

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

File: No: 500-11-057679-199

SUPERIOR COURT
Commercial Division

Montreal, January 10, 2020

Present: The Honourable Marie-Anne Paquette,
J.S.C.

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

INVESTISSEMENT QUÉBEC

Co-Applicant / Secured Creditor

- and -

FIERA PRIVATE DEBT INC.

Co-Applicant / Secured Creditor

- and -

FORTRESS GLOBAL ENTERPRISES INC.

- and -

FORTRESS SPECIALTY CELLULOSE INC.

- and -

FORTRESS BIOENERGY LTD.

- and -

FORTRESS XYLITOL INC.

- and -

9217-6536 QUÉBEC INC.

Debtors

- and -

DELOITTE RESTRUCTURING INC.

Monitor

AMENDED & RESTATED INITIAL ORDER

ON READING the Applicants' *Application for the Issuance of a First Day Initial Order, an Amended and Restated Initial Order, a Receivership Order and a Claims Procedure Order* pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended the "**CCAA**") and the exhibits, the affidavit of Mr. Alejandro Morales filed in support thereof (the "**Application**"), the consent of Deloitte Restructuring Inc. to act as monitor (the "**Monitor**"), relying upon the submissions of counsel and being advised that the interested parties, including secured creditors who are likely to be affected by the charges created herein were given prior notice of the presentation of the Application;

GIVEN the First Day Initial Order rendered by this Court on December 13, 2019 (as amended on December 26, 2019, the "**First Day Order**");

GIVEN the provisions of the CCAA;

WHEREFORE, THE COURT:

1. **GRANTS** the Application.
2. **ISSUES** an order pursuant to the CCAA (the "**Order**"), divided under the following headings:
 - Service
 - Application of the CCAA and Procedural Consolidation
 - Effective Time
 - Plan of Arrangement
 - Stay of Proceedings against the Debtors and the Property
 - Stay of Proceedings against the Directors and Officers
 - Possession of Property and Operations
 - No Exercise of Rights or Remedies;
 - No Interference with Rights
 - Continuation of Services
 - Non-Derogation of Rights
 - Interim Financing (DIP)

- Key Employee Retention Plan
- Directors and Officers Indemnification and Charge
- Restructuring
- Intercompany Advances
- Powers of the Monitor
- Priorities and General Provisions Relating to CCAA Charges
- General

Service

3. **DECLARES** that sufficient prior notice of the presentation of this Application has been given by the Applicants to interested parties, including the secured creditors who are likely to be affected by the charges created herein.

Application of the CCAA and Procedural Consolidation

4. **DECLARES** that the Debtors are a debtor company to which the CCAA applies.
5. **ORDERS** the consolidation of these CCAA proceedings in respect of the Debtors and **ORDERS** that such consolidation shall be for administrative purposes only and shall not effect a consolidation of the assets and property of each of the Debtors including, without limitation, for the purposes of any Plan or Plans that may be thereafter proposed.

Effective time

6. **DECLARES** that this Order and all of its provisions are effective as of 12:01 a.m. Montreal time, province of Quebec, on the date of this Order (the “**Effective Time**”).

Plan of Arrangement

7. **DECLARES** that the Applicants, on behalf of the Debtors, shall have the authority to file with this Court and to submit to the Debtors’ creditors one or more plans of compromise or arrangement (collectively, the “**Plan**”) in accordance with the CCAA.

Stay of Proceedings against the Debtors and the Property

8. **ORDERS** that the Stay Period (as defined in the First Day Order) shall be extended to and including May 2, 2020, and that during such Stay Period, no proceeding or

enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Debtors, or affecting the Debtors' business operations and activities (the "**Business**") or the Property (as defined herein below), including as provided in paragraph 14 hereinbelow except with leave of this Court. Any and all Proceedings currently under way against or in respect of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.

9. **ORDERS** that during the Stay Period (as may be extended from time to time by this honourable Court), Debtor Fortress Global Enterprises Inc. ("**Fortress**") is relieved from any and all continuous disclosure, reporting and filing obligations (including with respect to the preparation and mailing of financial statements and reports) of and audit committee requirements applicable to the Debtor Fortress as a result of its status as a reporting issuer in each of the provinces of Canada, pursuant to Canadian securities laws, rules, regulations, national instruments and policy statements, and the British Columbia *Business Corporations Act*, SBC 2002, c 57.
10. The rights of Her Majesty in right of Canada and Her Majesty in right of a Province are suspended in accordance with the terms and conditions of Subsection 11.09 CCAA.

Stay of Proceedings against the Directors and Officers

11. **ORDERS** that during the Stay Period and except as permitted under subsection 11.03(2) of the CCAA, no Proceeding may be commenced, or continued against any former, present or future director or officer of the Debtors nor against any person deemed to be a director or an officer of the Debtors under subsection 11.03(3) CCAA (each, a "**Director**", and collectively the "**Directors**") in respect of any claim against such Director which arose prior to the Effective Time and which relates to any obligation of the Debtors where it is alleged that any of the Directors is under any law liable in such capacity for the payment of such obligation.

Possession of Property and Operations

12. **ORDERS** that, subject to paragraphs 42 and 43 hereof, the Debtors shall remain in possession and control of their present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all

proceeds thereof (collectively the “**Property**”), the whole in accordance with the terms and conditions of this order including, but not limited, to paragraph 34 hereof.

13. **ORDERS** that the Debtors, with the prior approval of the Monitor or the Monitor, on behalf of the Debtors, shall be entitled but not obligated to pay amounts owing, either prior to or after the date of the First Day Order, for biomass actually supplied to the Debtors or for other goods or services actually supplied to the Debtors, if, in the opinion of the Monitor, the supplier is essential to the business and ongoing operations of the Debtors and provided that the payments of such amounts is made in accordance with the cash-flow forecast appended to the Monitor's pre-filing report and the budget attached to the Interim Financing Term Sheet, or with the prior consent of Investissement Québec, up to a maximum amount of \$250,000.

No Exercise of Rights or Remedies

14. **ORDERS** that during the Stay Period, and subject to, *inter alia*, subsection 11.1 CCAA, all rights and remedies of any individual, natural person, firm, corporation, partnership, limited liability company, trust, joint venture, association, organization, governmental body or agency, or any other entity (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Debtors, or affecting the Business, the Property or any part thereof, are hereby stayed and suspended except with leave of this Court.
15. **DECLARES** that, to the extent any rights, obligations, or prescription, time or limitation periods, including, without limitation, to file grievances, relating to the Debtors or any of the Property or the Business may expire (other than pursuant to the terms of any contracts, agreements or arrangements of any nature whatsoever), the term of such rights, obligations, or prescription, time or limitation periods shall hereby be deemed to be extended by a period equal to the Stay Period. Without limitation to the foregoing, in the event that the Debtors become bankrupt or a receiver as defined in subsection 243(2) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) is appointed in respect of the Debtors, the period between the date of the Order and the day on which the Stay Period ends shall not be calculated in respect of the Debtors in determining the 30 day periods referred to in Sections 81.1 and 81.2 of the BIA.

No Interference with Rights

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

Continuation of Services

17. **ORDERS** that during the Stay Period and subject to paragraph 19 hereof and subsection 11.01 CCAA, all Persons having verbal or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, utility or other goods or services made available to the Debtors, 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 Debtors, and that the Debtors shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses, domain names or other services, provided in each case that the normal prices or charges for all such goods or services received after the date of the Order are paid by the Debtors, without having to provide any security deposit or any other security, in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Debtors, with the consent of the Monitor, or as may be ordered by this Court.
18. **ORDERS** that, notwithstanding anything else contained herein and subject to subsection 11.01 CCAA, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided to the Debtors on or after the date of this Order, nor shall any Person be under any obligation on or after the date of the Order to make further advance of money or otherwise extend any credit to the Debtors.
19. **ORDERS** that, without limiting the generality of the foregoing and subject to Section 21 of the CCAA, if applicable, cash or cash equivalents placed on deposit by the Debtors with any Person during the Stay Period, whether in an operating account or otherwise for itself or for another entity, shall not be applied by such Person in reduction or repayment

of amounts owing to such Person as of the date of the Order or due on or before the expiry of the Stay Period or in satisfaction of any interest or charges accruing in respect thereof; however, this provision shall not prevent any financial institution from: (i) reimbursing itself for the amount of any cheques drawn by Debtors and properly honoured by such institution, or (ii) holding the amount of any cheques or other instruments deposited into the Debtors' account until those cheques or other instruments have been honoured by the financial institution on which they have been drawn.

Non-Derogation of Rights

20. **ORDERS** that, notwithstanding the foregoing, any Person who provided any kind of letter of credit, guarantee or bond (the "**Issuing Party**") at the request of the Debtors shall be required to continue honouring any and all such letters, guarantees and bonds, issued on or before the date of the Order, provided that all conditions under such letters, guarantees and bonds are met save and except for defaults resulting from this Order; however, the Issuing Party shall be entitled, where applicable, to retain the bills of lading or shipping or other documents relating thereto until paid.

Interim Financing (DIP)

21. **ORDERS** and **CONFIRMS** that Debtors be and are hereby authorized to borrow, repay and reborrow from Investissement Québec (the "**Interim Lender**") such amounts from time to time as Debtors may be considered necessary or desirable, in consultation with the Monitor, up to a maximum principal amount of \$6 million outstanding at any time, on the terms and conditions as set forth in the Interim Financing Term Sheet filed as Exhibit R-17 to the Application (the "**Interim Financing Term Sheet**") and in the Interim Financing Documents (as defined hereinafter), to fund the ongoing expenditures of Debtors and to pay such other amounts as are permitted by the terms of the Order and the Interim Financing Documents (as defined hereinafter) (the "**Interim Facility**");
22. **ORDERS** that the Monitor, on behalf of the Debtors, is hereby authorized to execute and deliver such credit agreements, security documents and other definitive documents (collectively the "**Interim Financing Documents**") as may be required by the Interim Lender in connection with the Interim Facility and the Interim Financing Term Sheet, and Debtors are hereby authorized to perform all of its obligations under the Interim Financing Documents;

23. **ORDERS** that the Debtors shall pay to the Interim Lender, when due, all amounts owing (including principal, interest, fees and expenses, including without limitation, all reasonable fees and disbursements of counsel and all other reasonably required advisers to or agents of the Interim Lender on a full indemnity basis (the “**Interim Lender Expenses**”)) under the Interim Financing Documents and shall perform all of its other obligations to the Interim Lender pursuant to the Interim Financing Term Sheet, the Interim Financing Documents and the Order;
24. **DECLARES** that all of the Property of Debtors is hereby subject to a charge and security for an aggregate amount of \$7,200,000 (such charge and security is referred to herein as the “**Interim Lender Charge**”) in favour of the Interim Lender as security for all obligations of Debtors to the Interim Lender with respect to all amounts owing (including principal, interest and the Interim Lender Expenses) under or in connection with the Interim Financing Term Sheet and the Interim Financing Documents. The Interim Lender Charge shall have the priority established by paragraphs 55 and 56 of this Order;
25. **ORDERS** that the claims of Investissement Québec, either in its capacity as Interim Lender pursuant to the Interim Financing Documents, or in its capacity as pre-filing lender, shall not be compromised or arranged pursuant to the Plan or these proceedings and the Interim Lender, in that capacity, shall be treated as an unaffected creditor in these proceedings and in any Plan;
26. **ORDERS** that the Interim Lender may:
 - (a) notwithstanding any other provision of the Order, take such steps from time to time as it may deem necessary or appropriate to register, record or perfect the Interim Lender Charge and the Interim Financing Documents in all jurisdictions where it deems it is appropriate; and
 - (b) notwithstanding the terms of the paragraph to follow, refuse to make any advance to Debtors if the Debtors fail to meet the provisions of the Interim Financing Term Sheet and the Interim Financing Documents;
27. **ORDERS** that the Interim Lender shall be entitled to take any and all enforcement steps under the Interim Financing Documents and the Interim Lender Charge and otherwise permitted at law upon a default by the Debtors under the Interim Financing Term Sheet

and Interim Financing Document, without having to send any demands under Section 244 of the BIA;

28. **ORDERS** that, subject to further order of this Court, no order shall be made varying, rescinding, or otherwise affecting paragraphs 21 to 27 hereof unless either (a) notice of a motion for such order is served on the Interim Lender by the moving party within seven (7) days after that party was served with the Order or (b) the Interim Lender applies for or consents to such order;

Key Employee Retention Plan

29. **ORDERS** that the Key Employee Retention Plan (the "**KERP**") described in the Application and summarized in the table and draft letter filed under seal as Exhibit R-19 to the Application is hereby approved, and the Debtors are hereby authorized and empowered perform their obligations set forth thereunder, including by making the payments in accordance with the terms set out therein.
30. **ORDERS** that the employees designated in the KERP shall be entitled to the benefit of and are hereby granted a charge (the "**KERP Charge**") on the Property, which charge shall not exceed \$610,000, as security for the payment of the Debtors' obligations in relation with the KERP. The KERP Charge shall have the priority set out in paragraphs 55 and 56 hereof.

Director and Officers Indemnification and Charge

31. **ORDERS** that the Debtors shall indemnify their remaining directors and/or officers (the "**Remaining D&Os**") from all claims relating to any obligations or liabilities they may incur and which have accrued by reason of or in relation to their respective capacities as officers or deemed directors of the Debtors after the Effective Time, except where such obligations or liabilities were incurred as a result of their gross negligence, wilful misconduct or gross or intentional fault as further detailed in Section 11.51 CCAA.
32. **ORDERS** that the Remaining D&Os shall be entitled to the benefit of and are hereby granted a charge and security in the Property to the extent of the aggregate amount of \$500,000 (the "**D&O Charge**"), as security for the indemnity provided in paragraph 31 of this Order as it relates to obligations and liabilities that the Remaining D&Os may incur in

such capacity after the Effective Time. The D&O Charge shall have the priority set out in paragraphs 55 and 56 of this Order.

33. **ORDERS** that, 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 D&O Charge, and (b) the Remaining D&Os shall only be entitled to the benefit of the D&O 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 for which the Remaining D&Os are entitled to be indemnified in accordance with paragraph 31 of this Order.

Restructuring

34. **DECLARES** that, to facilitate the orderly restructuring of its business and financial affairs (the "**Restructuring**") but subject to such requirements as are imposed by the CCAA, the Monitor, on behalf of the Debtors, shall have the right to:
- (a) permanently or temporarily cease, downsize or shut down any of its operations or locations as it deems appropriate and make provision for the consequences thereof in the Plan;
 - (b) pursue all avenues to finance or refinance, market, convey, transfer, assign or in any other manner dispose of the Business or Property, in whole or part, subject to further order of the Court and sections 11.3 and 36 CCAA, and under reserve of subparagraph (c);
 - (c) convey, transfer, assign, lease, or in any other manner dispose of the Property, outside of the ordinary course of business, in whole or in part, provided that the price in each case does not exceed \$500,000 or \$5,000,000 in the aggregate;
 - (d) terminate the employment of such of its employees or temporarily or permanently lay off such of its employees as it deems appropriate and, to the extent any amounts in lieu of notice, termination or severance pay or other amounts in respect thereof are not paid in the ordinary course, make provision, on such terms as may be agreed upon between the Debtors and such employee, or failing such agreement, make provision to deal with, any consequences thereof in the Plan, as the Debtors may determine;

- (e) subject to the provisions of section 32 CCAA, disclaim or resiliate, any of its agreements, contracts or arrangements of any nature whatsoever, with such disclaimers or resiliation to be on such terms as may be agreed between the Debtors and the relevant party, or failing such agreement, to make provision for the consequences thereof in the Plan; and
 - (f) subject to section 11.3 CCAA, assign any rights and obligations of Debtors.
35. **DECLARES** that, if a notice of disclaimer or resiliation is given to a landlord of the Debtors pursuant to section 32 of the CCAA and subsection 28(e) of this Order, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours by giving the Debtors and the Monitor 24 hours prior written notice and (b) at the effective time of the disclaimer or resiliation, the landlord shall be entitled to take possession of any such leased premises and re-lease any such leased premises to third parties on such terms as any such landlord may determine without waiver of, or prejudice to, any claims or rights of the landlord against the Debtors, provided nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.
36. **ORDERS** that the the Debtors, in consultation with the Monitor, shall provide to any relevant landlord notice of the Debtors' intention to remove any fittings, fixtures, installations or leasehold improvements at least seven (7) days in advance. If the Debtors has already vacated the leased premises, it shall not be considered to be in occupation of such location pending the resolution of any dispute between the Debtors and the landlord.
37. **DECLARES** that, in order to facilitate the Restructuring, the Debtors, in consultation with the Monitor, may settle claims of customers and suppliers that are in dispute.
38. **DECLARES** that, pursuant to sub-paragraph 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, the Monitor, on behalf of the Debtors, is permitted, in the course of these proceedings, to disclose personal information of identifiable individuals in its possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to its advisers (individually, a "**Third Party**"), but only to the extent desirable or required to negotiate

and complete the Restructuring or the preparation and implementation of the Plan or a transaction for that purpose, provided that the Persons to whom such personal information is disclosed enter into confidentiality agreements with the Debtors binding them to maintain and protect the privacy of such information and to limit the use of such information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to the Debtors or destroyed. In the event that a Third Party acquires personal information as part of the Restructuring or the preparation or implementation of the Plan or a transaction in furtherance thereof, such Third Party may continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Debtors.

Intercompany Advances

39. **ORDERS** that to the extent that any Debtor (such party being an “**Debtor Lender**”) makes, after the date of this Order, any advances or incurs costs or expenses (each an “**Intercompany Advance**”) on behalf of the other Debtor (such party being a “**Debtor Borrower**”), such Intercompany Advance shall be evidenced by way of a detailed accounting by the Monitor. In the event of an Intercompany Advance being made, by the Debtor Borrower shall repay the Debtor Lender as soon as reasonably practicable.
40. **DECLARES** that a Debtor Lender shall be entitled to the benefits of and is hereby granted a charge in the amount of \$3,000,000 (the “**Intercompany Advance Charge**”) on the Property to secure the repayment of Intercompany Advances made to a Debtor Borrower. The Intercompany Advance Charge shall have the priority set out in paragraphs 55 and 56 hereof.
41. **ORDERS** that the claims of a Debtor Lender in respect of any Intercompany Advance shall be treated as unaffected and shall not be compromised in any plan of arrangement or compromise filed in respect of the Debtors pursuant to the CCAA, or any proposal filed in respect of the Debtors pursuant to the BIA. However, the exercise of any recourse by a Debtor Lender in connection with an Intercompany Advance shall be subject to the stay provided for in this Order.

Powers of the Monitor

42. **CONFIRMS** and **RATIFIES** the appointment of Deloitte Restructuring Inc. in accordance with the First Day Order to monitor the business and financial affairs of the Debtors as an officer of this Court (the “**Monitor**”) and that the Monitor, in addition to the prescribed powers and obligations, referred to in Section 23 of the CCAA:

- (a) shall, without delay, unless already performed in accordance with the First Day Order, (i) publish once a week for two (2) consecutive weeks or as otherwise directed by the Court, in LaPresse+ and the Globe and Mail National Edition and (ii) within five (5) business days after the date of this Order (A) post on the Monitor’s website at www.insolvencies.deloitte.ca/Fortress (the “**Website**”) a notice containing the information prescribed under the CCAA, (B) make this Order publicly available in the manner prescribed under the CCAA, (C) send, in the prescribed manner, a notice to all known creditors having a claim against the Debtors of more than \$1,000, advising them that the Order is publicly available, and (D) prepare a list showing the names and addresses of such creditors and the estimated amounts of their respective claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder;
- (b) shall monitor the Debtors’ receipts and disbursements;
- (c) shall assist the Debtors, to the extent required, in dealing with its creditors and other interested Persons during the Stay Period;
- (d) shall assist the Debtors, to the extent required, with the preparation of its cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;
- (e) shall advise and assist the Debtors, to the extent required, to review the Debtors’ business and assess opportunities for cost reduction, revenue enhancement and operating efficiencies;
- (f) shall assist the Debtors, to the extent required, with the Restructuring and in its negotiations with its creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;

- (g) shall report to the Court on the state of the business and financial affairs of the Debtors or developments in these proceedings or any related proceedings within the time limits set forth in the CCAA and at such time as considered appropriate by the Monitor or as the Court may order;
- (h) shall report to this Court and interested parties, including but not limited to creditors affected by the Plan, with respect to the Monitor's assessment of, and recommendations with respect to, the Plan;
- (i) may retain and employ such agents, advisers and other assistants as are reasonably necessary for the purpose of carrying out the terms of the Order, including, without limitation, one or more entities related to or affiliated with the Monitor;
- (j) may engage legal counsel to the extent the Monitor considers necessary in connection with the exercise of its powers or the discharge of its obligations in these proceedings and any related proceeding, under the Order or under the CCAA;
- (k) may act as a "foreign representative" of the Debtors or in any other similar capacity in any insolvency, bankruptcy or reorganisation proceedings outside of Canada;
- (l) may give any consent or approval as may be contemplated by the Order or the CCAA;
- (m) may hold and administer funds in connection with arrangements made among the Debtors, any counter-parties and the Monitor, or by Order of this Court; and
- (n) may perform such other duties as are required by the Order or the CCAA or by this Court from time to time.

43. **ORDERS** that, in addition with the foregoing powers, the Monitor shall also be authorized, but not required to exercise the following powers, for and on behalf of the Debtors:

- (a) conduct and control the financial affairs and operations of the Debtors and carry on the business of the Debtors;
- (b) execute and deliver the Interim Financing Documents, as provided for by this Order;
- (c) execute any necessary amendments to the KERP, as provided for by this Order;
- (d) exercise all rights granted to the Debtors in this Order;
- (e) execute such documents as may be necessary in connection with any proceedings before or Order of the Court;
- (f) take steps for the preservation and protection of the Property;
- (g) negotiate and enter into agreements with respect to the Property;
- (h) apply to the Court for any vesting order or orders which may be necessary or appropriate in order to convey the Property to a purchaser or purchasers thereof with the prior consent of the Monitor;
- (i) take any steps required to be taken by the Debtors under any Order of the Court;
- (j) provide information to the Monitor and the Applicants regarding the business and affairs of the Debtors;
- (k) exercise such shareholder or member or rights, as may be available to the Debtors; and
- (l) take any steps, enter into any agreements or incur any obligations necessary or incidental to the exercise of the aforesaid powers.

Unless expressly authorized to do so by this Court, the Monitor shall not take possession of the Property nor shall the Monitor be deemed to have done so.

44. **TAKES ACT** of the undertaking of the Monitor to file a report to the Court on further material development no later than every 2 months following the date of this Order, and to post these reports on the Monitor's website;

45. **APPROVES** the activities of the Monitor, up to the date of this Order, in connection with the restructuring, including but not limited to the activities described in the Second Report of the Monitor dated January 8, 2019, and, in consequence **DECLARES** that the Monitor has fulfilled its obligations pursuant to the CCAA and to the orders from this Court pursuant to the CCAA up until the date of this Order.
46. **ORDERS** that no provisions of this Order are intended to appoint the Monitor as an officer, director or employee of any of the Debtors or to create a fiduciary duty to any party including, without limitation, any creditor or shareholder of the Debtors. Additionally, nothing in this Order shall constitute or be deemed to constitute the Monitor as a receiver, assignee, liquidator, or receiver and manager of any of the Debtors and any distribution made to creditors of the Debtors will be deemed to be have been made by the Debtors.
47. **ORDERS** that the Debtors and their employees, current and former shareholders, officers, directors, agents and representatives shall fully cooperate with the Monitor in the exercise of its powers and discharge of its duties, rights and obligations as provided and set out in this Order.
48. **ORDERS** that, without limiting the generality of the foregoing, the Debtors and their directors, officers, employees and agents, accountants, auditors and all other persons having notice of the Order shall forthwith provide the Monitor with unrestricted access to all of the Business and Property, including, without limitation, the premises, books, records, data, including data in electronic form, and all other documents of the Debtors in connection with the Monitor's duties and responsibilities hereunder.
49. **ORDERS** that the Monitor may provide creditors and other relevant stakeholders of the Debtors with information in response to requests made by them in writing addressed to the Monitor and its counsel. In the case of information that is confidential, proprietary or competitive, the Monitor shall not provide such information to any person unless otherwise directed by this Court.
50. **ORDERS** that if the Monitor, in its capacity as Monitor, is deemed to have carried on the business of the Debtors or continues the employment of the Debtors' employees and that the Monitor shall benefit from the provisions of section 11.8 of the CCAA.

51. **ORDERS** that sections 14.06 and 215 of the BIA apply *mutatis mutandis* and no action or other proceedings shall be commenced against the Monitor relating to its appointment, its conduct as Monitor or the carrying out of the provisions of any order of this Court, except with prior leave of this Court, on at least seven days' notice to the Monitor and its counsel. The entities related to or affiliated with the Monitor referred to in subparagraph 42(i) hereof and the legal counsels referred to in subparagraph 42(j) shall also be entitled to the protection, benefits and privileges afforded to the Monitor pursuant to this paragraph.

52. **ORDERS** that nothing contained herein shall require the Monitor to occupy or to take control, or to otherwise manage all or any part of the Property. The Monitor shall not, as a result of this Order, be deemed to be in possession of any of the Property within the meaning of environmental legislation, the whole pursuant to the terms of the CCAA and otherwise, if necessary, shall benefit from those provisions set forth in section 14.06(1.1)(c) of the BIA.

53. **ORDERS** that Debtors shall pay the reasonable fees and disbursements of the Monitor, the Monitor's legal counsel and Investissement Québec's legal counsel, directly related to these proceedings, the Plan and the Restructuring, whether incurred before or after this Order, and shall provide each with a reasonable retainer in advance on account of such fees and disbursements, if so requested, and **ORDERS** that the Debtors shall also pay the reasonable fees and disbursements of the Debtors' counsel related to services provided after this Order in direct relation to these proceedings, the Plan and the Restructuring, provided that such services are rendered on the instructions of the Monitor, in consultation with Investissement Québec.

54. **DECLARES** that the Monitor, the Monitor's legal counsel, Investissement Québec's legal counsel, and the Debtors' legal counsel, as security for the professional fees and disbursements incurred both before and after the making of this Order (except in the case of the Debtors' counsel whose professional fees and disbursements shall only be incurred in respect of services to be rendered after the making of this Order and in accordance with paragraph 53 above) and directly related to these proceedings, the Plan and the Restructuring, be entitled to the benefit of and are hereby granted a charge and security in the Property to the extent of the aggregate amount of \$600,000 (the

“**Administration Charge**”), having the priority established by paragraphs 55 and 56 hereof.

Priorities and General Provisions Relating to CCAA Charges

55. **DECLARES** that the priorities of the Administration Charge, the Interim Lender Charge, the Intercompany Advance Charge, the KERP Charge and the D&O Charge (collectively, the “**CCAA Charges**”), as between them with respect to any Property to which they apply, shall be as follows:
- (a) first, the Administration Charge;
 - (b) second, the Interim Lender Charge;
 - (c) third, the Intercompany Advance Charge;
 - (d) Fourth, the KERP Charge;
 - (e) Fifth, the D&O Charge.
56. **DECLARES** that each of the CCAA Charges shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, encumbrances or security of whatever nature or kind (collectively, the “**Encumbrances**”) affecting the Property charged by such Encumbrances.
57. **ORDERS** that, except as otherwise expressly provided for herein, the Debtors shall not grant any Encumbrances in or against any Property that rank in priority to, or *pari passu* with, any of the CCAA Charges unless the Debtors obtains the prior written consent of the Monitor and the prior approval of the Court.
58. **DECLARES** that each of the CCAA Charges shall attach, as of the Effective Time, to all present and future Property of the Debtors, notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent.
59. **DECLARES** that the CCAA Charges and the rights and remedies of the beneficiaries of such Charges, as applicable, shall be valid and enforceable and shall not otherwise be limited or impaired in any way by: (i) these proceedings and the declaration of insolvency made herein; (ii) any Application for a receiving order filed pursuant to the BIA in respect

of the Debtors or any receiving order made pursuant to any such Application or any assignment in bankruptcy made or deemed to be made in respect of the Debtors; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any agreement, lease, sub-lease, offer to lease or other arrangement which binds the Debtors (a “**Third Party Agreement**”), and notwithstanding any provision to the contrary in any Third Party Agreement:

- (a) the creation of any of the CCAA Charges shall not create or be deemed to constitute a breach by the Debtors of any Third Party Agreement to which it is a party; and
- (b) any of the beneficiaries of the CCAA Charges shall not have liability to any Person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the CCAA Charges.

60. **DECLARES** that notwithstanding: (i) these proceedings and any declaration of insolvency made herein, (ii) any Application for a receiving order filed pursuant to the BIA in respect of the Debtors and any receiving order allowing such Application or any assignment in bankruptcy made or deemed to be made in respect of the Debtors, and (iii) the provisions of any federal or provincial statute, the payments or disposition of Property made by the Debtors pursuant to the Order and the granting of the CCAA Charges, do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law.

61. **DECLARES** that the CCAA Charges shall be valid and enforceable as against all Property of the Debtors and against all Persons, including, without limitation, any trustee in bankruptcy, receiver, receiver and manager or interim receiver of the Debtors, for all purposes.

General

62. **ORDERS** that no Person shall commence, proceed with or enforce any Proceedings against any of the directors, officers, employees, legal counsel or financial advisers of the Debtors or of the Monitor in relation to the Business or Property of the Debtors,

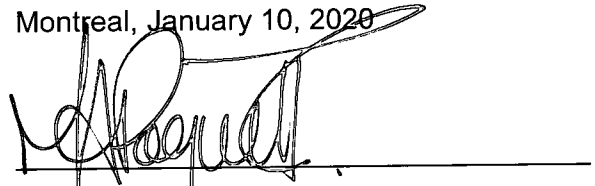
without first obtaining leave of this Court, upon five (5) days written notice to the Debtors' counsel and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.

63. **DECLARES** that the Order and any proceeding or affidavit leading to the Order, shall not, in and of themselves, constitute a default or failure to comply by the Debtors under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.
64. **DECLARES** that, except as otherwise specified herein, the Debtors and the Monitor are at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective given addresses as last shown on the records of the Debtors and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
65. **DECLARES** that the Debtors and any party to these proceedings may serve any court materials in these proceedings on all represented parties electronically, by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that the Debtors shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.
66. **DECLARES** that, unless otherwise provided herein, under the CCAA, or ordered by this Court, no document, order or other material need be served on any Person in respect of these proceedings, unless such Person has served a Notice of Appearance on the solicitors for the Debtors and the Monitor and has filed such notice with this Court, or appears on the service list prepared by the monitor or its attorneys, save and except when an order is sought against a Person not previously involved in these proceedings;
67. **DECLARES** that the Debtors or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of the Order on notice only to each other.

68. **DECLARES** that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days notice to the Debtors, the Monitor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order, such application or motion shall be filed during the Stay Period ordered by this Order, unless otherwise ordered by this Court;
69. **DECLARES** that the Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
70. **DECLARES** that the Monitor, shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which the Monitor shall be the foreign representative of the Debtors. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
71. **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order.
72. **ORDERS** the provisional execution of the Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

WITHOUT COSTS.

Montreal, January 10, 2020



The Honourable Marie-Anne Paquette, j.s.c.

