder”** and similar expressions mean and refer to the arrangement pursuant to Section 182 of the OBCA set forth in this Plan of Arrangement as supplemented, modified or amended, and not to any particular article, section or other portion hereof;
- (d) **“Articles of Arrangement”** means the articles in respect of the Arrangement required under subsection 183(1) of the OBCA to be filed with the Director after the Final Order has been granted;
- (e) **“Business Day”** means any day, other than Saturday, Sunday or any statutory holiday, where banks are generally open in Toronto, Ontario, for the transaction of banking business;
- (f) **“Book Entry System”** has the meaning ascribed to it in Section 5.1;
- (g) **“Class A Limited Voting Shares”** means the class A limited voting shares in the share capital of Amalco;
- (h) **“Class B Shares”** means the class B shares in the share capital of Amalco;
- (i) **“Class C Shares”** means the class C shares in the share capital of Amalco;
- (j) **“CDS Participant”** has the meaning ascribed to it in Section 5.1;
- (k) **“CDS”** means CDS Clearing and Depositary Services Inc.;
- (l) **“Certificate”** means the certificate to be issued by the Director pursuant to subsection 183(2) of the OBCA giving effect to the Arrangement;
- (m) **“Combination Agreement”** means the combination agreement dated as of February 25, 2010, among the Fund, PRH, PRC, TradeMarkCo and Newco with respect to the Arrangement and all amendments thereto;
- (n) **“Court”** means the Ontario Superior Court of Justice;
- (o) **“Declaration of Trust”** means the declaration of trust dated May 28, 2002, pursuant to which the Fund was created, as further amended, supplemented or restated from time to time;

- (p) **“Director”** means the director appointed under Section 278 of the OBCA;
- (q) **“Effective Date”** means the date the Arrangement is effective under the OBCA;
- (r) **“Effective Time”** means 12:01 a.m. (EST) (Toronto time) on the Effective Date;
- (s) **“Final Order”** means the final order of the Court approving this Arrangement as such order may be amended or varied at any time prior to the Effective Time or, if appealed, then, unless such appeal is withdrawn or denied, as affirmed or as amended on appeal;
- (t) **“Fund”** means Prime Restaurants Royalties Income Fund, a limited purpose trust established under the laws of the Province of Ontario pursuant to the Declaration of Trust;
- (u) **“Information Circular”** means the information circular of the Fund to be dated on or about March 4, 2010, together with all appendices thereto, forwarded as part of the proxy solicitation materials to Unitholders in respect of the Meeting;
- (v) **“Interim Order”** means the interim order of the Court concerning the Arrangement containing declarations and directions with respect to the Arrangement and the holding of the Meeting, as such order may be amended by the Court with the consent of the parties to the Combination Agreement, acting reasonably;
- (w) **“Limited Voting Units”** means the limited voting units of the Fund;
- (x) **“Meeting”** means the annual and special meeting of Unitholders to be held to consider, among other things, the Arrangement and related matters, and any adjournment or postponement thereof;
- (y) **“Newco”** means 2234567 Ontario Limited, a wholly-owned subsidiary of the Fund incorporated under the laws of the Province of Ontario;
- (z) **“OBCA”** means the *Business Corporations Act*, R.S.O. 1990, c. B-16, and the regulations thereto, as now in effect and as it may be amended from time to time prior to the Effective Date;
- (aa) **“Person”** means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;
- (bb) **“Plan of Arrangement”** means this plan of arrangement and any amendment or variation made in accordance with Section 6.1 or made at the direction of the Court in the Final Order;
- (cc) **“Plan of Arrangement Notice”** means a joint notice provided by PRH, PRC and the Fund to TradeMarkCo at least three (3) Business Days prior to the Effective Date specifying (i) the principal amount outstanding pursuant to the Shareholder Loan and the number of common shares of PRC to be issued to PRH in consideration for the cancellation of the Shareholder Loan as contemplated by section 3.1(a); (ii) the number of common shares of PRC to be issued to PRH in consideration for the transfer of PRA as contemplated by section 3.1(b); (iii) the consolidation ratio for the outstanding common shares of TradeMarkCo pursuant to section 4.1(d); (iv) the number of common shares of Newco to be issued to the Fund in consideration for the transfer of the TradeMarkCo Loan pursuant to section 4.1(e); (v) the number of common shares of TradeMarkCo to be issued to the Fund in consideration for the transfer of Newco pursuant to section 4.1(f); (vii) the amount of the reduction of the stated capital of the outstanding shares of Amalco pursuant to section 4.1(i); and (viii) any other information or directives which may be useful for the completion of this Plan of Arrangement;

- (dd) **“PRA”** means Prime Restaurants of America Inc., a wholly-owned subsidiary of PRH incorporated under the laws of the State of Delaware;
- (ee) **“PRC”** means Prime Restaurants of Canada Inc., a wholly-owned subsidiary of PRH incorporated under the laws of the Province of Ontario;
- (ff) **“PRH”** means Prime Restaurant Holdings Inc., a corporation incorporated under the laws of the Province of Ontario;
- (gg) **“Shareholder Loan”** means the outstanding loan from PRH to PRC in the principal amount of \$577,500;
- (hh) **“TradeMarkCo Loan”** means outstanding loans from TradeMarkCo to the Fund represented by notes issued pursuant to the note indenture dated as of July 22, 2002 between TradeMarkCo and Computershare Trust Company of Canada;
- (ii) **“TradeMarkCo”** means PRC Trademarks Inc., a corporation continued under the laws of the Province of Ontario;
- (jj) **“Transfer Agent”** means Computershare Investor Services Inc.;
- (kk) **“Unitholders”** means holders from time to time of Units and Limited Voting Units; and
- (ll) **“Units”** means the trust units of the Fund.

1.2 Headings

The division of this Plan of Arrangement 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 Plan of Arrangement.

1.3 Interpretation

- (a) Unless reference is specifically made to some other document or instrument, all references herein to articles and sections are to articles and sections of this Plan of Arrangement.
- (b) Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa; words importing any gender shall include all genders; and words importing persons shall include individuals, partnerships, associations, corporations, funds, unincorporated organizations, governments, regulatory authorities, and other entities.

1.4 Calculation of Days

- (a) Unless otherwise specified, time periods within or following which any act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following, if the last day of the period is not a Business Day.
- (b) In the event that the date on which any action is required to be taken hereunder by any of the parties to the Combination Agreement is not a Business Day in the place where the action is required to be taken, such action shall be required to be taken on the next succeeding day which is a Business Day in such place, except that the Effective Date can fall on a date that is not a Business Day.

1.5 Statutory References

References in this Plan of Arrangement to any statute or sections thereof shall include such statute as amended or substituted and any regulations promulgated thereunder from time to time in effect.

ARTICLE 2 COMBINATION AGREEMENT

2.1 Arrangement

This Plan of Arrangement is made pursuant to, is subject to the provisions of, and forms part of, the Combination Agreement.

2.2 Binding Effect

This Plan of Arrangement, upon the filing of the Articles of Arrangement and the issue of the Certificate, shall become effective on, and be binding on and after, the Effective Time on: (i) the Unitholders; (ii) the Fund; (iii) TradeMarkCo; (iv) PRH; (v) PRC and (vi) Newco.

2.3 Certificate

The Articles of Arrangement and the Certificate shall be filed and issued, respectively, with respect to this Arrangement in its entirety. The Certificate shall be conclusive evidence that the Arrangement has become effective and that each of the provisions of Article 4 has become effective in the sequence and at the times set out therein.

2.4 Order of Completion of Steps

All of the steps and events listed in Article 4 shall be completed in accordance with the following:

- (a) the steps and events listed shall be completed in numerical order and sequence provided in Article 4, without further act or formality;
- (b) each of such steps and events shall be mutually conditional, such that no single event may occur without all events occurring in sequence, thereby effecting the integrated transaction which constitutes the Arrangement; and
- (c) upon implementation of the first step of the Arrangement, each of the other steps will occur automatically and in sequence until each of the steps is completed and the Arrangement is effective, provided that if any of the steps in Article 4 fails to occur or be completed then all of the steps will be deemed not to have occurred.

ARTICLE 3 PRE-ARRANGEMENT TRANSACTIONS

3.1 Pre-Arrangement Steps

Unless otherwise consented to by the Fund in writing, each of the events set out below shall be completed on or prior to the date immediately before the Effective Date:

Exchange and Cancellation of the Shareholder Loans

- (a) the Shareholder Loan shall be exchanged and cancelled in consideration for such number of shares of PRC to be set out in the Plan of Arrangement Notice;

Transfer of PRA

- (b) PRH shall transfer all its shares of PRA to PRC in consideration for such number of shares of PRC to be set out in the Plan of Arrangement Notice; and

PRC Declares a Dividend

- (c) PRC shall declare a dividend on its common shares, which dividend shall be payable by transferring its 333,436 Limited Voting Units of the Fund to its sole shareholder, PRH.

ARTICLE 4 ARRANGEMENT

4.1 Arrangement Steps

Commencing at the Effective Time, each of the events set out below shall occur and shall be deemed to occur in the following order, each occurring one minute apart, without any further act or formality except as otherwise provided herein:

Amendment of the Declaration of Trust

- (a) the Declaration of Trust shall be amended, to the extent necessary, to facilitate the Arrangement as provided herein;

Cancellation of Interest Accrued on the TradeMarkCo Loan

- (b) all of the interest accrued and unpaid on the TradeMarkCo Loan shall be cancelled without further consideration;

Cancellation of Class A Common Shares and Class B Common Shares of TradeMarkCo

- (c) the class A common shares and class B common shares of TradeMarkCo shall be cancelled without further consideration;

Consolidation of Common Shares of TradeMarkCo

- (d) (i) the Common Shares of TradeMarkCo shall be consolidated based on a ratio to be set out in the Plan of Arrangement Notice and (ii) no fractional shares shall be issued on such consolidation and as a result of this consolidation, only one common share of TradeMarkCo will remain outstanding and will be held by the Fund;

Transfer of TradeMarkCo Loan

- (e) the Fund shall transfer the TradeMarkCo Loan to Newco in consideration for such number of shares of Newco to be set out in the Plan of Arrangement Notice;

Transfer of Newco

- (f) the Fund shall transfer all of the shares of Newco held by the Fund to TradeMarkCo in consideration for such number of common shares of TradeMarkCo to be set out in the Plan of Arrangement Notice and the assumption by TradeMarkCo of all of the liabilities of the Fund pursuant to an assignment agreement;

Amalgamation of TradeMarkCo, PRC and Newco to continue as Amalco

- (g) TradeMarkCo, PRC and Newco shall amalgamate to continue as Amalco:
- (i) the name of Amalco shall be Prime Restaurants Inc.;
 - (ii) the head office of Amalco shall be situated in the province of Ontario and the address of its head office shall be 10 Kingsbridge Garden Circle, Suite 600, Mississauga, Ontario, L5R 3K6;
 - (iii) the auditors of Amalco shall be PricewaterhouseCoopers LLP;
 - (iv) Amalco shall be authorized to issue an unlimited number of Class A Limited Voting Shares, Class B Shares and Class C Shares, having the rights, privileges, conditions and restrictions set out in Schedule A;
 - (v) there shall be no restrictions on the activities that Amalco is authorized to carry on, nor any restrictions on the transfer of Amalco's Class A Limited Voting Shares;
 - (vi) the board of directors of Amalco will consist of not less than three and not more than ten directors, the exact number of which shall be determined by the directors from time to time;
 - (vii) the first directors of Amalco who shall hold office until the next annual meeting of shareholders of Amalco until their successors are elected or appointed, shall be the following persons whose names and addresses appear below:

<u>Name</u>	<u>Address</u>	<u>Canadian Resident</u>
Michael Aronovici	10 Kingsbridge Garden Circle, Suite 600 Mississauga, Ontario L5R 3K6	yes
Paul Haggis	10 Kingsbridge Garden Circle, Suite 600 Mississauga, Ontario L5R 3K6	yes
Sidney M. Horn	10 Kingsbridge Garden Circle, Suite 600 Mississauga, Ontario L5R 3K6	yes
John A. Rothschild	10 Kingsbridge Garden Circle, Suite 600 Mississauga, Ontario L5R 3K6	yes
Steven Sharpe	10 Kingsbridge Garden Circle, Suite 600 Mississauga, Ontario L5R 3K6	yes

- (viii) the by-laws of Amalco shall be the by-laws of TradeMarkCo; and
 - (ix) all of the rights, properties and liabilities of TradeMarkCo, PRC and Newco shall become the rights, properties and liabilities of Amalco.
- (h) Furthermore, the following shall occur:
- (i) all the shares of Newco shall be surrendered for cancellation without further consideration;
 - (ii) in consideration for the common shares in TradeMarkCo surrendered for cancellation on the amalgamation, Amalco shall issue 6,443,436 Class A Limited Voting Shares of Amalco to the Fund;
 - (iii) in consideration for the common shares, First Series C Preferred and Second Series C Preferred in PRC surrendered for cancellation on the amalgamation, Amalco shall issue

102,992 Class A Limited Voting Shares, 1,571,143 Class B Shares and 611,000 Class C Shares to PRH; and

- (iv) the TradeMarkCo Loan shall be cancelled.

Reduction of Stated Capital of Amalco

- (i) the stated capital of the outstanding shares of Amalco will be reduced as set out in the Plan of Arrangement Notice;

Winding-up and dissolution of the Fund

- (j) the Fund shall wind-up its affairs and liquidate and the following shall occur:
 - (i) the Fund will be dissolved in accordance with the Declaration of Trust;
 - (ii) Unitholders shall receive one Class A Limited Voting Share of Amalco in exchange for each Unit and Limited Voting Unit held in the Fund immediately prior to its winding-up and liquidation;
 - (iii) the outstanding Units and Limited Voting Units of the Fund shall be cancelled; and
 - (iv) the Declaration of Trust shall be terminated.

4.2 Exchange of Units for Amalco Shares

Upon the exchange of Units for Class A Limited Voting Shares pursuant to Section 4.1(j)(ii):

- (a) each former holder of Units shall cease to be the holder of the Units so exchanged and the name of each such holder shall be removed from the register of holders of Units; and
- (b) each such holder of Units shall become the holder of the Class A Limited Voting Shares exchanged for the Units held by such holder and shall be added to the register of holders of Class A Limited Voting Shares in respect thereof.

ARTICLE 5 OUTSTANDING CERTIFICATES

5.1 Book Entry System and Certificates

Registration of interests in and transfers of the Class A Limited Voting Shares will be made through a book-based system (the “**Book Entry System**”) administered by CDS. On or about the Effective Date, Amalco will deliver to CDS one or more certificates evidencing the aggregate number of Class A Limited Voting Shares issued in connection with the Arrangement.

Class A Limited Voting Shares may be purchased, transferred or surrendered for redemption through a participant in the CDS depository service (a “**CDS Participant**”). All rights of holders of Class A Limited Voting Shares may be exercised through, and all payments or other property to which such holder is entitled, may be made or delivered by, CDS or the CDS Participant through which the holder holds such Class A Limited Voting Shares. Upon purchase of such Class A Limited Voting Shares, the holders will receive only a customer confirmation from the registered dealer which is a CDS Participant and from or through which the Class A Limited Voting Shares are purchased.

Amalco may issue certificates representing Class A Limited Voting Shares to one or more shareholders, where such issuances is warranted in the opinion of Amalco. Amalco also has the option to terminate registration of the Class A Limited Voting Shares through the Book Entry System, in which case

certificates for the Class A Limited Voting Shares in fully registered form would be issued to beneficial owners of such Class A Limited Voting Shares or their nominees.

5.2 Lost or Missing Unit Certificates

If any certificate which immediately prior to the Effective Time represented an interest in outstanding Units that were exchanged for Class A Limited Voting Shares pursuant to Section 4.1 has been lost, stolen or destroyed, upon the making of an affidavit of that fact by the person claiming such certificate to have been lost, stolen or destroyed, the registered holder thereof in the register of Units maintained by the Transfer Agent shall, as a condition precedent to the receipt thereof, provide to Amalco a bond, in form and substance satisfactory to Amalco, or shall otherwise indemnify Amalco to its satisfaction, in its sole and absolute discretion, against any claim that may be made against them with respect to the certificate alleged to have been lost, stolen or destroyed.

ARTICLE 6 AMENDMENTS

6.1 Right to Amendment

Subject to Sections 6.2, 6.3 and 6.4, the parties to the Combination Agreement may amend this Plan of Arrangement at any time, provided that each such amendment must be: (i) set out in writing; (ii) approved in writing by all of the parties to the Combination Agreement; and (iii) filed with the Court;

6.2 Amendments Before Meeting

Any amendment to this Plan of Arrangement may be proposed by the Fund, TradeMarkCo or PRC at any time prior to or at the Meeting (provided that the other parties to the Combination Agreement shall have consented thereto) with or without any other prior notice or communication to Unitholders, and if so proposed and accepted by the persons voting at the Meeting (other than as may be required under the Interim Order), shall become part of this Plan of Arrangement for all purposes.

6.3 Amendments Before Effective Time

Any amendment, modification or supplement to this Plan of Arrangement may be made prior to the Effective Time by the Fund, TradeMarkCo or PRC provided that the other parties to the Combination Agreement shall have consented thereto (or, if following the Effective Time, Amalco) without the approval of the Court or the Unitholders, provided that it concerns a matter which, in the reasonable opinion of the Fund, TradeMarkCo and PRC (or, if following the Effective Time, Amalco), is of an administrative nature required to better give effect to the implementation of this Plan of Arrangement or is not adverse to the financial or economic interests of any former holder of Units or shares of PRC.

6.4 Additional Amendments

Subject to Section 6.3, the Fund, TradeMarkCo or PRC may, provided that the other parties to the Combination Agreement shall have consented thereto, amend, modify and/or supplement this Plan of Arrangement at any time and from time to time after the Meeting and prior to the Effective Time with the approval of the Court and, if and as required by the Court, after communication to Unitholders.

ARTICLE 7 GENERAL

7.1 Further Assurances

Notwithstanding that the transactions and events set out herein shall occur and be deemed to occur in the order set out in this Plan of Arrangement without any further act or formality, each of the parties to the Combination Agreement shall make, do and execute, or cause to be made, done and executed, all such further acts, deeds, agreements, transfers, assurances, instruments or documents as may reasonably be

required by any of them in order to further document or evidence any of the transactions or events set out herein.

7.2 Severability of Plan of Arrangement Provisions

If, prior to the Effective Date, any term or provision of this Plan of Arrangement is held by the Court to be invalid, void or unenforceable, the Court, at the request of any parties to the Combination Agreement, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan of Arrangement shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

7.3 Governing Laws

This Plan of Arrangement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Any questions as to the interpretation or application of this Plan of Arrangement and all proceedings taken in connection with this Plan of Arrangement and its provisions shall be subject to the exclusive jurisdiction of the Court.

7.4 Time

Time is of the essence in the performance of the parties' respective obligations.

SCHEDULE "A" TO PLAN OF ARRANGEMENT

Unlimited number of Class A Limited Voting Shares ("**Class A Shares**");

Unlimited number of Class B Shares; and

Unlimited number of Class C Shares.

1. CLASS A SHARES

The Class A Shares, as a class, shall have attached thereto the following rights, privileges, restrictions and conditions:

1.1 Voting

- (1) The holders of Class A Shares shall be entitled to receive notice of, and to attend and vote at, all meetings of the shareholders of the Corporation, except where the holders of another class of shares are entitled to vote separately as a class as provided in the Act or in these Articles. Each Class A Share shall confer the right to one vote in person or by proxy at all meetings of shareholders of the Corporation at which they are entitled to vote.
- (2) Notwithstanding the foregoing, the holders of Class A Shares shall not be entitled to vote their Class A Shares for the election or the removal of any Class B Nominated Directors at a meeting of shareholders held before the Class B Nominated Director Termination Date. Holders of Class A Shares may vote their Class A Shares, along with the holders of Class B Shares, for the election or removal of any or all directors of the Corporation at any meeting of shareholders on or after the Class B Nominated Director Termination Date.

1.2 Dividends and Distributions

Subject to the rights, privileges, restrictions and conditions attaching to the shares of the Corporation of any other class ranking prior to the Class A Shares, the holders of Class A Shares shall, at the discretion of the directors of the Corporation, be entitled to receive, out of monies, assets or property of the Corporation properly applicable to the payment of dividends or distributions, any dividends or distributions declared and payable by the Corporation on the Class A Shares. Without limitation to the restriction on Extraordinary Dividends or Distributions in Section 3.2, the Corporation shall not declare or pay an Extraordinary Dividend or Distribution on the Class A Shares unless it concurrently declares and pays an Extraordinary Dividend or Distribution on the Class B Shares in accordance with Section 2.2.

1.3 Liquidation, Dissolution or Winding-up

Subject to the rights, privileges, restrictions and conditions attaching to the shares of the Corporation ranking prior to the Class A Shares, including the Class C Shares with respect to the Class C Liquidation Preference, upon liquidation, dissolution or winding-up of the Corporation or other distribution of the Corporation's assets among its

shareholders for the purpose of winding-up its affairs, the holders of the Class A Shares and the holders of Class B Shares shall be entitled to receive the remaining property of the Corporation and shall be entitled to share equally, share for share, in all distributions of such assets.

2. CLASS B SHARES

The Class B Shares, as a class, shall have attached thereto the following rights, privileges, restrictions and conditions:

2.1 Voting

- (1) The holders of Class B Shares shall be entitled to receive notice of, and to attend and vote at, all meetings of the shareholders of the Corporation, except where the holders of another class of shares are entitled to vote separately as a class as provided in the Act or in these Articles. Each Class B Share shall confer the right to one vote in person or by proxy at all meetings of shareholders of the Corporation at which they are entitled to vote.
- (2) Notwithstanding Section 2.1(1), holders of Class B Shares shall not be entitled to vote for directors of the Corporation other than Class B Nominated Directors at any meeting of shareholders held before the Class B Nominated Director Termination Date. Holders of Class B Shares shall have the exclusive right to vote their Class B Shares for the election or removal of Class B Nominated Directors at any meeting of shareholders held before the Class B Nominated Director Termination Date, or by written resolution in lieu of any such meeting.
- (3) For the purposes of these Articles:
 - (a) "**Class B Nominated Directors**" means, as long as the holders of Class B Shares and/or their Permitted Transferees are registered owners on the date of a particular meeting of shareholders (or a written resolution in lieu thereof) held before the Class B Nominated Director Termination Date, of at least:
 - (i) 1,623,514 Class A Shares and/or Class B Shares, two directors of the Corporation; and
 - (ii) 811,757 (but less than 1,623,514) Class A Shares and/or Class B Shares, one director of the Corporation; and

- (b) **"Class B Nominated Director Termination Date"** means the earlier of:
- (i) the date, if any, Mr. John A. Rothschild ceases to be employed by the Corporation or any subsidiary thereof other than as a result of termination for Cause; and
 - (ii) the date immediately following the end of the 2013 Financial Year.

2.2 Dividends and Distributions

- (1) Subject to Section 2.2(2) and to Section 2.4, the holders of Class B Shares shall not be entitled to receive, out of monies, assets or property of the Corporation properly applicable to the payment of dividends or distributions, any dividends or distributions on the Class B Shares.
- (2) Notwithstanding the foregoing, if in any financial year of the Corporation the Corporation declares or pays an Extraordinary Dividend or Distribution on the Class A Shares, then, without limitation to the restriction on Extraordinary Dividends or Distributions in Section 3.2, the Corporation shall declare and pay, concurrently, a dividend or distribution, as the case may be, on the Class B Shares in an amount per Class B Share equal the amount of such Extraordinary Dividend or Distribution per Class A Share.

2.3 Restriction on Issuance

Notwithstanding the unlimited number of authorized Class B Shares, no more than 1,571,143 Class B Shares may be issued by the Corporation other than pursuant to Section 4.2 or upon the prior written consent of the holders of at least 66 $\frac{2}{3}$ % of issued and outstanding Class B Shares.

2.4 Liquidation, Dissolution or Winding-up

Subject to the rights, privileges, restrictions and conditions attaching to the shares of the Corporation ranking prior to the Class B Shares, including the Class C Shares with respect to the Class C Liquidation Preference, upon liquidation, dissolution or winding-up of the Corporation or other distribution of the Corporation's assets among its shareholders for the purpose of winding-up its affairs, the holders of the Class B Shares and the holders of Class A Shares shall be entitled to receive the remaining property of the Corporation and shall be entitled to share equally, share for share, in all distributions of such assets.

2.5 Optional Conversion

- (1) A holder of Class B Shares may elect, at any time permitted in the Conversion Agreement, to convert the number of issued and outstanding Class B Shares

determined in the Conversion Agreement into fully paid and non assessable Class A Shares on a one-for-one basis, subject to Section 2.5(5).

- (2) To exercise such conversion right, a holder or its attorney duly authorized in writing shall:
 - (a) give a Notice of Conversion to the Transfer Agent of the exercise of such right specifying the number of Class B Shares in respect of which the right is being exercised;
 - (b) deliver to the Transfer Agent the share certificate or certificates representing the Class B Shares in respect of which the right is being exercised; and
 - (c) pay any withholding tax imposed by law on such holder in respect of such conversion.
- (3) Upon due exercise of such conversion right in respect of Class B Shares, a holder shall be entitled to have issued for its benefit a share certificate representing such number of fully-paid Class A Shares into which such Class B Shares were converted pursuant to this Section 2.5. The Transfer Agent shall deliver to the holders entitled thereto share certificates representing the Class A Shares resulting from the conversion of the Class B Shares. The Corporation shall make all arrangements with the Transfer Agent necessary or desirable to give full and complete effect to the foregoing within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class B Shares to be converted. The persons entitled to receive the Class A Shares issuable upon a conversion of Class B Shares shall be treated for all purposes as the record holders of such Class A Shares on the date of delivery to the Transfer Agent of the share certificate or certificates representing the Class B Shares being converted.
- (4) If the conversion right is exercised in respect of less than all of the Class B Shares represented by any share certificate, then the Corporation shall issue, or cause to be issued, a new share certificate representing the number of Class B Shares in respect of which the conversion right is not being exercised within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class B Shares being converted.
- (5) Notwithstanding the foregoing, the conversion ratio for each Class B Share shall be 0.8 Class A Shares, 0.6 Class A Shares or 0.5 Class A Shares, as the case may be, in the circumstances set forth in the Conversion Agreement.

2.6 Optional Conversion - Coattail

- (1) In the event that an offer is made to purchase Class A Shares and the offer is one which is required, pursuant to applicable securities legislation or the rules of a

stock exchange on which the Class A Shares are then listed, to be made to all or substantially all the holders of Class A Shares in a jurisdiction to which the requirement applies (the "**Offer**"), each Class B Share shall become convertible at the option of the holder into one Class A Share at any time while the Offer is in effect until one day after the time prescribed by applicable securities legislation for the offeror to take up and pay for such shares as are to be acquired pursuant to the Offer. The conversion right may only be exercised in respect of Class B Shares for the purpose of depositing the resulting Class A Shares to the Offer and the Transfer Agent shall deposit the resulting Class A Shares on behalf of the holder.

- (2) To exercise such conversion right, the holder or its attorney duly authorized in writing shall:
 - (a) give a Notice of Conversion to the Transfer Agent of the exercise of such right and of the number of Class B Shares in respect of which the right is being exercised;
 - (b) deliver to the Transfer Agent the share certificate or certificates representing the Class B Shares in respect of which the right is being exercised; and
 - (c) pay any governmental or other tax imposed on or in respect of such conversion.
- (3) No share certificates representing the Class A Shares resulting from the conversion of the Class B Shares will be delivered to the holders on whose behalf such deposit is being made.
- (4) If (i) Class A Shares resulting from the conversion and deposited pursuant to the Offer are withdrawn by the holder or are not taken up by the offeror; or (ii) the Offer is abandoned or withdrawn by the offeror or the Offer otherwise expires without such Class A Shares being taken up and paid for, then the Class A Shares resulting from the conversion will be re-converted into Class B Shares and a share certificate representing the Class B Shares will be sent to the holder by the Transfer Agent.
- (5) In the event that the offeror takes up and pays for the Class A Shares resulting from the conversion, the Transfer Agent shall deliver to the holders thereof the consideration paid for such shares by the offeror.
- (6) Notwithstanding the foregoing, there will be no right to convert the Class B Shares into Class A Shares in the following cases:
 - (a) the offer to purchase Class A Shares is not required under applicable securities legislation or the rules of a stock exchange on which the Class A Shares are then listed to be made to all or substantially all of the holders of

Class A Shares in a jurisdiction to which the requirement applies, that is, the offer is an "exempt take-over bid" within the meaning of the foregoing securities legislation; or

- (b) an offer to purchase Class B Shares is made concurrently with the offer to purchase Class A Shares and the two offers are identical in respect of price per share, percentage of outstanding shares for which the offer is made, and in all other material respects, including in respect of the conditions attaching thereto. The offer to purchase the Class B Shares must be unconditional, subject to the exception that the offer for the Class B Shares may contain a condition to the effect that the offeror is not required to take up and pay for Class B Shares deposited to the offer if no shares are purchased pursuant to the contemporaneous offer for the Class A Shares; or
- (c) holders of Class A Shares representing, in the aggregate, more than 66 $\frac{2}{3}$ % of the then outstanding Class A Shares on a fully-diluted basis (excluding shares owned immediately prior to the Offer by the offeror and any joint actor) certify to the Transfer Agent and to the Secretary of the Corporation that they will not deposit any shares in response to the Offer for the Class A Shares.

2.7 Optional Conversion - Liquidity Event.

- (1) If the Corporation enters into an agreement providing for, or otherwise permits (i) the sale, lease, license or exchange of all or substantially all of the assets of the Corporation (on a consolidated basis), or (ii) a merger, amalgamation, consolidation, reorganization or other transaction following which the holders of the Class A Shares prior to such transaction hold less than 50% of the equity securities of the amalgamated or surviving entity after such transaction (any of the foregoing a "**Liquidity Event**"), then each of the issued and outstanding Class B Shares shall be convertible, at the option of holder thereof, into (i) one fully paid and non-assessable Class A Share (if the Class A Shares are unaffected by such Liquidity Event) or (ii) the securities or other property into which each Class A Share is to be converted or exchanged pursuant to the Liquidity Event. The conversion of Class B Shares into Class A Shares pursuant to this Section 2.7(1) shall be effective:
 - (a) immediately prior to, but conditional upon the closing of, the Liquidity Event, unless the holders of Class A Shares are entitled to vote on the Liquidity Event, in which case;
 - (b) holders of Class B Shares shall be entitled to elect to convert their Class B Shares into Class A Shares any time prior to the time of the meeting to be held to vote on such Liquidity Event, in which event such holders shall be registered as holders of the Class A Shares in question, provided that no

share certificates for such Class A Shares shall be issued other than upon closing of such Liquidity Event in accordance with Section 2.7(3).

- (2) To exercise such conversion right, a holder or its attorney duly authorized in writing shall:
 - (a) give a Notice of Conversion to the Transfer Agent of the exercise of such right and of the number of Class B Shares in respect of which the right is being exercised;
 - (b) deliver to the Transfer Agent the share certificate or certificates representing the Class B Shares in respect of which the right is being exercised; and
 - (c) pay any withholding tax imposed by law on such holder in respect of such conversion.
- (3) Upon such conversion of the Class B Shares becoming effective as provided for in Section 2.7(1), a holder shall be entitled to have issued for its benefit a share certificate representing such number of fully-paid Class A Shares (if the Class B Shares are convertible into Class A Shares as a result of such Liquidity Event) into which such Class B Shares were converted pursuant to this Section 2.7. The Transfer Agent shall deliver to the holders entitled thereto share certificates representing the Class A Shares resulting from the conversion of the Class B Shares. The Corporation shall make all arrangements with the Transfer Agent necessary or desirable to give full and complete effect to the foregoing within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class B Shares to be converted. The persons entitled to receive the Class A Shares issuable upon a conversion of Class B Shares shall be treated for all purposes as the record holders of such Class A Shares at the time of the effectiveness of such conversion pursuant to Section 2.7(1).
- (4) If the conversion right is exercised in respect of less than all of the Class B Shares represented by any share certificate, then the Corporation shall issue, or cause to be issued, a new share certificate representing the number of Class B Shares in respect of which the conversion right is not being exercised within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class B Shares being converted.
- (5) Written notice of any proposed Liquidity Event shall be delivered to the holders of Class B Shares not less than 15 days prior to the proposed closing date of such Liquidity Event, or such shorter period agreed in writing to by the holders of Class B Shares or as is available to the Corporation before it becomes aware of the proposed closing date.

- (6) If Class B Shares are converted into Class A Shares in order to vote on a Liquidity Event and any agreement setting forth the terms of the Liquidity Event is terminated and/or the Liquidity Event otherwise does not close by the date anticipated or such later date as agreed to by the persons involved therein, then the Corporation may elect by written notice (a "**Notice of Forced Re-Conversion**") given at any time thereafter to the former holders of Class B Shares whose shares were so converted into Class A Shares ("**Converted Class A Shares**") pursuant to this Section 2.7 and to the Transfer Agent to cause the re-conversion of such Converted Class A Shares held by such holder into Class B Shares on a one-for-one basis.
- (7) Upon the occurrence of such re-conversion in respect of Converted Class A Shares, a holder shall be entitled to have issued for its benefit a share certificate representing such number of fully-paid Class B Shares into which such Converted Class A Shares were re-converted pursuant to this Section 2.7. The Corporation shall deliver to the holders entitled thereto share certificates representing the Class B Shares resulting from the re-conversion of the Converted Class A Shares. The persons entitled to receive the Class B Shares issuable upon a re-conversion of Converted Class A Shares shall be treated for all purposes as the record holders of such Class B Shares on the date of delivery of the Notice of Forced Re-Conversion.

2.8 **Automatic Conversion – Termination of Employment**

- (1) If:
 - (a) the employment of Mr. John A. Rothschild with the Corporation is terminated by the Corporation without Cause (including constructive dismissal) prior to the end of the 2012 Financial Year; and
 - (b) the Corporation achieved at least the Threshold Adjusted Earnings for the most recently ended Eligible Financial Year on or prior to the date of such termination,

then all of the issued and outstanding Class B Shares on the date of such termination of employment shall be automatically converted into Class A Shares on a one-for-one basis, without any requirement of prior notice or election. If the employment of Mr. John A. Rothschild is so terminated prior to the determination of the Threshold Adjusted Earnings for the most recently ended Eligible Financial Year, then the issued and outstanding Class B Shares on the date such Adjusted Earnings Statement is so delivered shall be automatically converted into Class A Shares on a one-for-one basis if the Corporation achieved at least the Threshold Adjusted Earnings for such most recently ended Eligible Financial Year, and such conversion shall be deemed to have become effective (i) as of the date of termination of employment for the purpose of determining the holders' rights to dividends and other distributions on the Class A Shares, and (ii) as of the date of the determination of such Threshold Adjusted Earnings for all other purposes. For

greater certainty, any Class C Shares which are converted into Class B Shares on the same date pursuant to Section 3.7 shall not be converted into Class A Shares pursuant to this Section 2.8.

- (2) Promptly after such automatic conversion, each holder of the Class B Shares which were so converted shall:
 - (a) give written notice to the Corporation and the Transfer Agent of the occurrence of such automatic conversion and of the number of Class B Shares so converted;
 - (b) deliver to the Transfer Agent the share certificate or certificates representing the Class B Shares in respect of which the right is being exercised; and
 - (c) pay any governmental or other tax imposed on or in respect of such conversion.
- (3) Upon the occurrence of such automatic conversion in respect of Class B Shares, a holder shall be entitled to have issued for its benefit a share certificate representing such number of fully-paid Class A Shares into which such Class B Shares were converted pursuant to this Section 2.8. The Transfer Agent shall deliver to the holders entitled thereto share certificates representing the Class A Shares resulting from the conversion of the Class B Shares. The Corporation shall make all arrangements with the Transfer Agent necessary or desirable to give full and complete effect to the foregoing within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class B Shares.
- (4) For the purposes of this Section 2.8:
 - (a) "**Cause**" means cause as understood under the employment laws of the jurisdiction of Mr. John A. Rothschild's employment at the time of any termination of his employment, provided that, for the avoidance of doubt, Cause shall not include a failure of the Corporation to meet any earnings targets set forth in the Conversion Agreement; and
 - (b) "**Threshold Adjusted Earnings**" means, if the termination of the employment of Mr. Rothschild occurs during:
 - (i) the 2010 Financial Year, then \$0.00;
 - (ii) the 2011 Financial Year, then 75% of the Adjusted Earnings Target for the 2010 Financial Year; or
 - (iii) the 2012 Financial Year, then 70% of the Adjusted Earnings Target for the 2011 Financial Year.

2.9 Mandatory Redemption

- (1) If, after the release of the statement of Adjusted Earnings of the Corporation for the 2014 Financial Year pursuant to the Conversion Agreement, the Corporation is required to redeem Class C Legacy Shares pursuant to Section 3.7, then, subject to any restrictions on redemption of shares by the Corporation in the Act or any other applicable law, the Corporation shall simultaneously redeem such number of Class B Shares as is set forth below (the "**Class B Legacy Shares**") on payment to the holders of such shares of \$0.000001 for each Class B Legacy Share to be redeemed. If the number of Class C Legacy Shares is:
 - (a) 611,000, then the number of Class B Legacy Shares shall be 182,506;
 - (b) 407,333, then the number of Class B Legacy Shares shall be 138,202; or
 - (c) 203,667, then the number of Class B Legacy Shares shall be 77,900.
- (2) Before redeeming any Class B Legacy Shares, the Corporation shall mail to each person who, at the date of such mailing, is a registered holder of Class B Legacy Shares, notice of the intention of the Corporation to redeem such shares held by such registered holder. Such notice shall be mailed by ordinary prepaid post addressed to the last address of such holder as it appears on the records of the Corporation or, in the event of the address of any such holder not appearing on the records of the Corporation, then to the last known address of such holder, at least 10 days before the date specified for redemption. Such notice shall set out the date on which redemption is to take place and the address at which the certificates for the Class B Legacy Shares are to be presented in exchange for the redemption price.
- (3) On or after the date specified for redemption, the Corporation shall pay or cause to be paid the redemption price to the registered holders of the Class B Legacy Shares, on presentation and surrender of the certificates for the Class B Legacy Shares at the address specified in the notice of redemption, and the certificates for such Class B Legacy Shares shall thereupon be cancelled, and the Class B Legacy Shares represented by such certificates shall thereupon be redeemed. On or before the date specified for redemption, the Corporation shall have the right to deposit the redemption price of Class B Legacy Shares in a special account with any chartered bank or trust company in Canada named in the notice of redemption, such redemption price to be paid to or to the order of the respective holders of such Class B Legacy Shares upon presentation and surrender of the certificates representing such shares. Upon such deposit being made, the Class B Legacy Shares shall be redeemed and the rights of the holders of such Class B Legacy Shares after such deposit shall be limited to receiving, out of the moneys so deposited, without interest, the redemption price applicable to their respective shares against presentation and surrender of the certificates representing such shares.

- (4) As of the date specified for redemption in such notice, the holders of the Class B Legacy Shares shall cease to be entitled to any rights in respect of such shares, except to receive the redemption price, unless payment of the redemption price shall not be made in accordance with Section 2.8(3), in which case the rights of the holders of such shares shall remain unimpaired until payment of the redemption price is made or made payable in accordance with these Articles.
- (5) The aggregate redemption price to be paid to each holder of Class B Legacy Shares for all of its Class B Legacy Shares shall be rounded up to the nearest whole cent.

3. CLASS C SHARES

The Class C Shares, as a class, shall have attached thereto the following rights, privileges, restrictions and conditions:

3.1 Voting

The holders of the Class C Shares shall not, as such, be entitled to receive notice of or to attend at any meetings of the shareholders of the Corporation and shall not be entitled to vote at any such meetings, except as provided for in the Act or in these Articles.

3.2 Consent

The Corporation may not, before the date that is 31 days after the release of the statement of Adjusted Earnings for the 2012 Financial Year pursuant to the Conversion Agreement, declare or pay an Extraordinary Dividend or Distribution or enter into any agreement to support or implement a Liquidity Event or a take-over bid for the Class A Shares without the prior written approval of the holders of a majority of the issued and outstanding Class C Shares.

3.3 Dividends and Distributions

- (1) Subject to Section 3.5, the holders of Class C Shares shall not be entitled to receive, out of monies, assets or property of the Corporation properly applicable to the payment of dividends or distributions, any dividends or distributions on the Class C Shares.
- (2) Notwithstanding the foregoing, if in any financial year of the Corporation the Corporation declares or pays an Extraordinary Dividend or Distribution on the Class A Shares, then, without limitation to the restriction on Extraordinary Dividends or Distributions in Section 3.2, the Corporation may (but shall not be required to) declare and pay a dividend or distribution, as the case may be, on the Class C Shares in an amount per Class C Share equal the amount of such Extraordinary Dividend or Distribution per Class A Share.

3.4 **Restriction of Issuance**

Notwithstanding the unlimited number of authorized Class C Shares, no more than 611,000 Class C Shares may be issued by the Corporation other than pursuant to Section 4.2 or upon the prior written consent of at least 66 $\frac{2}{3}$ % of the holders of issued and outstanding Class C Shares.

3.5 **Liquidation, Dissolution or Winding-up**

Subject to the rights, privileges, restrictions and conditions attaching to the shares of the Corporation ranking prior to the Class C Shares, upon liquidation, dissolution or winding-up of the Corporation or other distribution of the Corporation's assets among its shareholders for the purpose of winding-up its affairs, the holders of the Class C Shares shall be entitled to receive, before any distribution of any part of the assets of the Corporation among the holders of any other shares, an amount of \$0.000001 per Class C Share (the "**Class C Liquidation Preference**"). The aggregate amount of the Class C Liquidation Preference to be paid to each holder of Class C Shares for all of its Class C Shares shall be rounded up to the nearest whole cent.

3.6 **Optional Conversion**

- (1) A holder of Class C Shares may elect, at any time permitted in the Conversion Agreement, to convert the number of issued and outstanding Class C Shares determined in the Conversion Agreement into fully paid and non-assessable Class A Shares on a one-for-one basis.
- (2) To exercise such conversion right, a holder or its attorney duly authorized in writing shall:
 - (a) give a Notice of Conversion to the Transfer Agent of the exercise of such right specifying the number of Class C Shares in respect of which the right is being exercised;
 - (b) deliver to the Transfer Agent the share certificate or certificates representing the Class C Shares in respect of which the right is being exercised; and
 - (c) pay any withholding tax imposed by law on such holder in respect of such conversion.
- (3) Upon due exercise of such conversion right in respect of Class C Shares, a holder shall be entitled to have issued for its benefit a share certificate representing such number of fully-paid Class A Shares into which such Class C Shares were converted pursuant to this Section 3.6. The Transfer Agent shall deliver to the holders entitled thereto share certificates representing the Class A Shares resulting from the conversion of the Class C Shares. The Corporation shall make all

arrangements with the Transfer Agent necessary or desirable to give full and complete effect to the foregoing within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class C Shares to be converted. The persons entitled to receive the Class A Shares issuable upon a conversion of Class C Shares shall be treated for all purposes as the record holders of such Class A Shares on the date of delivery to the Transfer Agent of the share certificate or certificates representing the Class C Shares being converted.

- (4) If the conversion right is exercised in respect of less than all of the Class C Shares represented by any share certificate, then the Corporation shall issue, or cause to be issued, a new share certificate representing the number of Class C Shares in respect of which the conversion right is not being exercised within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class C Shares being converted.

3.7 Automatic Conversion - Termination of Employment

- (1) If all of the issued and outstanding Class B Shares are automatically converted into Class A Shares pursuant to Section 2.8, then simultaneously all of the issued and outstanding Class C Shares on the date of such automatic conversion shall be automatically converted into Class B Shares on a one-for-one basis, without any requirement of prior notice or election.
- (2) Promptly after such automatic conversion, each holder of the Class C Shares which were so converted shall:
 - (a) give written notice to the Corporation and the Transfer Agent of the occurrence of such automatic conversion and of the number of Class C Shares so converted;
 - (b) deliver to the Transfer Agent the share certificate or certificates representing the Class C Shares in respect of which the right is being exercised; and
 - (c) pay any governmental or other tax imposed on or in respect of such conversion.
- (3) Upon the occurrence of such automatic conversion in respect of Class C Shares, a holder shall be entitled to have issued for its benefit a share certificate representing such number of fully-paid Class B Shares into which such Class C Shares were converted pursuant to this Section 3.7. The Transfer Agent shall deliver to the holders entitled thereto share certificates representing the Class B Shares resulting from the conversion of the Class C Shares. The Corporation shall make all arrangements with the Transfer Agent necessary or desirable to give full and complete effect to the foregoing within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class C Shares to be

converted. The persons entitled to receive the Class B Shares issuable upon a conversion of Class C Shares shall be treated for all purposes as the record holders of such Class B Shares on the date of delivery to the Transfer Agent of the share certificate or certificates representing the Class C Shares being converted.

3.8 Mandatory Redemption

- (1) If after the release of the statement of Adjusted Earnings of the Corporation pursuant to the Conversion Agreement for:

- (a) the 2012 Financial Year, the Adjusted Earnings of the Corporation for such year are less than 60% of the Adjusted Earnings Target for such year, and any issued and outstanding Class C Shares cannot be converted by the holders of such Class C Shares into Class A Shares in accordance with the Conversion Agreement; or
- (b) the 2014 Financial Year, any issued and outstanding Class C Shares cannot be converted by the holders of such Class C Shares into Class A Shares in accordance with the Conversion Agreement,

(any such Class C Shares which cannot be converted being the "**Class C Legacy Shares**"), then, subject to any restrictions on redemption of shares by the Corporation in the Act or any other applicable law, the Corporation shall redeem all of the outstanding Class C Legacy Shares on payment to the holders of such shares of \$0.000001 for each Class C Legacy Share to be redeemed.

- (2) Before redeeming any Class C Legacy Shares, the Corporation shall mail to each person who, at the date of such mailing, is a registered holder of Class C Legacy Shares, notice of the intention of the Corporation to redeem such shares held by such registered holder. Such notice shall be mailed by ordinary prepaid post addressed to the last address of such holder as it appears on the records of the Corporation or, in the event of the address of any such holder not appearing on the records of the Corporation, then to the last known address of such holder, at least 10 days before the date specified for redemption. Such notice shall set out the date on which redemption is to take place and the address at which the certificates for the Class C Legacy Shares are to be presented in exchange for the redemption price.
- (3) On or after the date specified for redemption, the Corporation shall pay or cause to be paid the redemption price to the registered holders of the Class C Legacy Shares, on presentation and surrender of the certificates for the Class C Legacy Shares at the address specified in the notice of redemption, and the certificates for such Class C Legacy Shares shall thereupon be cancelled, and the Class C Legacy Shares represented by such certificates shall thereupon be redeemed. On or before the date specified for redemption, the Corporation shall have the right to deposit the redemption price of Class C Legacy Shares in a special account with any

chartered bank or trust company in Canada named in the notice of redemption, such redemption price to be paid to or to the order of the respective holders of such Class C Legacy Shares upon presentation and surrender of the certificates representing such shares. Upon such deposit being made, the Class C Legacy Shares shall be redeemed and the rights of the holders of such Class C Legacy Shares after such deposit shall be limited to receiving, out of the moneys so deposited, without interest, the redemption price applicable to their respective shares against presentation and surrender of the certificates representing such shares.

- (4) As of the date specified for redemption in such notice, the holders of the Class C Legacy Shares shall cease to be entitled to any rights in respect of such shares, except to receive the redemption price, unless payment of the redemption price shall not be made in accordance with Section 3.7(3), in which case the rights of the holders of such shares shall remain unimpaired until payment of the redemption price is made or made payable in accordance with these Articles.
- (5) The aggregate redemption price to be paid to each holder of Class C Legacy Shares for all of its Class C Legacy Shares shall be rounded up to the nearest whole cent.

4. GENERAL

The Class A Shares, Class B Shares and Class C Shares shall have attached thereto the following rights, privileges, restrictions and conditions in addition to those set forth in Articles 1, 2 and 3:

4.1 Forced Conversion - Liquidity Event

- (1) If the holders of Class C Shares do not consent pursuant to Section 3.2 to the Corporation entering into a Liquidity Event after delivery of a request for such consent in writing by the Corporation, or fail to respond to such a written request for consent within 15 days of the delivery of such request to the holders of Class C Shares, then the Corporation may elect, by written notice (a "**Notice of Forced Conversion**") to the holders of all of the issued and outstanding Class B Shares and Class C Shares, to cause the conversion of all of the issued and outstanding Class B Shares and Class C Shares into Class A Shares, on a one-for-one basis prior to the date of such Liquidity Event specified in the Notice of Forced Conversion.
- (2) Promptly after such forced conversion, each holder of the Class B Shares and each holder of the Class C Shares which were so converted shall deliver to the Transfer Agent the share certificate or certificates representing the Class B Shares and Class C Shares, as the case may be, being so converted.
- (3) Upon the occurrence of such forced conversion in respect of Class B Shares and Class C Shares, a holder shall have issued for its benefit a share certificate representing such number of fully-paid Class A Shares into which such Class B

Shares and Class C Shares were converted pursuant to this Section 4.1. The Transfer Agent shall deliver to the holders entitled thereto share certificates representing the Class A Shares resulting from the conversion of the Class B Shares and Class C Shares, as the case may be. The Corporation shall make all arrangements with the Transfer Agent necessary or desirable to give full and complete effect to the foregoing within three days of delivery to the Transfer Agent of the share certificate or certificates representing the Class B Shares and Class C Shares so converted. The persons entitled to receive the Class A Shares issuable upon a conversion of Class B Shares and Class C Shares shall be treated for all purposes as the record holders of such Class A Shares on the date the Corporation specified in the Notice of Forced Conversion (but no later than the record date established for any meeting at which the Liquidity Event is to be submitted to the shareholders for approval).

- (4) If any agreement setting forth the terms of the Liquidity Event is terminated and/or the Liquidity Event otherwise does not close by the date anticipated or such later date as agreed to by the persons involved therein, (in each case, the "**Specified Date**"), then the Corporation may elect by written notice (a "**Notice of Forced Re-Conversion**") given to the former holders of Class B Shares and Class C Shares whose shares were so converted into Class A Shares ("**Converted Class A Shares**") pursuant to this Section 4.1, no later than five days after the Specified Date, to cause the re-conversion of such Converted Class A Shares held by such the former holders of Class B Shares and Class C Shares into Class B Shares or Class C Shares, respectively, on a one-for one basis.
- (5) Promptly after delivery of such Notice of Forced Re-Conversion, each holder of Converted Class A Shares shall deliver to the Transfer Agent the share certificate or certificates representing the Converted Class A Shares.
- (6) Upon the occurrence of such re-conversion in respect of Converted Class A Shares, a holder shall be entitled to have issued for its benefit a share certificate representing such number of fully-paid Class B Shares or Class C Shares, as the case may be, into which such Converted Class A Shares were converted pursuant to this Section 4.1. The Corporation shall deliver to the holders entitled thereto share certificates representing the Class B Shares or Class C Shares, as the case may be, resulting from the conversion of the Converted Class A Shares. The Corporation shall give full and complete effect to the foregoing within three days of delivery to it of the share certificate or certificates representing the Converted Class A Shares. The persons entitled to receive the Class B Shares or Class C Shares, as the case may be, issuable upon a conversion of Converted Class A Shares shall be treated for all purposes as the record holders of such Class B Shares or Class C Shares, as the case may be, on the date of delivery of the Notice of Forced Re-Conversion.

4.2 Anti-Dilution Adjustments

- (1) If and whenever at any time and from time to time the Corporation shall:
- (a) subdivide, re-divide or change its then outstanding Class A Shares into a greater number of Class A Shares;
 - (b) reduce, combine or consolidate or change its then outstanding Class A Shares into a lesser number of Class A Shares; or
 - (c) issue Class A Shares (or securities convertible into Class A Shares or exchangeable for such shares) to the holders of all or substantially all of its then outstanding Class A Shares by way of a stock dividend or other distribution,

(any of such events being hereinafter called a "**Class A Share Reorganization**"), then the number of issued and outstanding Class B Shares and the number of issued and outstanding Class C Shares shall simultaneously be adjusted by multiplying each of them by a fraction, of which:

- (i) the numerator shall be the total number of Class A Shares outstanding after the completion of such Class A Share Reorganization (but before giving effect to the issue of any Class A Shares issued after the record date for such Class A Share Reorganization otherwise than as part of such Class A Share Reorganization), including, in the case where securities exchangeable or convertible into Class A Shares are distributed, the number of Class A Shares that would have been outstanding had such securities been fully exchanged for or converted into Class A Shares on such record date (whether or not such securities are then fully exchangeable or convertible); and
 - (ii) the denominator shall be the total number of Class A Shares outstanding on such record date before giving effect to the Class A Share Reorganization.
- (d) Such adjustment shall be made successively whenever any event referred to in this Section 4.2 shall occur. In addition, the numbers of Class B Shares and Class C Shares, the redemption price of Class B Legacy Shares and Class C Legacy Shares and the Class C Liquidation Preference specified in these Articles shall simultaneously be deemed to have been adjusted in the same manner without the necessity of filing Articles of Amendment, including the numbers, prices and preferences specified in Sections 2.1(3), 2.3, 2.9, 3.4, 3.5 and 3.8.

- (2) If and whenever there is a capital reorganization of the Corporation not otherwise provided for in Section 4.2(1) or a consolidation, merger, arrangement or amalgamation (other than a short-form amalgamation with a wholly-owned subsidiary of the Corporation) of the Corporation with or into another body corporate (any such event being called a "**Capital Reorganization**"), all holders of Class B Shares and Class C Shares who have not exercised their right of conversion prior to the record date for such Capital Reorganization shall be entitled to receive and shall accept, upon the exercise of such right at any time after the record date for such Capital Reorganization, in lieu of the number of Class A Shares to which it was theretofore entitled upon conversion, the amount of cash or other property or the aggregate number of shares or other securities of the Corporation or of the corporation or body corporate resulting, surviving or continuing from the Capital Reorganization that such holder would have been entitled to receive as a result of such Capital Reorganization if, on the record date, such holder had been the registered holder of the number of Class A Shares to which it was entitled upon conversion (assuming for such purpose that all of the Class B Shares and the Class C Shares were fully convertible on such date), subject to adjustment thereafter in accordance with Section 4.2(1). No such Capital Reorganization shall be carried into effect unless all necessary steps shall have been taken so that the holders of Class B Shares and Class C Shares shall thereafter be entitled to receive such cash or other property, or the number of shares or other securities of the Corporation or of the corporation or body corporate resulting, surviving or continuing from the Capital Reorganization.
- (3) Upon the occurrence of each adjustment or readjustment of set forth in Section 4.2(1) or 4.2(2) above, the Corporation shall promptly compute such adjustment or readjustment in accordance with the terms hereof and furnish to each registered holder of Class B Shares and Class C Shares a certificate setting forth such adjustment and readjustment and showing in detail the facts upon which such adjustment or readjustment is based. The Corporation shall, upon the written request at any time of any registered holder of Class B Shares or Class C Shares, furnish or cause to be furnished to such registered holder a similar certificate setting forth (i) such adjustments and readjustments, and (ii) the number of Class A Shares or, as the case may be, other securities or property which then would be received upon the conversion of the Class B Shares and Class C Shares.
- (4) If the Corporation intends to fix a record date for any Class A Share Reorganization or Capital Reorganization, then the Corporation shall, not less than 15 days prior to such record date, notify each holder of Class B Shares and Class C Shares of such intention by written notice setting forth the particulars of such Class A Share Reorganization or Capital Reorganization in reasonable detail. The holders of Class B Shares and Class C Shares may waive the giving of any such notice by delivering to the Corporation a written notice to this effect.

- (5) In the event of a dispute regarding an adjustment or failure to make an adjustment pursuant to this Section 4.2, such dispute shall be referred to an independent auditor that is a member in good standing of the Canadian Public Accountability Board (or if the Canadian Public Accountability Board does not then exist, then the closest equivalent entity at such time) and the finding of such auditor shall be binding upon the Corporation and the holders of Class B Shares and Class C Shares. Alternatively, if the Corporation and the holders of at least 66 $\frac{2}{3}$ % of the outstanding Class B Shares and of at least 66 $\frac{2}{3}$ % of the Class C Shares agree, such dispute may be settled by the dispute resolution mechanism in the Conversion Agreement.

4.3 Special Approvals

In addition to any approval of shareholders required by the Act, the Corporation shall not amend its Articles (whether by merger, consolidation, amalgamation, reorganization, arrangement or otherwise) in a manner that would adversely affect the rights, privileges, restrictions or conditions of the Class B Shares or the Class C Shares, without the written consent of the holders of at least 66 $\frac{2}{3}$ % of the outstanding Class B Shares or Class C Shares, as the case may be.

4.4 No Fractional Shares

No fractional Class A Shares shall be issued upon any conversion of Class B Shares or Class C Shares. In lieu of any fractional shares to which the holder would otherwise be entitled, the Corporation shall pay cash to the holder in an amount (calculated to the nearest cent) equal to the appropriate fraction multiplied by the weighted average price of the Class A Shares applicable on the date of conversion and the fractional interest shall be deemed to have been purchased by the Corporation. For the purposes of these Articles, the "weighted average price of the Class A Shares applicable on the date of conversion" shall be determined by dividing (i) the aggregate dollar trading value of all Class A Shares sold on The Toronto Stock Exchange (or, if the Class A Shares do not then trade on The Toronto Stock Exchange, then on any similar exchange for publically traded securities on which the Class A Shares are then traded) over the five consecutive trading days ending on the third trading day next preceding the date of conversion by (ii) the total number of Class A Shares sold on such stock exchange during such period.

5. INTERPRETATION

5.1 Definitions

For purposes of this Schedule "A", the following terms have the following meanings:

- (1) "**Act**" means the *Business Corporations Act* (Ontario), as amended.

- (2) **"Adjusted Earnings "** means the adjusted earnings of the Corporation as defined in the Conversion Agreement, as the same may be amended from time-to-time pursuant to the terms of the Conversion Agreement.
- (3) **"Adjusted Earnings Target"** means the earnings targets of the Corporation established in the Conversion Agreement, as the same may be amended from time-to-time pursuant to the terms of the Conversion Agreement.
- (4) **"Conversion Agreement"** means the share conversion agreement dated on or about the date of these Articles between the Corporation and Prime Restaurants Holdings Inc. with respect to, among other matters, certain conditions upon which Class B Shares and Class C Shares may be converted into Class A Shares, as such agreement may be amended from time to time.
- (5) **"Eligible Financial Year"** means each of:
 - (a) the approximately 12-month financial year of the Corporation to end on or about January 2, 2011 (the **"2010 Financial Year"**);
 - (b) the approximately 12-month financial year of the Corporation to end on or about January 1, 2012 (the **"2011 Financial Year"**);
 - (c) the approximately 12-month financial year of the Corporation to end on or about January 6, 2013 (the **"2012 Financial Year"**);
 - (d) the approximately 12-month financial year of the Corporation to end on or about January 5, 2014 (the **"2013 Financial Year"**); and
 - (e) the approximately 12-month financial year of the Corporation to end on or about January 4, 2015 (the **"2014 Financial Year"**),

the whole being established on the basis that the financial year end of the Corporation shall be on the first Sunday of January in each year. If the financial year end of the Corporation is other than the first Sunday of January in each year, then the each Eligible Financial Year shall be deemed to be adjusted to match the applicable approximately 12-month financial year of the Corporation.

- (6) **"Extraordinary Dividend or Distribution"** means:
 - (a) dividends paid on the Class A Shares in any financial year of the Corporation, whether in (x) cash, (y) shares of the Corporation, or (y) rights, options or warrants to purchase any shares, property or other assets of the Corporation (but excluding rights, options or warrants for which adjustments are made under Section 4.2), in each case to the extent that the amount or value of such dividends paid in such financial year in the aggregate exceeds \$1.12 per Class A Share.

- (b) any dividend declared and paid by the Corporation on the Class A Shares which the directors of the Corporation declare to be an extraordinary or special dividend.

If a financial year of the Corporation used as a reference in this definition is less than 12-months, then the amount used as a reference shall be adjusted to be the equivalent of what such amount would have been had the reference year been a 12-month financial year.

- (7) "**Notice of Conversion**" means a notice executed by a holder of Class B Shares or Class C Shares to be converted and by the Corporation to be delivered to the Corporation and the Transfer Agent, substantially in the form of Schedule "A" or a French-language version thereof.
- (8) "**Permitted Transferee**" means any person to whom a holder of Class B Shares or Class C Shares is permitted to transfer such shares pursuant to the Conversion Agreement.
- (9) "**person**" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted.
- (10) "**Transfer Agent**" means the transfer agent in respect of the Class A Shares.

5.2 Undefined Terms

All terms used in these Articles that are not defined in these Articles but are defined in the Act have the meanings ascribed thereto in the Act. Any provision of these Articles that may be read in a manner that is inconsistent with the Act shall be read so as to be consistent therewith.

5.3 Pro Rata

If less than all of Class B Shares or Class C Shares are to be converted or redeemed pursuant to these Articles and there is more than one registered holder of such class of shares, then each registered holder of such class of shares shall be entitled to, or required to, as the case may be, convert or redeem its class of shares *pro rata* with each other holder of such class of shares. Each holder's *pro rata* share of the Class B Shares or Class C Shares, as the case may be, to be converted or redeemed shall be equal to the proportion that the number of all shares of such class held by such holder at such time is to the aggregate of all shares of such class held by all holders at such time.

5.4 Calculation of Periods

Whenever payments are to be made, an action is to be taken or a notice is to be given in these Articles on or by a day which is not a Business Day, such payment shall be made, such action shall be taken or notice given on or not later than the next succeeding Business Day. "**Business Day**" means a day other than a Saturday, Sunday or a day on which the major commercial banks are not open for business in Toronto, Ontario. The word "day" in these Articles means a clear day and a period of days shall be deemed to commence the day following the event that began the period and shall be deemed to terminate at midnight of the last day of the period except that if the last day of the period falls on a day other than a Business Day, then the period shall terminate at midnight of the day next following that is a Business Day.

5.5 Quorum

Notwithstanding anything to the contrary in the by-laws of the Corporation, a quorum of directors of the Corporation for the transaction of business shall be (i) a majority of the number of directors in office at the time, and (ii) until the Class B Nominated Director Termination Date, a majority of directors other than Class B Nominated Directors.

SCHEDULE A
Notice of Conversion

TO: The Transfer Agent of the Class A Limited Voting Shares of Prime Restaurants Inc.
(the "**Corporation**")

This notice is given pursuant to _____ of the Articles of the Corporation **[and _____ of the Conversion Agreement (as defined in the Articles)]**. All capitalized words and expressions used in this notice which are defined in the Articles have the meaning attributed to such words and expressions in such Articles.

The undersigned holder of Class B Shares/Class C Shares hereby notifies the Transfer Agent that it is converting _____ Class B Shares/Class C Shares into Class A shares on a **[one-for-one] [one Class B Share for 0.8 Class A Shares] [one Class B Share-for-0.6 Class A Shares] [one Class A Share-for-0.5 Class A Shares]** basis, effective at the time set forth in the Articles:

_____ (Date)	_____ (Signature of Shareholder)	_____ (Guarantee of Signature)
-----------------	-------------------------------------	-----------------------------------

Acknowledged and confirmed as of
_____, _____

PRIME RESTAURANTS INC.

Per: _____
Name:
Title:

- ☐ Please check box if the Class A Shares resulting from the conversion referred to herein are to be held for pick-up by the shareholder at the principal executive offices of the Corporation or at such other reasonable place as may be specified by the Board of Directors by notice to the holders of such shares, failing which the Class A Shares will be delivered to the shareholder in accordance with the Articles of the Corporation.

Name of person in whose name Class A Shares
are to be registered, issued or delivered
(PLEASE PRINT)

Street Address or P.O. Box

City, Province and Postal Code

Signature of Shareholder

Signature guaranteed by

SCHEDULE “C” TO COMBINATION AGREEMENT

SHARE CONVERSION AGREEMENT

BETWEEN

PRIME RESTAURANTS INC.

- and -

PRIME RESTAURANT HOLDINGS INC.

●, 2010

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CONVERSION AGREEMENT

THIS AGREEMENT is dated ●, 2010

BETWEEN:

PRIME RESTAURANTS INC., a corporation amalgamated under the laws of Ontario

(the "**Corporation**")

- and -

PRIME RESTAURANTS HOLDINGS INC., a corporation incorporated under the laws of Ontario

("PRH")

(collectively, the "**Parties**").

WHEREAS the authorized capital of the Corporation consists of an unlimited number of Class A Shares, an unlimited number of Class B Shares and an unlimited number of Class C Shares;

AND WHEREAS PRH is the registered and beneficial owner of 436,428 Class A Shares and all of the issued and outstanding Class B Shares and Class C Shares;

AND WHEREAS the Articles of Incorporation of the Corporation (the "**Articles**") provide for, among other matters, the conversion of Class B Shares into Class A Shares and the conversion of Class C Shares into Class A Shares in certain circumstances at the option of the holders of the Class B Shares and Class C Shares, respectively;

AND WHEREAS the Parties wish to establish the conditions upon which the holders of Class B Shares and Class C Shares may elect to convert such Shares into Class A Shares in certain circumstances;

AND WHEREAS the Parties also wish to establish certain rights and obligations arising out of or in connection with the ownership of the Shares;

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties agree as follows:

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, including the Recitals hereto, the following words and terms have the meanings set out below.

- 1.1.1 **"2010 Financial Year", "2011 Financial Year", "2012 Financial Year", "2013 Financial Year" and "2014 Financial Year"** each have the meanings set forth in the Articles.
- 1.1.2 **"Act"** means the *Business Corporations Act* (Ontario) and the regulations thereto, as now in effect and as it may be amended from time to time.
- 1.1.3 **"Adjusted Earnings"** means consolidated earnings before interest (as income or expense), income taxes, depreciation and amortization, but excluding:
 - (a) losses on disposals of Restaurants. For greater certainty, any amounts paid by the Corporation or any of its subsidiaries to landlords to terminate or amend a lease for a Restaurant shall not be considered a loss on disposal;
 - (b) gains on disposals of Restaurants except that the aggregate amount of operating losses incurred by the Restaurants in question during the period from January 3, 2010 to the date of disposition shall be added to and shall increase Adjusted Earnings for the year during which the disposition occurs up to the amount of the gains in question;
 - (c) any write-down or write-up of the book value of the Corporation's Restaurant assets;
 - (d) public company costs, including without limitation, directors' and officers' insurance, listing fees for listing securities on a stock exchange, fees payable to securities commissions, fees and expenses of the Transfer Agent, legal, printing and translation expenses associated with the continuous and periodic disclosure obligations of the Corporation, directors' fees and expense reimbursements, fees associated with any take-over bid, issuer bid or issuance of shares by prospectus or prospectus exemption, costs of preparing Adjusted Earnings Statements, fees of the Corporation's auditors in connection with the review of the Corporation's financial statements and other services to the extent associated with the Corporation being a reporting issuer;
 - (e) costs incurred by the Corporation, its predecessors and Prime Restaurants Royalty Income Fund in connection with the transactions set forth in the Plan of Arrangement;

- (f) any bonuses and other incentive compensation charges for employees of the Corporation (other than Mr. John A. Rothschild or Mr. Nick Perpick) approved by the board of directors of the Corporation;
 - (g) any severance costs (whether paid in a lump sum or over a period of time) relating to employment termination of senior management (director of a department or higher) approved by the board of directors of the Corporation; and
 - (h) professional fees and associated costs of the Corporation in connection with any dispute between the Corporation and holders of Class B Shares and/or Class C Shares with respect to the interpretation or application of this Agreement or the Articles.
- 1.1.4 **"Adjusted Earnings Statement"** means the statement of Adjusted Earnings for each Eligible Financial Year to be delivered by the auditors of the Corporation (or the Corporation if such auditors refuse to deliver such statement) concurrently with, or promptly after, the delivery of the audited financial statements of the Corporation for such Eligible Financial Year, provided, however, that if the PRH Representative disputes the calculation of Adjusted Earnings, the **"Adjusted Earnings Statement"** shall mean the statement of Adjusted Earnings agreed to by the PRH Representative and the Corporation pursuant to Section 5.3 or declared by an arbitrator pursuant to Article 9.
- 1.1.5 **"Adjusted Earnings Target"** means:
- (a) for the 2010 Financial Year, \$7,299,289;
 - (b) for the 2011 Financial Year, \$10,302,333;
 - (c) for the 2012 Financial Year, \$13,569,307;
 - (d) for the 2013 Financial Year, the greater of the amount determined by the board of directors of the Corporation and the Adjusted Earnings Target for the 2012 Financial Year;
 - (e) for the 2014 Financial Year, the greater of the amount determined by the board of directors of the Corporation and the Adjusted Earnings Target for the 2012 Financial Year.
- 1.1.6 **"Agreement"** means this Share Conversion Agreement and all the instruments in amendment or confirmation of it, and the expressions **"Article"** and **"Section"** followed by a number mean and refer to the specified Article or Section of this Agreement.
- 1.1.7 **"Articles"** has the meaning set out in the Recitals.
- 1.1.8 **"Arbitration Act"** means the *Arbitration Act, 1991* (Ontario).

- 1.1.9 "**Business Day**" means any day, other than Saturday, Sunday or any statutory holiday, where banks are generally open in Toronto, Ontario, for the transaction of banking business.
- 1.1.10 "**Class A Shares**" means the Class A Limited Voting Shares of the Corporation.
- 1.1.11 "**Class A Share Reorganization**" has the meaning set forth in the Articles.
- 1.1.12 "**Class B Conversion Number**" has the meaning set out at Section 3.1.2.
- 1.1.13 "**Class B Legacy Shares**" has the meaning set forth in the Articles.
- 1.1.14 "**Class B Nominated Directors**" has the meaning set forth in the Articles.
- 1.1.15 "**Class B Shares**" means the Class B Shares of the Corporation.
- 1.1.16 "**Class C Conversion Number**" has the meaning set out in Section 3.2.2.
- 1.1.17 "**Class C Legacy Shares**" has the meaning set forth in the Articles.
- 1.1.18 "**Class C Liquidation Preference**" has the meaning set forth in the Articles.
- 1.1.19 "**Class C Shares**" means the Class C Shares of the Corporation.
- 1.1.20 "**Disputes**" has the meaning set out in Section 9.1.
- 1.1.21 "**Eligible Financial Year**" has the meaning set forth in the Articles.
- 1.1.22 "**Extraordinary Dividend or Distribution**" has the meaning set forth in the Articles.
- 1.1.23 "**Liquidity Event**" has the meaning set forth in the Articles.
- 1.1.24 "**Notice of Conversion**" has the meaning set forth in the Articles.
- 1.1.25 "**Parties**" has the meaning set out in the Recitals.
- 1.1.26 "**Percentage Earnings**" means, in respect of any Eligible Financial Year, the percent which the Adjusted Earnings for that Eligible Financial Year is to the Adjusted Earnings Target for such Eligible Financial Year, expressed as a decimal.
- 1.1.27 "**Permitted Transferee**" has the meaning set out in Section 7.1.3.
- 1.1.28 "**person**" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted.

- 1.1.29 **"Plan of Arrangement"** means the arrangement establishing the Corporation under Section 182 of the Act on the terms and subject to the conditions set out therein, subject to any amendments or variations thereto.
- 1.1.30 **"PRH Representative"** means initially Mr. John A. Rothschild. If Mr. John A. Rothschild is unable or unwilling to act as such, then the PRH Representative shall be such individual as is appointed by the holders of a majority of Class B Shares and Class C Shares voting together as if a single class, and for which written notice is given to the Corporation.
- 1.1.31 **"Prime Restaurants Royalty Income Fund"** means a trust established under the laws of Ontario pursuant to the declaration of trust dated May 28, 2002, as further amended, supplemented or restated from time to time.
- 1.1.32 **"PRC"** means Prime Restaurants of Canada Inc. and includes its successors.
- 1.1.33 **"PRH"** has the meaning set out in the Recitals, and includes its successors.
- 1.1.34 **"Restaurants"** includes restaurants, pubs, and other facilities selling food and beverage products intended for point-of-sale consumption.
- 1.1.35 **"Transfer Agent"** means the transfer agent in respect of the Class A Shares.
- 1.1.36 **"Shares"** means shares in the capital of the Corporation.

1.2 Headings and Table of Contents

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

1.3 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing gender include all genders or the neuter, and words importing the neuter include all genders.

1.4 Currency

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian currency.

1.5 GAAP

Adjusted Earnings and Adjusted Earnings Targets shall be calculated in accordance with generally accepted accounting principles in Canada as recommended in the Handbook of the Canadian Institute of Chartered Accountants, and in a manner consistent with such accounting principles used by PRC, for its financial year ended January 3, 2010 ("**Prime GAAP**"). If the Corporation uses accounting principles other than Prime GAAP to prepare its financial statements, then either (i) the Chair of the Corporation's Audit Committee and the PRH

Representative shall attempt to agree to adjustments to the amounts in this Agreement as Adjusted Earnings and Adjusted Earnings Targets or (ii) failing such agreement within 60 days of the first discussions between such persons, or such longer period as such persons may agree in writing, the Corporation shall instruct its auditors to prepare the Adjusted Earnings Statement in accordance with Prime GAAP at the cost of the Corporation.

1.6 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. To the extent permitted by applicable law, the Parties waive any provision of law which renders any provision of this Agreement invalid or unenforceable in any respect. The Parties shall engage in good faith negotiations to replace any provision which is declared invalid or unenforceable with a valid and enforceable provision, the economic effect of which comes as close as possible to that of the invalid or unenforceable provision which it replaces.

1.7 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement. There are no warranties, conditions or representations (including any that may be implied by statute) and there are no agreements in connection with such subject matter except as specifically set forth or referred to in this Agreement. No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into this Agreement, or any amendment or supplement thereto, by any Party or its directors, officers, employees or agents, to any Party or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of this Agreement, and none of the Parties has been induced to enter into this Agreement or any amendment or supplement by reason of any such warranty, representation, opinion, advice or assertion of fact. Accordingly, there shall be no liability, either in tort or in contract, assessed in relation to any such warranty, representation, opinion, advice or assertion of fact, except to the extent contemplated above.

1.8 Waiver, Amendment

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

1.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Each Party accepts and hereby irrevocably and unconditionally consents to submit to the jurisdiction of the courts of the Province of Ontario and all courts of appeal therefrom for any actions, suits and proceedings occurring out of or relating to this Agreement and the transactions contemplated thereby and agrees not to

commence any action, suit or proceeding relating thereto except in such courts other than those matters agreed to be arbitrated hereunder.

1.10 Calculation of Periods

Whenever payments are to be made, an action is to be taken or a notice is to be given in this Agreement on or by a day which is not a Business Day, such payment shall be made, such action shall be taken or notice given on or not later than the next succeeding Business Day. The word "day" in this Agreement means a clear day and a period of days shall be deemed to commence the day following the event that began the period and shall be deemed to terminate at midnight of the last day of the period except that if the last day of the period falls on a day other than a Business Day, then the period shall terminate at midnight of the day next following that is a Business Day.

ARTICLE 2 NOTICE OF CONVERSION

2.1 Notice of Conversion

The Parties acknowledge that Section 2.5 and Section 3.6 the Articles provide for a conversion of Class B Shares and Class C Shares into Class A Shares upon delivery by the holders thereof to the Transfer Agent of a Notice of Conversion. Notwithstanding the Articles, PRH covenants in favour of the Corporation that it shall not deliver a Notice of Conversion or the Transfer Agent pursuant to Section 2.5 or Section 3.6 of the Articles except in the circumstances, and for the number of Shares, set forth in Article 3 or Article 4 of this Agreement, as such may be adjusted pursuant to this Agreement. The Corporation shall:

- 2.1.1 not convert Shares set forth in a proposed Notice of Conversion delivered pursuant to Section 2.5 or Section 3.6 of the Articles except as specifically required by the terms of this Agreement; and
- 2.1.2 execute a Notice of Conversion presented to it by a holder of Class B Shares and/or Class C Shares for the class and numbers of Shares permitted by this Agreement and/or the Articles.

ARTICLE 3 OPTIONAL CONVERSION – ADJUSTED EARNINGS

3.1 Conversion of Class B Shares

- 3.1.1 Any time after the Adjusted Earnings Statement is delivered to the PRH Representative in respect of an Eligible Financial Year, the applicable Class B Conversion Number of issued and outstanding Class B Shares shall be convertible, at the option of the holders thereof, into fully paid and non-assessable Class A Shares on a one-for-one basis.

3.1.2 For the purposes of this Agreement, the "**Class B Conversion Number**" for an Eligible Financial Year shall be calculated as follows (rounded up to the nearest whole share):

(a) if Adjusted Earnings for the 2010 Financial Year are:

- (i) less than 90% of the Adjusted Earnings Target for the 2010 Financial Year, then the Class B Conversion Number for the 2010 Financial Year shall be zero;
- (ii) equal to or greater than 90% of the Adjusted Earnings Target for the 2010 Financial Year, then the Class B Conversion Number for the 2010 Financial Year shall be 628,457;

(b) if Adjusted Earnings for the 2011 Financial Year are:

- (i) less than 75% of the Adjusted Earnings Target for the 2011 Financial Year, then the Class B Conversion Number for the 2011 Financial Year shall be zero;
- (ii) equal to or greater than 75% but less than 85% of the Adjusted Earnings Target for the 2011 Financial Year, then the Class B Conversion Number for the 2011 Financial Year shall be 125,691 plus:

$$\frac{A - 0.75}{0.10} \times (502,766 + 628,457 - B)$$

where:

A = Percentage Earnings for the 2011 Financial Year;

B = the number of Class B Shares that were converted and/or were fully convertible (but which the holders did not elect to convert) into Class A Shares for the 2010 Financial Year; and

- (iii) equal to or greater than 85% of the Adjusted Earnings Target for the 2011 Financial Year, then the Class B Conversion Number for the 2011 Financial Year shall be 628,457 plus 628,457 minus the number of Class B Shares that were converted and/or were fully convertible (but which the holders did not elect to convert) into Class A Shares for the 2010 Financial Year;

(c) if Adjusted Earnings for the 2012 Financial Year are:

- (i) less than 60% of the Adjusted Earnings Target for the 2012 Financial Year, then the Class B Conversion Number for the 2012 Financial Year shall be zero;
- (ii) equal to or greater than 60% but less than 80% of the Adjusted Earnings Target for the 2012 Financial Year, then the Class B Conversion Number for the 2012 Financial Year shall be 62,846 plus:

$$\frac{A - 0.60}{0.20} \times (251,383 + 628,457 - B + 628,457 - C)$$

where:

A = Percentage Earnings for the 2012 Financial Year;

B = the number of Class B Shares that were converted and/or were fully convertible (but which the holders did not elect to convert) into Class A Shares for the 2010 Financial Year;

C = the number of Class B Shares that were converted and/or were fully convertible (but which the holders did not elect to convert) into Class A Shares for the 2011 Financial Year; and

- (iii) equal to or greater than 80% of the Adjusted Earnings Target for the 2012 Financial Year, then the Class B Conversion Number for the 2012 Financial Year shall be the total number of issued and outstanding Class B Shares;
- (d) if there are any Class B Shares issued and outstanding at the end of the 2013 Financial Year that the holders were not entitled to convert prior thereto and Adjusted Earnings for the 2013 Financial Year are equal to or greater than 80% of the Adjusted Earnings Target for the 2013 Financial Year, then the Class B Conversion Number for the 2013 Financial Year shall be the total number of issued and outstanding Class B Shares; and
- (e) if there are any Class B Shares issued and outstanding at the end of the 2014 Financial Year that the holders were not entitled to convert prior thereto and Adjusted Earnings for the 2014 Financial Year are equal to or greater than 80% of the Adjusted Earnings Target for the 2014 Financial Year, then the Class B Conversion Number for the 2014 Financial Year shall be the total number of issued and outstanding Class B Shares.

3.1.3 By way of example, if (i) Adjusted Earnings for the 2012 Financial Year are 75% of the Adjusted Earnings Target for the 2012 Financial Year, (ii) 500,000 Class B Shares were converted for the 2010 Financial Year and (iii) 250,000 Class B

Shares were converted for the 2011 Financial Year, then the Class B Conversion Number for the 2012 Financial Year shall be 62,846 plus:

$$\frac{0.75 - 0.60}{0.20} \times (251,383 + 628,457 - 500,000 + 628,457 - 250,000)$$

being

$$\frac{0.15}{0.20} \times 758,297$$

being 568,723.

3.1.4 If Adjusted Earnings for the 2014 Financial Year are equal to or greater than 50% but less than 80% of the Adjusted Earnings Target for the 2014 Financial Year, then each holder of Class B Shares shall have the option to (i) maintain its Class B Shares in perpetuity (without any further right to convert into Class A Shares) or (ii) convert all of its remaining issued and outstanding Class B Shares into Class A Shares at the conversions ratios set forth below. If Adjusted Earnings for the 2014 Financial Year are:

- (a) equal to or greater than 70% but less than 80% of the Adjusted Earnings Target for the 2014 Financial Year, then the conversion ratio shall be 0.8 Class A Shares for each issued and outstanding Class B Share;
- (b) equal to or greater than 60% but less than 70% of the Adjusted Earnings Target for the 2014 Financial Year, then the conversion ratio shall be 0.6 Class A Shares for each issued and outstanding Class B Share; and
- (c) equal to or greater than 50% but less than 60% of the Adjusted Earnings Target for the 2014 Financial Year, then the conversion ratio shall be 0.5 Class A Shares for each issued and outstanding Class B Share.

Each holder of Class B Shares shall be entitled to exercise such option by Notice of Conversion given to the Transfer Agent no later than 30 days after delivery to it of the Adjusted Earnings Statement for the 2014 Financial Year, failing which such holder shall be deemed to have elected to maintain its Class B Shares in perpetuity (without any further right to convert into Class A Shares).

3.2 Conversion of Class C Shares

3.2.1 Any time after the Adjusted Earnings Statement is delivered to the PRH Representative in respect of an Eligible Financial Year, the applicable Class C Conversion Number of issued and outstanding Class C Shares shall be

convertible, at the option of the holders thereof, into fully paid and non-assessable Class A Shares on a one-for-one basis.

3.2.2 For the purposes of these Articles, the "**Class C Conversion Number**" for an Eligible Financial Year shall be calculated as follows (rounded up to a whole share):

- (a) if Adjusted Earnings for the 2010 Financial Year are:
 - (i) less than 90% of the Adjusted Earnings Target for the 2010 Financial Year, then the Class C Conversion Number for the 2010 Financial Year shall be zero;
 - (ii) equal to or greater than 90% of the Adjusted Earnings Target for the 2010 Financial Year, then the Class C Conversion Number for the 2010 Financial Year shall be 203,667;
- (b) if Adjusted Earnings for the 2011 Financial Year are:
 - (i) less than 85% of the Adjusted Earnings Target for the 2011 Financial Year, then the Class C Conversion Number for the 2011 Financial Year shall be zero;
 - (ii) equal to or greater than 85% of the Adjusted Earnings Target for the 2011 Financial Year, then the Class C Conversion Number for the 2011 Financial Year shall be 203,667 plus 203,667 minus the number of Class C Shares that were converted and/or were fully convertible (but which the holders did not elect to convert) into Class A Shares for the 2010 Financial Year;
- (c) if Adjusted Earnings for the 2012 Financial Year are:
 - (i) less than 80% of the Adjusted Earnings Target for the 2012 Financial Year, then the Class C Conversion Number for the 2012 Financial Year shall be zero;
 - (ii) equal to or greater than 80% of the Adjusted Earnings Target for the 2012 Financial Year, then the Class C Conversion Number for the 2012 Financial Year shall be the total number of issued and outstanding Class C Shares;
- (d) if Adjusted Earnings for the 2013 Financial Year are equal to or greater than 80% of the Adjusted Earnings Target for the 2013 Financial Year, then the Class C Conversion Number for the 2013 Financial Year shall be the total number of issued and outstanding Class C Shares; and
- (e) if Adjusted Earnings for the 2014 Financial Year are equal to or greater than 80% of the Adjusted Earnings Target for the 2014 Financial Year,

then the Class C Conversion Number for the 2014 Financial Year shall be the total number of issued and outstanding Class C Shares.

ARTICLE 4

CLASS C SHARE LIQUIDITY EVENT CONVERSION

4.1 Optional Right to Allow Class C Share Conversion

If the Corporation wishes to enter into or be subject to a Liquidity Event, the Corporation may, in its entire discretion, elect in writing issued to the holders of Class C Shares to allow such holders to convert all of their Class C Shares into Class A Shares in accordance with Section 3.6 of the Articles.

4.2 Notice of Grant of Right of Optional Conversion

Such notice shall:

- 4.2.1 require the approval of the directors of the Corporation at least a majority of whom are directors other than Class B Nominated Directors (or any other director who directly or indirectly owns Class C Shares), as evidenced by a resolution of the directors; and
- 4.2.2 be sent to the holders of Class C Shares and the Transfer Agent as soon as practicable prior to the closing of the Liquidity Event and, in any case, prior to the record date of any vote of the holders of Class A Shares on the Liquidity Event.

4.3 Clarification

For greater certainty, the right of the Corporation to grant such option to convert Class C Shares into Class A Shares shall be without prejudice to the right of:

- 4.3.1 the holders of Class C Shares to withhold their consent to a Liquidity Event in accordance with Section 3.2 of the Articles;
- 4.3.2 the Corporation to force a conversion of Class C Shares (and Class B Shares) into Class A Shares in accordance with Section 4.1 of the Articles; and
- 4.3.3 the holders of any such Class A Shares which were converted from Class C Shares to cast all of the votes attached to such Class A Shares with respect to such Liquidity Event as they in their entire discretion may decide.

ARTICLE 5

ADJUSTMENT TO EARNINGS TARGETS AND OTHER THRESHOLDS

5.1 Adjustment upon Material Change

- 5.1.1 If the Corporation enters into any transaction which could materially affect Adjusted Earnings on or prior to the end of the 2014 Financial Year, including without limitation:

- (a) the acquisition of a business with net assets or annual gross revenue greater than 20% of the net assets or annual gross revenue of the Corporation for its last financial year on a consolidated basis; or
- (b) the sale of assets with a net asset value of greater than 20% of the net assets of the Corporation (other than a Liquidity Event) as at the end of its last financial year at such time on a consolidated basis,

then, the Corporation and the PRH Representative shall negotiate in good faith what, if any, changes are appropriate to be made to this Agreement upon completion of such transaction, including without limitation the definitions of Adjusted Earnings and Adjusted Earnings Target.

5.2 Adjustment upon Class A Share Reorganization

- 5.2.1 If a Class A Share Reorganization occurs, then an adjustment shall simultaneously be deemed to have been made in the same manner as set forth in the Articles, and without the necessity of amending this Agreement, to the numbers of Class B Shares and Class C Shares, respectively, specified in this Agreement.
- 5.2.2 The Corporation shall, promptly after the occurrence of such Class A Share Reorganization, issue to the PRH Representative a certificate of the adjustments to this Agreement that were deemed to have been made as a result of such Class A Share Reorganization at the same time as it issues the certificate under Section 4.2(3) of the Articles.
- 5.2.3 The terms of Section 4.2(5) of the Articles with respect to the resolution of disputes with respect to adjustments as a result of Class A Share Reorganizations shall apply to any adjustments pursuant to this Section 5.2, *mutatis mutandis*.

5.3 Adjustment upon Agreement

- 5.3.1 The Corporation, by resolution approved by a majority of the directors other than the Class B Nominated Directors of the Corporation (or any other director who directly or indirectly owns Class B Shares or Class C Shares), and the PRH Representative may agree at any time and from time-to-time to modify the following defined terms:
 - (a) the Adjusted Earnings;
 - (b) the Adjusted Earnings Targets; and
 - (c) the Eligible Financial Year.
- 5.3.2 Any such adjustment shall be reflected by a written amendment to this Agreement.

ARTICLE 6

OTHER AGREEMENTS BETWEEN THE PARTIES

6.1 Management Slate of Directors

The holders of Class B Shares shall, at any meeting of shareholders of the Corporation held to elect or remove directors of the Corporation, vote any Class A Shares registered in their name in favour of the slate of directors (other than Class B Nominated Directors) proposed in writing by the board of directors of the Corporation for as long as the holders of Class B Shares are entitled to exclusively elect or remove at least one Class B Nominated Director pursuant to the Articles.

6.2 Mandatory Redemption of Class B Legacy Shares and Class C Legacy Shares

- 6.2.1 If the Corporation is prevented under the Act or applicable law from redeeming the Class B Legacy Shares and/or Class C Legacy Shares as set forth in Section 2.9(1) and Section 3.8(1) of the Articles, then holders of such Class B Legacy Shares and Class C Legacy Shares shall surrender such shares for cancellation to the Corporation as a gift without consideration immediately upon reception of written notice to such effect. The Corporation shall be entitled to treat such Class B Legacy Shares and/or Class C Legacy Shares as not issued or outstanding notwithstanding the failure of the holders thereof to surrender the same.
- 6.2.2 Such surrender by the holders of the Class B Legacy Shares and Class C Legacy Shares as a gift shall be deemed to satisfy performance of the Corporation's obligation of redemption pursuant to Section 2.9(1) and Section 3.8(1) of the Articles.

ARTICLE 7

TRANSFER RESTRICTIONS

7.1 Transfer Restrictions

- 7.1.1 No holder of Class B Shares or Class C Shares may transfer its Class B Shares or Class C Shares in whole or in part or any right, title or interest therein unless:
 - (a) such transfer is approved by the directors of the Corporation, at least a majority of whom are directors other than Class B Nominated Directors (or any other director who directly or indirectly owns Class B Shares or Class C Shares), as evidenced by a resolution of the directors; and
 - (b) as long as any Shares are listed for trading on The Toronto Stock Exchange, prior approval of The Toronto Stock Exchange is given.
- 7.1.2 Notwithstanding Section 7.1.1, a holder of Class B Shares or Class C Shares may transfer all or part of its Class B Shares or Class C Shares to:
 - (a) a Permitted Transferee upon:

- (i) prior written notice to the Secretary of the Corporation or, if there is no Secretary of the Corporation, to the Chair of the Board of Directors of the Corporation; and
 - (ii) the proposed Permitted Transferee delivering to the Corporation an instrument in writing executed by it confirming that it is bound by and shall perform all of the obligations of PRH under this Agreement and the Combination Agreement with respect to the Shares so transferred as if it were an original signatory, and accepting that the PRH Representative may make all decisions for it hereunder, under the Combination Agreement and under the Articles; or
- (b) in the case of the Class B Shares, an offeror pursuant to an Offer under Section 2.6 of the Articles.

7.1.3 For the purposes of this Agreement, a "**Permitted Transferee**" of a holder of Class B Shares and a holder of Class C Shares shall mean any one or more of:

- (a) Mr. John A. Rothschild (and his legal heirs);
- (b) Mr. Nick Perpick (and his legal heirs);
- (c) the spouse of either person in (a) or (b);
- (d) the natural born or legally adopted children of either person in (a) or (b);
- (e) a trust, the sole beneficiaries of which are persons specified in any one or more subsections of this definition; and
- (f) a body corporate or partnership, a majority of the equity securities or other ownership interests of which are owned persons specified in any one or more subsections of this definition.

ARTICLE 8

REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of the Corporation

The Corporation represents and warrants to PRH as follows, as at the date hereof, and acknowledges and confirms that PRH is relying upon such representations and warranties in connection with the execution of the Agreement.

8.1.1 Incorporation and Status

The Corporation is duly incorporated and validly existing under the laws of Ontario.

8.1.2 **Corporate Power and Due Authorization**

The Corporation has the corporate power and capacity to enter into, and to perform its obligations under, this Agreement. This Agreement has been duly authorized by the Corporation. This Agreement has been duly executed and delivered by the Corporation and is a valid and binding obligation of the Corporation, enforceable in accordance with its terms, subject to the usual exceptions as to bankruptcy and the availability of equitable remedies.

8.2 **Representations and Warranties of PRH**

PRH represents and warrants to the Corporation as follows, as at the date hereof, and acknowledges and confirms that the Corporation is relying upon such representations and warranties in connection with the execution of the Agreement.

8.2.1 **Incorporation and Status**

PRH is duly incorporated and validly existing under the laws of Ontario.

8.2.2 **Corporate Power and Due Authorization**

PRH has the corporate power and capacity to enter into, and to perform its obligations under, this Agreement. This Agreement has been duly authorized by PRH. This Agreement has been duly executed and delivered by PRH and is a valid and binding obligation of PRH, enforceable in accordance with its terms, subject to the usual exceptions as to bankruptcy and the availability of equitable remedies.

ARTICLE 9 DISPUTE RESOLUTION

9.1 **Arbitration Procedure**

All disputes between the Parties with respect to any matter under this Agreement, including adjustments under Section 5.1.1, ("**Disputes**") shall be determined by arbitration in accordance with the following provisions:

- 9.1.1 such dispute or difference shall be resolved by arbitration by a single arbitrator, if the Corporation and the PRH Representative can agree upon one arbitrator. If the Corporation and the PRH Representative cannot agree upon one arbitrator within fifteen (15) days of their first attempt to do so, then each of the Corporation and the PRH Representative shall appoint an arbitrator, and such two arbitrators shall appoint a third arbitrator, who shall then act as the sole arbitrator;
- 9.1.2 the Corporation and the PRH Representative shall be deemed to have failed to concur in appointing a single arbitrator if such an arbitrator shall not have been appointed within 15 clear days after the service by either the Corporation or the

PRH Representative upon the other of them of a notice requesting it to concur in the appointment of a single arbitrator;

- 9.1.3 if either the Corporation or the PRH Representative shall neglect or refuse to appoint an arbitrator for 15 clear days after the other of them, having appointed its arbitrator, shall have served whichever of the Corporation or the PRH Representative in default with a notice to make such appointment, then whichever has appointed its arbitrator shall be entitled to apply to a Justice of the Superior Court of Justice of Ontario to have him appoint an arbitrator for whichever of the Corporation or the PRH Representative is in default;
- 9.1.4 the resolution of Disputes pursuant to the terms of this subsection shall be final and binding upon the Parties, and there shall be no appeal therefrom, including, without limitation, any appeal to a court on a question of law, a question of fact, or a question of mixed fact and law;
- 9.1.5 all arbitration proceedings shall take place in Toronto, Ontario; and
- 9.1.6 except as herein modified, the provisions of the Arbitration Act shall apply to all arbitration proceedings.

ARTICLE 10

GENERAL MATTERS

10.1 Successors and Assigns

This Agreement shall become effective when executed by all the Parties and after that time shall be binding upon and enure to the benefit of the Parties and their respective successors, heirs, personal representatives and permitted assigns.

10.2 Notices

Any notice or other communication required or permitted to be given hereunder shall be in writing and shall be given by personal delivery, delivery by recognized national courier, or sent by facsimile transmission, as hereinafter provided. Any such notice or other communication sent by facsimile shall be deemed to have been received on the Business Day following the sending, or if delivered by personal deliver or courier shall be deemed to have been received at the time it is delivered to the applicable address noted below either to the individual designated below or to an individual at such address having apparent authority to accept deliveries on behalf of the addressee. Notice of change of address shall also be governed by this section. Notices and other communications shall be addressed as follows:

- (a) if to the Corporation:

10 Kingsbridge Garden Circle, Suite 600
Mississauga, Ontario
L5R 3K6

Attention: The Chairman of the Board
Fax: (905) 568-0080

(b) if to PRH:

10 Kingsbridge Garden Circle, Suite 600
Mississauga, Ontario
L5R 3K6

Attention: John A. Rothschild
Fax: (905) 568-0080

with a copy to:

Stikeman Elliott LLP
1155 René-Lévesque Blvd
40th Floor
Montréal, Québec
H3B 3V2

Attention: Sidney Horn and Kevin Kyte
Fax: (514) 397-3222

For greater certainty, any notice or other communication intended for PRH or any Permitted Transferee regarding any matter or concern set forth in, or contemplated by, this Agreement may be addressed solely and exclusively to the PRH Representative.

Notwithstanding the foregoing, any notice or other communication required or permitted to be given by any Party pursuant to or in connection with any arbitration procedures contained herein may only be delivered by hand.

10.3 Time of Essence

Time is of the essence in this Agreement.

10.4 Further Assurances

Each of the Parties shall promptly do, make, execute, deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other Party may reasonably require from time to time for the purpose of giving effect to this Agreement and shall use reasonable efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

10.5 Third Party Beneficiaries

The Parties intend that this Agreement shall not benefit or create any right or cause of action in, or on behalf of, any person other than the Parties and no person, other than a Party shall be entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum.

10.6 No Agency or Partnership

Nothing contained in this Agreement shall make or constitute any Party, the representative, agent, principal or partner of any other Party and it is understood that no Party has the capacity to make commitments of any kind whatsoever or incur obligations or liabilities binding upon any other Party.

10.7 Expenses

Except as otherwise expressly provided in this Agreement, all costs and expenses (including the fees and disbursements of legal counsel, investment advisers and accountants) incurred in connection with this Agreement and the transactions contemplated in this Agreement shall be paid by the Party incurring such expenses.

10.8 Amendments

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by all of the Parties. Notwithstanding the foregoing, as long as any Shares are listed for trading on The Toronto Stock Exchange, no amendment may be made to this Agreement without the prior approval of The Toronto Stock Exchange.

10.9 Counterparts

This Agreement may be signed in counterparts and each such counterpart shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument.

10.10 Equitable Remedies

Each Party acknowledges that the failure to comply with the terms and conditions of this Agreement may give rise to irreparable injury to the other Party inadequately compensable in damages. Accordingly, notwithstanding anything else contained herein, either Party may, in addition to any other remedy available at law or in equity, seek to enforce the performance of this Agreement by injunction or specific performance upon application to a court of competent jurisdiction without the need to post security or an undertaking for damages.

10.11 Appointment of PRH Representative

By its execution of this Agreement, PRH hereby appoints John A. Rothschild as the PRH Representative, and acknowledges and agrees that the PRH Representative will represent PRH with respect to this Agreement as set forth in this Agreement.

IN WITNESS OF WHICH the Parties have duly executed this Agreement.

PRIME RESTAURANTS INC.

Per: _____
Name:
Title:

PRIME RESTAURANT HOLDINGS INC.

Per: _____
Name:
Title: