

C A N A D A
PROVINCE OF SASKATCHEWAN

IN THE COURT OF QUEEN’S BENCH
JUDICIAL CENTRE OF _____

IN THE MATTER OF THE *COMPANIES’ CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED (the “CCAA”)

AND IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT FOR THE
CREDITORS OF [APPLICANT’S NAME]
(the “Applicant”)

SASKATCHEWAN TEMPLATE CCAA ORDER
EFFECTIVE AS OF FEBRUARY 22, 2010

**[*NOTE: DO NOT USE THIS ORDER AS A PRECEDENT WITHOUT
REVIEWING THE SASKATCHEWAN TEMPLATE CCAA EX PARTE ORDER
EXPLANATORY NOTES AS OF JUNE 13, 2008, AS SAME MAY BE UPDATED OR
MODIFIED BY FOOTNOTES IN THIS REVISED ORDER.]**

BEFORE THE HONOURABLE) _____, THE _____ DAY
_____ JUSTICE _____) OF , 20____
IN CHAMBERS)

UPON THE APPLICATION of counsel on behalf of the Applicant, and upon hearing
read the Notice of Motion, dated the _____ day of _____, 20____; the Memorandum to the
Presiding Judge; and the Affidavit of _____ sworn the _____ day of _____, 20____ and on
being advised that the secured creditors who are likely to be affected by the charges created
herein were given notice; and the Draft Order all filed:¹

IT IS HEREBY ORDERED, ADJUDGED, AND DECLARED THAT:

¹ The CCAA now requires that notice be given to certain persons before certain relief may be granted. See, for example CCAA sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).

TERM OF ORDER

1. The hearing of the application on this proceeding shall be held at the Court House situated at [INSERT ADDRESS OF COURT HOUSE], at [] o'clock in the [] noon on the [] day of [], 20[]. All of the relief provided for in the subsequent paragraphs of this Order is granted to the Applicant on an interim basis only, and the relief made in the subsequent paragraphs will expire at 11:59 p.m. Central Standard Time on the [] day of [], 20[], unless extended by this Court.

APPLICATION

2. The Applicant is a Company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. The Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court one or more plans of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. The Applicant shall:

- (a) remain in possession and control of its current and future assets, undertakings and property of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property");
- (b) subject to further Order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the "Business") and Property;
- (c) be authorized and empowered to continue to retain, employ, and pay the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with

liberty to retain, employ, and pay such further Assistants as it deems reasonably necessary or desirable, all in the ordinary course of business or for the carrying out of the terms of this Order;

(d) **[Note: This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of Applicant companies.]** be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of [NAME] sworn [DATE], and posted on the website referred to in paragraph [49] hereof, or replace it with another substantially similar central cash management system (the "Cash Management System"). Any present or future bank providing the Cash Management System:

- (i) shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System;
- (ii) shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System; and
- (iii) shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. The Applicant shall be entitled, but not required, to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, contributions to pension plans, vacation pay, bonuses, and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of

business and consistent with existing compensation policies and arrangements;
and

- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

6. Except as otherwise provided to the contrary herein, the Applicant shall be entitled, but not required, to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicant.

7. The Applicant shall, in accordance with legal requirements, remit or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured

creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

8. Until a real property lease is disclaimed² in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to a landlord under a lease) or as otherwise may be negotiated by the Applicant from time to time ("Rent"), for the period commencing from and including the date of this Order, bi-weekly, in advance (but not in arrears). On the date of the first of such payments, any arrears relating to the period commencing from and including the date of the issuance of this Order shall also be paid.

9. Except as specifically permitted herein, the Applicant is hereby precluded and enjoined, until further Order of this Court, from:

- (a) making any payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the date of this Order;
- (b) granting any security interests, trusts, mortgages (or other real property interests), liens, charges, or encumbrances upon or in respect of any of its Property; and
- (c) granting credit or incurring liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. The Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Lender Documents (as hereinafter defined), if any, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its Business or operations;

² The term "resiliate" should be utilized in conjunction with the word "disclaimed" if there are leased premises in the Province of Quebec.

- (b) sell its assets in the ordinary course of its Business;
- (c) dispose of (by sale or otherwise) redundant or non-material assets not exceeding \$_____, in any one transaction or \$_____, in the aggregate under a series of connected transactions;
- (d) dispose of (by sale or otherwise) redundant or non-material assets not authorized by paragraph [10(c)] of this Order only with the approval of the Court;
- (e) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;³ and
- (f) pursue all avenues of refinancing of its Business or Property, subject to prior approval of this Court being obtained before any material refinancing is undertaken;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the "Restructuring").

11. The Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims² the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in section 32(5) of the CCAA), and the disclaimer² of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

³ The Ontario Template Committee was not certain whether the termination of an employee's employment is a "disclaimer or resiliation" of the employment agreement within the meaning of section 32 of the CCAA, and decided to leave in this particular provision. The Saskatchewan Committee agrees with that position. However, please note sections 6(5) and 6(6) of the CCAA which contemplate that a compromise or arrangement will only be sanctioned by the Court if certain payments are made to employees and certain amounts are paid to fund pension plans.

12. If a notice of disclaimer² is delivered pursuant to section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer², the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or repudiation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

13. Subject to the other provisions of this Order (including the payment of Rent as herein provided) and any further Order of this Court, the Applicant shall be permitted to dispose of any or all of the Property located (or formerly located) at such leased premises without any interference of any kind from landlords (notwithstanding the terms of any leases) and, for greater certainty, the Applicant shall have the right to realize upon the Property and other assets in such manner and at such locations, including leased premises, as it deems suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom.

NO PROCEEDING AGAINST THE APPLICANT OR THE PROPERTY

14. Until and including [DATE-MAXIMUM 30 DAYS] or such later date as this Court may order (the "Stay Period"), no proceeding (the "Proceeding") or enforcement process (the "Enforcement") in any court or tribunal shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court and any Proceeding or Enforcement currently underway against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. **[NTD: If an expanded definition of "Proceeding" or "Enforcement" is necessary, it should be inserted here. The defined terms only appear again in paragraphs 15 and 19 of the Order.]**

NO EXERCISE OF RIGHTS OR REMEDIES

15. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (a) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on; (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA; (c) prevent the filing of any registration to preserve or perfect a mortgage, floating charge, or security interest; or (d) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect a lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further steps shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Applicant.

NO INTERFERENCE WITH RIGHTS

16. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. During the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be

required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. Notwithstanding anything else contained in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend credit to the Applicant.⁴

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, or by further order of this Court, no Proceeding or Enforcement may be commenced or continued against any one or more of the former, current or future directors or officers of the Applicant (the "Past and Present Directors") with respect to any claim against any one or more of the Past and Present Directors which arose before the date hereof in regard to or in respect of:

- (a) claims involving acts or omissions of those individuals in their capacity as directors or officers or in any way related to matters arising from their role or status as directors or officers;
- (b) claims in any way related to any matters arising from the appointment of any one or more of the Past and Present Directors by or on behalf of the Applicant to any corporation, partnership or venture, including their appointment or election by or

⁴ As referenced by the Ontario Template Committee, this non-derogation of rights has been given much more significance in the new amendments to the CCAA, as a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).

on behalf of the Applicant to any other board of directors or other governing body or committee;

- (c) derivative rights of the Applicant against any one or more of the Past and Present Directors; or
- (d) claims by former, current or future shareholders of the Applicant or former, current or future directors or officers of the Applicant involving acts or omissions of any one or more of the Past and Present Directors which are alleged to be oppressive, or unfairly prejudicial to, or which are alleged to unfairly disregard the interests of, former, current or future shareholders of the Applicant or former, current or future directors or officers of the Applicant,

until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. The Applicant shall indemnify each of its current directors (its "Current Directors" or "Current Director", as the context may require) and officers (its "Current Officers" or "Current Officer", as the context may require) on a joint and several basis from and against:

- (a) all costs (including, without limitation, defence costs), claims, charges, expenses, liabilities and obligations of any nature whatsoever actually incurred by any one or more of its Current Directors and Current Officers that may arise as a result of:
 - (i) his or her position or involvement with the Applicant from and after the date of this Order (including without limitation any amount paid to settle an action or satisfy a judgment in a civil, criminal or administrative action or proceeding, or an action by or on behalf of the Applicant to procure a judgment in favour of the Applicant, to which such Current Director and Current Officer may be made a party by reason of being or having been a Current Director or Current Officer or person that manages the business of the Applicant);
 - (ii) any sale of all or part of the Property; or
 - (iii) the Plan or Plans,

provided that such Current Director and Current Officer:

- (aa) acted honestly and in good faith with a view to the best interests of the Applicant; and
- (bb) in the case of a criminal or administrative action, had reasonable grounds for believing that his or her conduct was lawful;

except to the extent that such Current Director and Current Officer has participated in the breach of any fiduciary duty; has engaged in willful misconduct; or has been grossly negligent;

- (b) all costs, claims, charges, expenses, liabilities and obligations that any one or more of the Current Directors or Current Officers sustain or incur from and after the date of this Order (including, without limitation, legal costs on a solicitor and client basis) relating to the failure of the Applicant to make any payments in respect of which such Current Directors or Current Officers may be liable under any law in his or her capacity as such Current Director or Current Officer, including without limitation, payments in respect of wages and other amounts owing to employees, except to the extent that such Current Director or Current Officer has participated in the breach of any fiduciary duty; has engaged in willful misconduct, or has been grossly negligent,

but this paragraph shall not constitute a contract of insurance and shall not constitute “other valid and collectible insurance” as this term may be used in any existing policy of insurance issued in favour of the Applicant or any one or more of the Current Directors and Current Officers. For greater certainty, the indemnity granted by the Applicant to the Current Directors and Current Officers pursuant to this paragraph [20] shall only apply and extend to any claims, obligations or liabilities incurred from and after the date of this Order.

21. As security for the obligations of the Applicant pursuant to the indemnities in favour of the Current Directors and Current Officers described in paragraph [20] hereof, such Current Directors and Current Officers are collectively granted a mortgage, charge, lien and security interest in and against any and all of the Property, to a maximum aggregate amount of

[AMOUNT] (the “Directors’ Charge”)⁵. The Directors’ Charge shall have the priority set out in paragraphs [35] and [38] herein.

22. Notwithstanding any language in any applicable insurance policy to the contrary:
- (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
 - (b) the Directors and Officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph [20] of this Order.

APPOINTMENT OF MONITOR

23. [MONITOR’S NAME] of [CITY, PROVINCE] (the “Monitor”) is hereby appointed pursuant to the CCAA, as an officer of this Court, to monitor the business and financial affairs of the Applicant, with the powers and obligations set out in the CCAA or set forth herein and the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall cooperate fully with the Monitor in the exercise of its powers and discharge of its obligations, including providing the Monitor with access to such books, records, assets and premises of the Applicant as the Monitor requires, and otherwise provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.

24. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicant’s receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate or as this Court may direct with respect to matters relating to the Property, the Business, and such other matters as may be relevant to these proceedings;

⁵ Section 11.51(3) provides that the Court may not make this security/charging order if in the Court’s opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender (as hereinafter defined) and its counsel, on a [TIME INTERVAL] basis of financial and other information as agreed to between the Applicant and the DIP Lender.
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender, which information shall be reviewed by the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;

[Paragraphs (c) and (d) are only included in the Initial Order if a DIP facility is created by the Initial Order. If no DIP facility is created by the Initial Order, paragraphs (c) and (d) or something similar should be included in the DIP Facility Order]

- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) advise the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' and shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicant to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order and by this Court from time to time.

25. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by

fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. Nothing herein contained shall require the Monitor to occupy or take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. The Monitor shall provide any creditor of the Applicant and the DIP Lender, if any, with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.

28. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of the Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. The Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a [TIME INTERVAL].

30. The Monitor, counsel for the Monitor and counsel for the Applicant may render accounts on a periodic basis and the Applicant shall pay such accounts when rendered, subject to any final assessments and taxations ordered by this Court.

31. The Monitor, counsel for the Monitor, if any, and the Applicant's counsel shall be entitled to the benefits of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of "\$ [REDACTED]", as security for their reasonable professional fees and disbursements, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs [35] and [38] hereof.

32. The appointment of the Monitor by this Order shall not constitute the Monitor an employer or a successor employer or payor for any purpose, including (without limitation) pensions or benefits or any legislation governing employment or labour standards or pension benefits or health and safety or any other statute, regulation, rule of law or rule of equity.

DIP FINANCING

33. In the event that the Applicant determines it requires debtor-in-possession financing to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, the Applicant is hereby authorized to enter into negotiations to obtain and borrow such financing from a proposed debtor-in-possession lender (the "DIP Lender") under a credit facility and to execute and deliver such commitment letters, credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively the "DIP Lender Documents"), and is hereby granted leave to make application to the Court (on five days notice to holders of registered secured interests on the Property) for an Order authorizing the granting of such arrangements for

debtor-in-possession financing to the Applicant on terms and conditions of the DIP Lender Documents or as determined on such application (the "DIP Financing Application").⁶

34. Subject to further approval of this Court as may be directed in the order resulting from the hearing of the DIP Financing Application, the DIP Lender shall be entitled to the benefits of a charge (the "DIP Lender's Charge") on the Property, which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the DIP Lender Documents which charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs [35] and [38] hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

35. The priorities of the Directors' Charge, the Administration Charge and the DIP Lender's Charge (collectively the "Charges"), as among them, shall be as follows⁷:

First – Administration Charge (to the maximum amount of \$ [REDACTED]);

Second – DIP Lender's Charge; and

Third – Directors' Charge (to the maximum amount of \$ [REDACTED]).

36. If the Persons sharing in the benefit of one of the Charges (the "Chargees") have claims that, in the aggregate, exceed the maximum authorized amount of that Charge, such Chargees shall share in the benefit of that Charge (as between themselves) on a *pro rata* basis to the maximum aggregate authorized amount of such Charge.

37. The filing, registration or perfection of each of the Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right,

⁶ Any additional provisions that may be inserted in this Section 33 must comply with the provisions of Section 11.2(1) of the CCAA.

⁷ The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits a Charge in favour of critical suppliers (section 11.4(3)), which should also be incorporated into this Order (and the rankings, above), where appropriate.

title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

38. Each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, real property interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

39. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that purports to rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

40. The Charges and the DIP Lender Documents shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees entitled to the benefit of the Charges and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) as amended from time to time (the "BIA"), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Lender Documents shall create or be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges or the entering into, execution, delivery or performance of the DIP Lender Documents; and
- (c) the payments made by the Applicant pursuant to this Order, the DIP Lender Documents and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

41. The Monitor shall:

- (a) without delay, publish in [newspaper specified by the Court] a notice containing the information prescribed under the CCAA;
- (b) within five (5) days after the date of this Order,
 - (i) make this Order publically available in the manner prescribed under the CCAA;
 - (ii) send, in the prescribed manner, a notice in the form attached as Schedule “A” to this Order (the “Notice”) to every known creditor who has a claim against the Applicant of more than \$1,000.00; and
 - (iii) prepare a list (the “Creditor’s List”) showing the name, address, telephone, fax and email contact information, if available, of those creditors and the estimated amounts of those claims and make it publically available in the prescribed manner;

all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.

42. Every creditor on the Creditor’s List and any other interested Person who requires notice in respect of any or all further proceedings in this matter shall provide to counsel for each of the Monitor and the Applicant, by electronic mail or facsimile, a demand for notice of such proceedings, which demand for notice shall be in the form provided in the attached Schedule “B” to this Order (the “Demand for Notice”) and shall contain an electronic mail

address or a facsimile number to which such Person has elected that further notice of these proceedings may be served on such Person. The failure of any Person to forward a Demand for Notice by electronic mail or facsimile to counsel for each of the Monitor and the Applicant hereby releases the Monitor and the Applicant or any other interested Person serving court materials in this matter from any requirement to provide further notice in respect of these proceedings to any such Person until such time as a properly completed Demand for Notice is received by each of the counsel for the Monitor and the Applicant from such Person.

43. The Applicant and the Monitor shall be at liberty to serve the Notice on any other interested Person by prepaid ordinary mail, courier, personal delivery, facsimile or other electronic transmission to such Persons at their respective addresses as last shown on the records of the Applicant.

44. The Notice shall be deemed to have been received by a creditor on the Creditor's List or served on an interested Person (as the case may be) if sent by personal delivery, on the date of delivery; if sent by courier, facsimile or other electronic transmission, on the next business day following the date of forwarding thereof, or if sent by prepaid ordinary mail, on the third business day after mailing.

45. From the Demands For Notice received pursuant to paragraph [42] of this Order, the Monitor shall prepare and keep current a Service List (the "Service List") containing the name, address, telephone and fax or email contact information of the Applicant, the Monitor and each creditor or interested Person filing a Demand for Notice. The Service List shall indicate the manner that those on the Service List have elected to be served.

46. The Service List shall be posted by the Monitor on the following website: www._____. The Creditor List and the Service List shall be updated by the Monitor from time to time, and each list shall contain a statement as to when it was last updated.

47. Other than the sending or service of the Notice as contemplated by paragraphs [41], [43] and [44] of this Order, the Applicant, the Monitor or any interested Person may serve any notice of motion, affidavit, order, report, other court material, or correspondence in these proceedings in the manner indicated on the Service List, in which case the document shall be deemed to be received the next business day following the date of forwarding.

48. Where by the nature of the matter before the Court it is appropriate to serve Persons that are not on the Service List, the Applicant, the Monitor or any interested Person may serve any notice of motion, affidavit, order, report, other court material, or correspondence as follows:

- (a) if the Person is listed on the Creditor List, by prepaid ordinary mail, courier, personal delivery, facsimile or other electronic transmission to such Person at their respective addresses as last shown on the records of the Applicant, in which case service shall be deemed to have been effected if sent by personal delivery, on the date of delivery; if sent by courier, facsimile or other electronic transmission, on the next business day following the date of forwarding thereof; or if sent by prepaid ordinary mail, on the third business day after mailing;
- (b) if the Person is not listed on the Creditor List, by service effected in accordance with the Rules of the Court of Queen's Bench for Saskatchewan.

49. Other than the Notice and notices of motion, and notwithstanding paragraphs [47] and [48] of this Order, service of any affidavit, order, report, other court material or correspondence shall be deemed to have been effected if such affidavit, order, report, other court material or correspondence are posted on the following website: www._____ and written notice (the "Posting Notice") is given to those being served that the affidavit, order, report, other court material or correspondence may be obtained from that website. Service of the documents described in the Posting Notice shall be effective on the day that service of the Posting Notice is effected. Service of the Posting Notice may be made and shall be effected as provided in paragraphs [47] and [48] of this Order.

50. Any party filing material with the Court in these proceedings may request of the Monitor and the Monitor shall (so long as it is received in an unalterable electronic postable format) post such material to the website listed in paragraph [49] of this Order within 2 business days of receipt.

GENERAL

51. The Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

52. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

53. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested:

- (a) to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order;
- (b) to grant representative status to the Monitor in any foreign proceeding; and
- (c) to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

54. Each of the Applicant and the Monitor shall be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

55. Any interested Person (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

56. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

57. This Order and all of its provisions are effective as of 12:01 a.m. Central Standard Time on the date of the issuance of this Order.

ISSUED at the City of [REDACTED], in the Province of Saskatchewan, this [REDACTED] day of [REDACTED], 20 [REDACTED].

DEPUTY LOCAL REGISTRAR

This Order was delivered by:

[NAME OF LAW FIRM]

[ADDRESS OF LAW FIRM]

[REDACTED]

[REDACTED]

ATTENTION: [NAME OF LAWYER]

TELEPHONE NO: [REDACTED]

FAX NO.: [REDACTED]

EMAIL ADDRESS: [REDACTED]

TO: [NAME AND ADDRESS OF ALL INTERESTED PERSONS SERVED WITH THE APPLICATION]

SCHEDULE "A"

NOTICE

[Date]

TO:

[NAME AND ADDRESS OF CREDITOR OR INTERESTED PARTY]

RE: IN THE MATTER OF AN ORDER UNDER **THE COMPANIES' CREDITORS ARRANGEMENT ACT** OBTAINED BY [NAME OF APPLICANT(S)]

[APPLICANT] has obtained an Order of the Court of Queen's Bench for Saskatchewan under the **Companies' Creditors Arrangement Act** (the "Order"). A photocopy of the Order is posted on the following website: [www._____](http://www._____.).

You are being given notice of the Order as you are a creditor of [APPLICANT] or the Order may affect your rights.

If you would like to receive notice of all further proceedings in relation to this matter, please complete the Demand for Notice attached to this Notice and send the Demand for Notice by electronic mail (email) or facsimile to each of the following persons:

1. [Name of the Applicant]
c/o [Name and address of counsel for the Applicant]
Attention:
Email:
Fax:
2. [Name of the Monitor]
c/o [Name and address of counsel for the Monitor]
Attention:
Email:
Fax:

If you fail to properly complete the Demand for Notice and forward the Demand for Notice by email or facsimile to each of the above-referenced persons indicating that you request further notice of the proceedings, then you will not receive, nor will you be entitled to receive, any further notice of the proceedings.

Yours truly,

SCHEDULE "B"

Q.B. No. _____ of 20__

C A N A D A
PROVINCE OF SASKATCHEWAN

IN THE COURT OF QUEEN'S BENCH
JUDICIAL CENTRE OF _____

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENTS ACT*, R.S.C.
1985, c. C-36, AS AMENDED (the "CCAA")

AND IN THE MATTER OF A PROPOSED PLAN OF ARRANGEMENT FOR THE
CREDITORS OF [APPLICANT'S NAME]

(the "Applicant")

DEMAND FOR NOTICE

TO:

1. [Name of the Applicant]
c/o [Name and address of
counsel for the Applicant]
Attention:
Email:
Fax:

2. [Name of the Monitor]
c/o [Name and address of
counsel for the Monitor]
Attention:
Email:
Fax:

I hereby request that notice of all further proceedings on this matter be served on me and hereby elect that service may be effected on me in the following manner: **[Please select either (a) or (b), but not both.]**

(a) by email, at the following email address:
_____, or

(b) by facsimile, at the following facsimile number:
_____.

Signature: _____
Name of Creditor: _____
Address of Creditor: _____

Phone Number: _____