

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

No.: 500-11-057679-199

SUPERIOR COURT
Commercial Division

IN THE MATTER OF THE PLAN OF
ARRANGEMENT AND COMPROMISE OF:

INVESTISSEMENT QUÉBEC

Applicant / Secured Creditor

- and -

FIERA PRIVATE DEBT INC.

Impleaded Party

- 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

APPLICATION FOR THE ISSUANCE OF AN ORDER
EXTENDING THE STAY PERIOD
(Sections 11.02(2) of the *Companies' Creditors Arrangement Act*)

TO THE HONOURABLE MARTIN F. SHEEHAN OF THE SUPERIOR COURT, SITTING IN
COMMERCIAL DIVISION, IN AND FOR THE JUDICIAL DISTRICT OF MONTREAL, THE
APPLICANT, INVESTISSEMENT QUÉBEC, RESPECTFULLY SUBMITS THE FOLLOWING:

1. ORDER SOUGHT

1. The Applicant, Investissement Québec ("**IQ**") in its capacity as interim lender and secured creditor of the Debtors, hereby seeks the issuance of an order substantially in the form of the draft order communicated herewith as **Exhibit R-1**:
 - (a) extending the Stay Period (as defined below) until July 30, 2024; and
 - (b) approving the activities of Deloitte Restructuring Inc., in its capacity as monitor to the Debtors ("**Deloitte**" or the "**Monitor**"), as described in its Twenty-Fourth Report to this Court.

2. PROCEDURAL BACKGROUND

2. On December 13, 2019, IQ and Fiera Private Debt Inc. ("**Fiera**"), in their capacity as principal secured creditors of the Debtors, filed a joint application in respect of the Debtors pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), entitled *Application for the Issuance of a First Day Initial Order, an Amended and Restated Initial Order, a Receivership Order and a Claims Process Order* (the "**Initial Application**").
3. On December 16, 2019, the Initial Application filed by IQ and Fiera was partially granted by the Honourable Marie-Anne Paquette, j.c.s., who rendered, on the same day, a first day initial order (the "**First Day Order**"), pursuant to which, *inter alia*:
 - (a) Deloitte Restructuring Ing. ("**Deloitte**") was appointed as monitor of the Debtors (in such capacity, the "**Monitor**");
 - (b) all claims against the Debtors, their properties and their directors and officers were stayed (the "**Stay**") until December 26, 2019 (the "**Stay Period**"); and
 - (c) the Debtors were authorized to borrow from IQ an amount of up to \$1,000,000 on the terms and conditions of the Interim Financing Term Sheet (the "**Interim Financing Term Agreement**"), which was to be secured by a super-priority charge and security over all of the assets of each of the Debtors in the aggregate amount of \$1,200,000 (the "**Interim Lender Charge**").
4. On December 16, 2019, the Court also rendered an order appointing Deloitte as receiver to the Debtors for the sole purpose of allowing their respective employees from benefiting from those payments provided under the *Wage Earner Protection Program Act* (S.C. 2005, c. 47, s. 1).
5. On December 19, 2020, IQ and Fiera filed another joint motion requesting the issuance of an Amended First Day Order which was granted on December 26, 2020, as appears from the Court record, and which provided for, *inter alia*:
 - (a) an extension of the Stay Period until January 10, 2020;
 - (b) the authorization for the Debtors to borrow from IQ an amount of up to \$1,500,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$1,800,000; and
 - (c) the authorization for the Debtors (with the prior approval of the Monitor), or the Monitor (on behalf of the Debtors), to pay amounts owing for goods or services actually

supplied to the Debtors either prior to or after the date of this Order up to a maximum of \$250,000, to the extent that, in the opinion of the Monitor, the supplier was essential to the business and ongoing operations of the Debtors.

6. On January 10, 2020, the Court granted the Initial Application filed by IQ and Fiera in its entirety, and rendered, as appears from the Court record:
 - (a) an Amended and Restated Initial Order which provided, *inter alia*:
 - (i) an extension of the Stay Period until May 2, 2020; and
 - (ii) the authorization for the Debtors to borrow from IQ an amount of up to \$6,000,000 under the terms and conditions set forth in the Interim Financing Agreement, to be secured by an Interim Lender Charge of \$7,200,000; and
 - (iii) an increase in the Monitor's powers, including the powers to conduct and control the financial affairs and operations of the Debtors, and carry on the business of the Debtors;
 - (b) a Claims Procedure Order which established a "*Claims Bar Date*" of March 16, 2020 (except for restructuring claims).
7. Since then, the Court has rendered several other orders, including:
 - (a) orders extending the Stay Period (which is currently set to expire on May 10, 2024); and
 - (b) orders approving a First Amending Agreement, a Second Amending Agreement, a Third Amending Agreement, a Fourth Amending Agreement, a Fifth Amending Agreement, a Sixth Amending Agreement, a Seventh Amending Agreement and an Eighth Amending Agreement to the Interim Financing Agreement, providing for an increase to the Facility Amount (as defined in the Interim Financing Agreement) to a total amount of \$39,000,000, and a corresponding increase to the Interim Lender Charge to a total amount of \$46,800,000.

3. SUMMARY OF THE DEBTORS' RESTRUCTURING EFFORTS TO DATE

A. The Pre-Filing Solicitation Efforts

8. As previously discussed in IQ and Fiera's Initial Application, between August and November 2019 (i.e. prior to the issuance of the Initial Order), a sale and investment solicitation process had been conducted by the Debtors with the assistance of its then financial advisor (and in consultation with IQ and Deloitte).
9. Despite these efforts, no offer or indication of interest or other proposal had been submitted to the Debtors at that time.

B. The Post-Filing Solicitation Efforts

10. Since the commencement of these CCAA proceedings, the Debtors and the Monitor, in consultation with IQ and Fiera, have had discussions with various parties on an informal basis regarding a potential transaction which could allow the continuation of the Debtors' operations.
11. On September 3, 2020, the Monitor received an offer from one of these parties for the acquisition of the Cogeneration Facility (as defined below) which was shared with IQ and Fiera and subsequently refused. The Monitor has also received a draft letter of intention for the same facility, which was also shared with IQ and Fiera, and subsequently refused.
12. In 2021, the Debtors and the Monitor continued to have active discussions with various interested parties with a view to secure a binding offer with a party willing to continue the operations of the Debtors as a going concern.
13. Despite these continued efforts, no such binding offer was agreed upon.

C. The August 2021 SISP

14. In late July of 2021, the Monitor met with the respective representatives and counsel of IQ and Fiera to discuss the status of this file as well as the next steps.
15. During such meeting and in the discussions which followed such meeting, it was agreed that given the advantageous market price of dissolving pulp, it would be appropriate at that time to establish a formal deadline for the submission of letters of intent as well as the terms and conditions in connection with the process for the acquisition of the Debtors' business and assets (the "**SISP**").
16. As part of the SISP, the Monitor would communicate with a variety of potentially interested parties, including parties that had previously manifested some interest in acquiring the Debtors' business and assets, parties potentially interested in a going concern transaction and parties potentially interested in submitting liquidation offers whereby the Debtors' assets would be decommissioned and dismantled.
17. Accordingly, the Monitor, in consultation with IQ and Fiera, prepared a list of twenty-two (22) potentially interested parties to whom the Monitor would reach out to.
18. On August 4, 2021, the Monitor sent to the above parties solicitation materials and advised them that offers should be submitted to the Monitor by no later than September 15, 2021 (the "**Bid Deadline**").
19. Several offers (the "**Offers**") from various parties (collectively, the "**Bidders**") were received by the Bid Deadline. These included going concern offers from strategic parties as well as liquidation bids.
20. On September 17, 2021, the Monitor presented a summary of the Offers to IQ and Fiera.
21. Since several of the Offers contained conditions relating to IQ and the Québec government (including requests for financial support), IQ, together with the Monitor, proceeded with a detailed review of each and every one of these Offers in order to assess their respective viability and to evaluate and quantify the various conditions set out thereunder, in order to ultimately determine whether or not a transaction could be successfully negotiated and implemented.

22. At that time, given the nature of these conditions, IQ expected that the completion of such transaction (if possible) could take several months.
23. In late 2021, IQ and the Monitor determined that it would be appropriate to focus their discussions with one of the Bidders (the “**Original Potential Purchaser**”) and to evaluate such Original Potential Purchaser’s ability to implement a project involving the restart of Fortress’ Pulp Mill and Cogeneration Facility (the “**Original Proposed Project**”).
24. As such, discussions and meetings were held between, *inter alia*, this Original Potential Purchaser, the Monitor, IQ as well as other governmental entities to clarify its offer, negotiate certain improvements to same and ultimately discuss the path going forward in order to properly assess the Original Potential Purchaser’s Original Proposed Project and determine how such project could be implemented.
25. In this context, the parties namely discussed the terms and conditions which would be required to be met in order to complete a transaction and implement the Original Proposed Project.
26. In addition to discussing the financial terms of such transaction and the manner in which the Original Proposed Project could be implemented, the Original Potential Purchaser, IQ and the Monitor also discussed the engagement by the Monitor of a third-party consultant which would proceed with an in-depth review of the Original Proposed Project and conduct feasibility studies relating to same (in order to validate the viability and the technical and financial feasibility of the Original Proposed Project), identify the areas of risks relating to same and obtain such third-party consultant’s recommendations.
27. All parties agreed at that time that the preparation of a feasibility report by such third-party consultant constituted a critical step in moving forward with any transaction with the Original Potential Purchaser.
28. Unfortunately, and despite the significant efforts from all parties involved, it became clear that certain conditions relating to the Original Proposed Project and the required participation from the Quebec government in such project would not be met.
29. Accordingly, by the end of March 2022, the Quebec government notified the Original Potential Purchaser that it would not be in a position to pursue a transaction with such party in connection with the Original Proposed Project.

D. The Subsequent Discussions With Other Potential Purchasers

30. Over the course of the next few months, Fortress, together with the support of the Quebec government, and the assistance of the Monitor, continued to discuss with other parties other potential transactions and projects involving the acquisition of Fortress’ assets.
31. In this context, discussions and meetings continued to be held between, on the one hand, Fortress, the Monitor and the Quebec government, and, on the other hand, certain parties that had previously shown interest in potentially implementing a transaction in connection with Fortress’ assets, as well as additional new parties.
32. In late September 2022, Fortress and the Monitor received a non-binding letter of intent, together with a business plan, from a party potentially interested in acquiring the business and assets of Fortress.

33. IQ, together with the various branches of the Quebec government, analyzed the aforementioned letter of intent. However, due to the complexity of the proposal submitted to IQ and the Quebec government, and the need to consult with various branches of the Quebec government, such as the Ministère de l'Économie, de l'Innovation et de l'Énergie (the "MEIE"), the Ministère des Affaires municipales et de l'Habitation, the Ministère des Forêts, de la Faune et des Parcs du Québec and the Municipality of Thurso, the aforementioned offer required significant analysis, consideration and ultimately work on the part of IQ and the Quebec government.
34. Ultimately, such offer did not result in a transaction, and Fortress, together with the Monitor, continued their discussions with several other parties which remained interested in a potential transaction involving the assets of Fortress.

E. The April 2023 SISP

35. Given that several parties continued to show a strong interest in Fortress' assets, including namely for alternative projects, the Monitor, with the consent of IQ, established a deadline for the submission of letters of intent and the terms and conditions for the re-launched SISP.
36. On March 16, 2023, the Monitor communicated the terms and conditions of the process to potential bidders that had already demonstrated a serious interest in Fortress' assets and informed them that they had until April 14, 2023, to submit a letter of intent. A total of seven (7) parties were contacted.
37. On April 14, 2023, Fortress and the Monitor received six (6) offers from different interested parties, including parties which had previously demonstrated an interest in a potential transaction, as well as other parties which had, until then, not demonstrated such interest.
38. These offers were shared with IQ who proceeded with an analysis of each of the above offer, together with the Monitor and the Company, as well as with the various branches of the Quebec government.
39. In the following weeks and months, the Monitor, in consultation with IQ, had various discussions and exchanges with two (2) of the above offerors, namely with a view to clarify the terms and conditions of each of their respective offers.

F. The Negotiations with the Potential Purchaser

40. After thorough review, the Monitor, in consultation with IQ, elected to pursue its discussions and negotiations with one (1) particular offeror (the "**Potential Purchaser**"), which had indicated a willingness to implement a transaction prior to the end of the year, subject to completing its due diligence over the course of the summer, during which a Phase II environmental report would be prepared.
41. Over the course of the 2023 summer, several follow-up meetings and discussions were held between the Monitor, IQ, the MEIE, the Potential Purchaser and their respective advisors to discuss and negotiate the terms and conditions of a potential transaction.
42. On August 25, 2023, after several weeks of discussions and negotiations, the Monitor, in consultation with IQ and the MEIE, entered into an Exclusivity Agreement (the "**Exclusivity Agreement**") with the Potential Purchaser, to which IQ intervened, pursuant to which the Monitor committed not to solicit offers from third parties with respect to the assets subject to the Potential Purchaser's offer, until October 15, 2023.

43. In parallel with the foregoing, a third-party consultant was engaged to perform a Phase II environmental report (the “**Phase II Report**”) with a view to determine the extent of the contamination of lands owned by the Debtors, and ultimately allow the parties the pursue their discussions and negotiations in connection with a potential transaction.
44. During the fall of 2023, while the Phase II Report was being prepared, numerous meetings, both in person and virtual, as well as on-site visits, were held amongst the respective representatives and advisors of the Monitor, IQ, the MEIE and of the Potential Purchaser, to discuss and negotiate, *inter alia*, the terms and conditions of a potential transaction, including its structure.
45. In fact, since June 2023, more than one hundred meetings were held, either in person or virtually, amongst some or all of the above parties.
46. Ultimately, such discussions and negotiations have been lengthier than anticipated, due to the complexity of the potential transaction contemplated, to the nature and condition of the Debtors’ assets, including its lands, and the number of parties from whom various consents and approvals are required to ensure the implementation of such potential transaction.
47. In November 2023, a preliminary Phase II Report was completed, and a copy thereof was delivered to the Monitor, IQ and the Quebec government as well as to the Potential purchaser.
48. Over the course of the past few months, the above parties pursued intensive discussions and negotiations with a view to execute:
 - (a) a memorandum of understanding (the “**MOU**”), setting forth the general terms, conditions, steps, timeline and structure of a transaction that is currently contemplated amongst the parties, including the Monitor; and
 - (b) an amendment to the Exclusivity Agreement that would allow a limited extension of the exclusivity period set out therein in favour of the Potential Purchaser, in exchange for the payment of an exclusivity fee that would allow to fund the Debtors’ cash-flow forecast and the current on-going proceedings.

G. The Execution of an MOU with the Potential Purchaser

49. On April 30, 2024, an MOU was executed between the Potential Purchaser and the MEIE setting forth the parties’ agreement and understanding with respect to a contemplated transaction (the “**Contemplated Transaction**”) that would provide for, *inter alia*:
 - (a) The acquisition of Fortress’ assets to a company incorporated by the MEIE, subject to this Court’s approval;
 - (b) The lease of certain of those assets (the “**Designated Assets**”) to the Potential Purchaser, who would benefit from an option to purchase the Designated Assets, subject to certain terms and conditions agreed upon with the MEIE; and
 - (c) The implementation of a project with respect to some of the immovable properties of Fortress.
50. Concurrently with the execution of the MOU, an amendment to the Exclusivity Agreement was also executed between the Monitor and the Potential Purchaser, to which IQ intervened, which

provides for the payment of an exclusivity fee that will fund the Debtors' cash-flow forecast and the current on-going proceedings until the closing of the Contemplated Transaction.

51. IQ currently expect to be in a position to return before this Court to seek the approval of the Contemplated Transaction in June 2024.
52. Such transaction, if it is approved by this Court and subsequently closes, will ultimately benefit the Debtors, their employees and the city of Thurso.

H. Fortress' Claim Against Les Pompes Goulds

53. As previously discussed in prior applications to the Court, Fortress is party to certain litigation proceedings involving Les Pompes Gould Inc. ("**Pompes Gould**") in which Fortress claims from the latter damages in an amount of approximately \$17 million.
54. On February 11, 2022, this Court rendered an order approving a Litigation Funding Agreement entered into between Fortress, the Monitor and Omni Bridgeway (Fund 5) Canada Investments Limited.
55. On December 22, 2022, a common declaration was filed by each of Fortress and Pompes Goulds, with a view to set the trial dates.
56. IQ understands that a trial has been set to take place between March 17, 2025 and April 11, 2025.
57. IQ is currently in discussion with the Monitor in order to determine how to deal with the above-described claim, in light of the Contemplated Transaction.

4. RELIEF SOUGHT: THE EXTENSION OF THE STAY PERIOD

58. As previously mentioned, the Stay Period is currently set to expire on May 10, 2024.
59. Given the above, it is hereby requested that the Stay Period be extended up to and including July 30, 2024, so as to allow IQ, the MEIE, the Monitor and the Potential Purchaser to finalize and implement the Contemplated Transaction, subject to this Court's prior approval thereof.
60. IQ has been advised by the Monitor that Fortress will have sufficient liquidity to fund the present proceedings and its limited operations until the end of the extended Stay Period, should the present application be granted by this Court.
61. While the restructuring and/or sale of Fortress has proven to be lengthier and much more challenging than initially contemplated, given, *inter alia*, the complexity of the Contemplated Transaction, which required and continues to require consultation and coordination amongst an important number of governmental entities, the parties have made substantial progress over the course of the last few months and expect to be in a position to return before this Court in June 2024 to seek the approval of the Contemplated Transaction.
62. Absent an order from this Court ordering the extension of the Stay Period, the parties will be forced to immediately initiate proceedings under the *Bankruptcy and Insolvency Act* (the "**BIA**"), whether it be receivership proceedings or bankruptcy proceedings, which, ultimately, may hinder the parties' efforts over the course of the last few months (and years) to close a transaction in respect of Fortress' assets.

63. IQ understand that the Monitor is supportive of IQ's request for an extension of the Stay Period and will confirm such support in its Twenty-Fourth Report to the Court, which will be filed in advance of the hearing on this Application.

5. CONCLUSION

64. In light of the foregoing, IQ respectfully submits that the extension of the Stay Period until July 30, 2024 is appropriate in the circumstances, as such relief will allow the parties to move forward with a transaction which will allow a positive outcome for the Debtors, their employees and the city of Thurso.

65. No creditors of Fortress will be prejudiced by the extension of the Stay Period.

WHEREFORE, MAY THIS COURT:

GRANT this *Application for the Issuance of an Order Extending the Stay Period* (the "**Application**");

ISSUE an order substantially in the form of the draft Order communicated in support of the Application as Exhibit R-1;

WITHOUT COSTS, save and except in case of contestation.

MONTREAL, May 7, 2024



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INVESTISSEMENT QUÉBEC**

SWORN STATEMENT

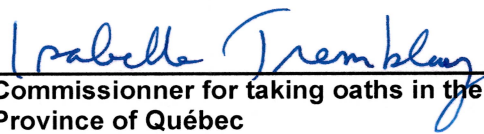
I, the undersigned, Éric Pelletier, having my principal place of business at 1001, Robert-Bourassa, Suite 1000, in the city of Montreal, Province of Quebec, solemnly declare the following:

1. I am a Senior Director of Investissement Québec;
2. All the facts alleged in the *Application for the Issuance of an Order Extending the Stay Period* are, to the best of my knowledge, true.

AND I HAVE SIGNED


ÉRIC PELLETIER

Solemnly declared before me at Montreal,
on the 7th day of May 2024


Commissionner for taking oaths in the
Province of Québec



NOTICE OF PRESENTATION

TO: the Service List

TAKE NOTICE that the *Application for the Issuance of an Order Extending the Stay Period* will be presented for adjudication before the Superior Court of Quebec, Commercial Division on **May 10, 2023**, at **9:30 am**, either in person in room **16.12** of the Montreal Courthouse or by videoconference, the details of which are below:

16.12	<p>Rejoindre la réunion Microsoft Teams +1 581-319-2194 Canada, Québec (Numéro payant) (833) 450-1741 Canada (Numéro gratuit) ID de conférence : 559 596 749#</p> <p>Numéros locaux Réinitialiser le code confidentiel En savoir plus sur Teams Options de réunion</p> <p>Rejoindre à l'aide d'un dispositif de vidéoconférence teams@teams.justice.gouv.qc.ca ID de la conférence VTC : 1158898292 Autres instructions relatives à la numérotation VTC</p>
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Best regards.

MONTREAL, May 7, 2024



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**Attorneys for the Applicant
INVESTISSEMENT QUÉBEC**

Exhibit R-1

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

File: No: 500-11-057679-199

SUPERIOR COURT
Commercial Division

Montreal, May 10, 2024

Present: The Honourable Martin F. Sheehan, J.S.C.

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

INVESTISSEMENT QUÉBEC

Applicant / Secured Creditor

- and -

FIERA PRIVATE DEBT INC.

Impleaded Party

- and -

FORTRESS GLOBAL ENTERPRISES INC.

- and -

FORTRESS SPECIALTY CELLULOSE INC.

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FORTRESS BIOENERGY LTD.

- and -

FORTRESS XYLITOL INC.

- and -

9217-6536 QUÉBEC INC.

Debtors

- and -

DELOITTE RESTRUCTURING INC.

Monitor

ORDER

ON READING Investissement Québec (“**IQ**” or the “**Applicant**”)’s *Application for the Issuance of an Order Extending the Stay Period* (the “**Application**”), the affidavit of Mr. Eric Pelletier filed in support thereof and the Twenty-Fourth Report (the “**Twenty-Fourth Report**”) of Deloitte Restructuring Inc., in its capacity as monitor of the Debtors (the “**Monitor**”), and relying upon the submissions of counsel and being advised that the parties listed on the service list prepared by the Applicant were given prior notice of the presentation of the Application;

GIVEN the initial order rendered by this Court in the present matter on December 16, 2019 (as amended, restated or otherwise modified, from time to time, including pursuant to orders rendered by this Court on December 26, 2019 and on January 10, 2020, the “**Initial Order**”);

GIVEN the provisions of the the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended the “**CCAA**”);

WHEREFORE, THE COURT:

1. **GRANTS** the Application;
2. **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses the Applicant with any further notification thereof;
3. **ORDERS** that the Stay Period (as defined in the Initial Order and extended thereafter, from time to time, by Order of this Court) shall be further extended to and including July 30, 2024;
4. **APPROVES** the activities of the Monitor, up to the date of this Order, as described in the Twenty-Fourth Report of the Monitor and in the testimony of its representative at the hearing on the Application, and confirms that the Monitor has fulfilled its obligations pursuant to the CCAA and the orders of this Court up until the date of this Order;
5. **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the requirement to provide any security or provision for costs whatsoever.

6. **THE WHOLE**, without costs.



**SUPERIOR COURT
(Commercial Division)**

No.: 500-11-057679-199

**CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

**IN THE MATTER OF THE PLAN OF ARRANGEMENT AND COMPROMISE OF:
INVESTISSEMENT QUÉBEC**

Applicant / Secured Creditor

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Monitor

BS0350

Our file: 107804-1024

**APPLICATION FOR THE ISSUANCE OF AN ORDER EXTENDING THE
STAY PERIOD AND EXHIBIT R-1
(Sections 11.02(2) of the Companies' Creditors Arrangement Act)**

ORIGINAL

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