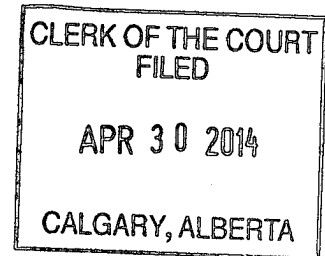


Clerk's stamp:



COURT FILE NUMBER #1401 04022

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, RSC 1985, c C-36, AS AMENDED;
AND IN THE MATTER OF KYOTO FUELS CORPORATION**

APPLICANT

T&E VENTURES INC.

RESPONDENTS

KYOTO FUELS CORPORATION.

DOCUMENT

ORIGINATING APPLICATION

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

ROSE LLP
Suite 810, 333-5th Avenue S.W.
Calgary, AB T2P 3B6
Attention: Matthew R. Lindsay, Q.C.
Telephone: 403-776-0525
Facsimile: 403-776-0501
File No. 10289-001

NOTICE TO SERVICE LIST

This application is made on behalf of the Applicant.

You may have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: April 30, 2014
Time: 10:00 am
Where: Calgary Courts Centre,
601 - 5 Street SW,
Calgary, AB T2P 5P7
Before: The Honourable Justice Romaine

Go to the end of this document to see what you can do and when you must do it.

Basis for this claim:

1. Kyoto Fuels Corporation ("**Kyoto**") is a debtor company within the meaning of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**").
2. Kyoto has more than \$5,000,000 in debt, is insolvent within the meaning of the CCAA and is a company to which the CCAA applies.
3. Kyoto has no cash flow and is unable to meet its near-term obligations such that it can carry on business in the ordinary course.
4. Kyoto requires a stay of proceedings in order to facilitate immediate financing, reorganize its business and affairs, and implement a restructuring for the benefit of Kyoto and its many stakeholders.
5. The Applicant, T&E Ventures Inc., is a secured creditor of Kyoto and is owed in excess of \$7.3 million.
6. A plan or plans of compromise or arrangement for consideration by Kyoto's creditors is in the best interests of Kyoto, the Applicant and Kyoto's stakeholders, who would derive a greater benefit from such a reorganization than would result from the bankruptcy or other liquidation of Kyoto.
7. Such further and other grounds as counsel may advise and this Court deems just.

Remedy sought:

8. Declaring service of notice of this Originating Application and the supporting materials to be good and sufficient, and abridging the time therefore, if necessary.
9. An Order substantially in the form attached hereto as Schedule "A" (blacklined against the CCAA Alberta Template Order of May 7, 2013) and attached as Schedule "B", which shall include, but not be limited to, the relief enumerated below (the "**Initial Order**"):
 - (a) a declaration that Kyoto is an entity to which the CCAA applies;

- (b) a stay of all proceedings and remedies taken, or that might be taken, with respect to Kyoto, its property and undertaking, without leave of the Court or as otherwise permitted by law;
- (c) appointing Ernst & Young Inc. (the “**Monitor**”) as monitor in these proceedings, with the power to engage assistants or advisors (each a “**Restructuring Consultant**”) and sign and enter into, for and on behalf of Kyoto, all such deeds and documents as the Monitor deems necessary or desirable, to carry out the terms of the Initial Order or any other Order to be made in these proceedings, for the purpose of preserving the Business or Property of Kyoto, assisting Kyoto with the administration of its business and property, and to assist Kyoto with operational and restructuring matters and development of a plan of compromise or arrangement;
- (d) approving an interim financing facility and granting the provider of the interim financing an interim financing charge, in accordance with the terms of the proposed Initial Order;
- (e) authorizing Kyoto, in conjunction with the Monitor and any Restructuring Consultant, to carry on business in a manner consistent with the preservation of its property and to make certain payments in connection with its business in the proceedings herein, with the prior approval of the Monitor;
- (f) approving the charges set out in the Initial Order; and
- (g) such further and other orders as to this Honourable Court may seem just and proper in such circumstances.

Affidavit or other evidence to be used in support of this application:

10. The Affidavit of Myles Hamilton, sworn April 29, 2014, the consent of Ernst & Young Inc. to act as Monitor of Kyoto, and such further and other material as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

11. The CCAA, the *Judicature Act*, RSA 2000, c J-2, and such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

How the Application is proposed to be heard or considered:

12. Orally, in Chambers.

WARNING

You have been served with this document because you may have an interest in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order in your absence. You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the Applicant is entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must reply by giving reasonable notice of that material to the Applicant.

SCHEDULE "A"

Last Revised: December 2012

Clerk's stamp:

COURT FILE NUMBER:

{Number}

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE OF ●

CALGARY

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

AND IN THE MATTER OF A PLAN OF
COMPROMISE OR ARRANGEMENT OF [THE
DEBTOR(S)] KYOTO FUELS CORPORATION

APPLICANT:

T&E VENTURES INC.

RESPONDENT(S): RESPONDENTS

KYOTO FUELS CORPORATION

DOCUMENT: ALBERTA-
TEMPLATE CCAA INITIAL
ORDER

CCAA INITIAL ORDER

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

Rose LLP
#810, 333-5 Ave S.W.
Calgary, AB T2P 3B6
Ph. (403) 776-0525
Ex. (403) 776-0501
File No.

Attention: Mr. Matthew B. Lindsay

DATE ON WHICH ORDER WAS
PRONOUNCED

April 30, 2014

NAME OF JUSTICE WHO MADE THIS
ORDER

The Honourable Justice Romaine

~~{LAW FIRM NAME}~~

~~{Address}~~

~~{Address}~~

~~Solicitor: ●-~~

~~Telephone: ●-~~

~~Facsimile: ●-~~

~~Email: ●-~~

~~File Number: ●-~~

~~DATE ON WHICH ORDER WAS PRONOUNCED: ●~~

~~NAME OF JUDGE WHO MADE THIS ORDER: ●~~

~~LOCATION OF HEARING: ●~~

~~{*NOTE: DO NOT USE THIS ORDER AS A PRECEDENT WITHOUT REVIEWING
THE ACCOMPANYING EXPLANATORY NOTES.}~~

UPON the application of ~~[NAME]~~ T&E Ventures Inc. (the "Applicant"); AND UPON having read the Originating Application, the Affidavit of ~~*Myles Hamilton~~, dated April 29, 2013 (the "Hamilton Affidavit"); and the Affidavit of Service of ~~*[if applicable]~~, filed; AND UPON reading the consent of ~~*Ernst & Young Inc.~~ to act as Monitor and upon noting that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within Order ~~[if applicable]~~; AND UPON hearing counsel for ~~*the Applicant, the proposed Monitor, Kyoto Fuels Corporation ("Kyoto"), and~~; IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient ~~[if applicable]~~ and this application is properly returnable today.

APPLICATION

2. ~~The Applicant~~ Kyoto 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 a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. ~~The Applicant~~ Kyoto shall:
 - (a) remain in possession and control of its current and future assets, undertakings and properties 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; ~~and~~
 - (c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; ~~and~~
 - (d) only make such payments on behalf of Kyoto as are:

- (i) authorized under this Order;
- (ii) consistent with the Cash Flows (as this term is defined in the Hamilton Affidavit); or
- (iii) as may otherwise be approved by the Monitor; and

5. To the extent permitted by law, ~~the Applicant~~Kyoto shall be entitled but not required to pay the following expenses, incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay 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~~Kyoto in respect of these proceedings, at their standard rates and charges.

6. Except as otherwise provided to the contrary herein, ~~the Applicant~~Kyoto shall be entitled but not required to pay all reasonable expenses incurred by ~~the Applicant~~Kyoto in carrying on the Business in the ordinary course after 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~~Kyoto following the date of this Order.

7. ~~The Applicant~~Kyoto shall remit, in accordance with legal requirements, 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 [if applicable]~~, and
- (iv) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by ~~the Applicant~~ Kyoto in connection with the sale of goods and services by ~~the Applicant~~ Kyoto, 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~~ Kyoto.

8. Until a real property lease is disclaimed or resiliated in accordance with the CCAA, ~~the Applicant~~ Kyoto may 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 as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by ~~the Applicant~~ Kyoto from time to time for the period commencing from and including the date of this Order ("Rent"), but shall not pay any rent in arrears.
9. Except as specifically permitted in this Order, ~~the Applicant~~ Kyoto is hereby directed, until further order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by ~~the Applicant~~ Kyoto to any of its creditors as of the date of this Order;
- (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and
- (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. ~~The Applicant~~ Kyoto shall be subject to such requirements as are imposed by the CCAA {and such covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph ~~3334~~),} have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations and to dispose of redundant or non-material assets not exceeding \$~~*10,000~~ in any one transaction or \$~~*50,000~~ in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to ~~the Applicant~~ Kyoto (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between ~~the Applicant~~ Kyoto and such employee, or failing such agreement, to deal with the consequences thereof in the Plan; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

11. ~~The Applicant~~ Kyoto shall provide each of the relevant landlords with notice of ~~the Applicant~~ Kyoto'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. If the landlord disputes ~~the Applicant~~ Kyoto'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 ApplicantKyoto~~, or by further order of this Court upon application by ~~the ApplicantKyoto~~ on at least two (2) days' notice to such landlord and any such secured creditors. If ~~the ApplicantKyoto~~ disclaims or resiliates the lease governing such leased premises in accordance with section 32 of the ~~CAACCA~~, 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 disclaimer or resiliation of the lease shall be without prejudice to ~~the ApplicantKyoto's~~ claim to the fixtures in dispute.

12. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, 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, on giving ~~the ApplicantKyoto~~ and the Monitor 24 hours' prior written notice; and
 - (b) at the effective time of the disclaimer or resiliation, 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 ApplicantKyoto~~ in respect of such lease or leased premises and such landlord shall be entitled to notify ~~the ApplicantKyoto~~ 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.

NO PROCEEDINGS AGAINST ~~THE APPLICANTKYOTO~~ OR THE PROPERTY

13. Until and including ~~[DATE MAX. 30 DAYS]~~ May 29, 2014, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court (each, a "Proceeding") shall be commenced or continued against or in respect of ~~the ApplicantKyoto~~ or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of ~~the ApplicantKyoto~~ or

affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. 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"), whether judicial or extra-judicial, statutory or non-statutory against or in respect of ~~the Applicant~~ Kyoto or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

- (a) empower ~~the Applicant~~ Kyoto to carry on any business which ~~the Applicant~~ Kyoto 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 security interest; or
- (d) prevent the registration of a claim for lien.

15. Nothing in this Order shall prevent any party from taking an action against ~~the Applicant~~ Kyoto where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

16. During the Stay Period, no person shall accelerate, suspend, 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~~ Kyoto, except with the written consent of ~~the Applicant~~ Kyoto and the Monitor, or leave of this Court.

17. No Person, including Kyoto and all directors, officers, agents and employees of Kyoto, shall remove, alter, tamper with or destroy any books, records, data, documents, files and similar property of Kyoto, including as may exist in electronic form.

CONTINUATION OF SERVICES

18. ~~17-~~ During the Stay Period, all persons having:
- (a) statutory or regulatory mandates for the supply of goods and/or services; or
 - (b) oral or written agreements or arrangements with ~~the Applicant~~ Kyoto, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or ~~the Applicant~~ Kyoto

are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by ~~the Applicant~~ Kyoto or exercising any other remedy provided under such agreements or arrangements. ~~The Applicant~~ Kyoto 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 usual prices or charges for all such goods or services received after the date of this Order are paid by ~~the Applicant~~ Kyoto in accordance with the payment practices of ~~the Applicant~~ Kyoto, or such other practices as may be agreed upon by the supplier or service provider and each of ~~the Applicant~~ Kyoto and the Monitor, or as may be ordered by this Court. Nothing in this Order has the effect of prohibiting a person 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.

NO OBLIGATION TO ADVANCE MONEY OR EXTEND CREDIT

19. ~~18-~~ Notwithstanding anything else contained in this Order, no creditor of ~~the Applicant~~ Kyoto shall be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to ~~the Applicant~~ Kyoto.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. ~~19.~~ During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of ~~the Applicant~~ Kyoto with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of ~~the Applicant~~ Kyoto whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of ~~the Applicant~~ Kyoto, if one is filed, is sanctioned by this Court or is refused by the creditors of ~~the Applicant~~ Kyoto or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. ~~20.~~ ~~The Applicant~~ Kyoto shall indemnify its directors and officers against obligations and liabilities that they may incur as directors and or officers of ~~the Applicants~~ Kyoto after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
22. ~~21.~~ The directors and officers of ~~the Applicant~~ Kyoto shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$~~20,000~~, as security for the indemnity provided in paragraph ~~{20}~~ 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{37}~~ 38 and ~~{39}~~ 40 herein.
23. ~~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 Applicant~~ Kyoto's 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}~~ 21 of this Order.

APPOINTMENT OF MONITOR

24. ~~23. [MONITOR'S NAME]~~ Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business and financial affairs and ~~the Applicant~~ Kyoto with the powers and obligations set out in the CCAA or set forth herein and that ~~the Applicant~~ Kyoto and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by ~~the Applicant~~ Kyoto pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
25. ~~24.~~ The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor ~~the Applicant~~ Kyoto's receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court, at such times and intervals as the Monitor may deem appropriate, with respect to matters relating to :
 - (i) the Property, the Business, and such other matters as may be relevant to the proceedings herein ~~and~~;
 - (ii) environmental assessments of the Property, including regarding permits, licences, approvals, permissions or material concerns for Kyoto; and
 - (iii) options for a potential restructuring, sale, liquidation or alternative transaction for Kyoto, including any assessment of strategic partners, the preparation of a data room and the viability of the foregoing alternatives through a CCAA or other proceeding;
 - (c) immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of ~~the Applicant~~ Kyoto;
 - (d) ~~(e)~~ assist ~~the Applicant~~ Kyoto, to the extent required by ~~the Applicant~~ Kyoto, in its dissemination to the Interim Lender and its counsel on a ~~{TIME}~~

~~INTERVAL~~ bi-monthly basis of financial and other information as agreed to between ~~the Applicant~~ Kyoto and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;

- (e) ~~(d)~~ advise ~~the Applicant~~ Kyoto in its preparation of ~~the Applicant~~ Kyoto's cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but not less than ~~{TIME INTERVAL}~~ weekly, or as otherwise agreed to by the Interim Lender;
- (f) ~~(e)~~ advise the Applicant in its development of the Plan and any amendments to the Plan;
- (g) ~~(f)~~ advise the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (h) ~~(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~~ Kyoto to the extent that is necessary to adequately assess ~~the Applicant~~ Kyoto's Property, Business and financial affairs or to perform its duties arising under this Order;
- (i) ~~(h)~~ be at liberty to engage independent legal counsel, or such other persons (including assistants or advisors, each a "Restructuring Consultant") as the Monitor deems necessary or advisable, respecting the exercise of its powers and performance of its obligations under this Order; and to make such investigations of Kyoto as the Monitor deems appropriate;
- (j) ~~(i)~~ hold funds in trust or in escrow, to the extent required, to facilitate settlements between ~~the Applicants~~ Kyoto and any other Person; and
- (k) ~~(j)~~ perform such other duties as are required by this Order or by this Court from time to time.

26. ~~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, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, 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 or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation.

27. ~~26.~~ The Monitor shall provide any creditor of ~~the Applicant~~ Kyoto and the Interim Lender (as defined below) with information provided by ~~the Applicant~~ Kyoto 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~~ Kyoto 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~~ Kyoto may agree.
28. ~~27.~~ 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. ~~28.~~ The Monitor, counsel to the Monitor and counsel to ~~the Applicant~~, and any Restructuring Consultant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by ~~the Applicant~~ Kyoto as part of the costs of these proceedings. ~~The Applicant~~ Kyoto 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]~~, and any Restructuring Consultant on a bi-monthly basis and, in addition, ~~the Applicant~~ Kyoto is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to ~~the Applicant~~.

~~Restructuring Consultant~~, retainers in the respective amount[s] of \$~~0~~, such amount as the Monitor and the Applicant may agree, never to exceed, in aggregate, the amount of \$100,000, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. ~~29.~~ The Monitor and its legal counsel shall pass their accounts from time to time.
31. ~~30.~~ The Monitor, counsel to the Monitor, if any, and the Applicant's counsel and any ~~Restructuring Consultant~~, as security for the professional fees and disbursements incurred both before and after the granting of this Order, 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 \$~~100,000~~, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel and ~~Restructuring Consultant~~, 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 ~~{37}~~~~38~~ and ~~{39}~~~~40~~ hereof.

INTERIM FINANCING

32. ~~31.~~ The Applicant Kyoto is hereby authorized and empowered to obtain and borrow under a credit facility from ~~{INTERIM LENDER'S NAME}~~ T&E Ventures Inc. (the "**Interim Lender**") in order to finance the Applicant Kyoto's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$~~400,000~~ unless permitted by further order of this Court.
33. ~~32.~~ Such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant Kyoto and the Interim Lender dated as of ~~{DATE}~~ April 29, 2014 (the "**Commitment Letter**"), filed.
34. ~~33.~~ The Applicant Kyoto is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim Lender pursuant to the

terms thereof, and ~~the Applicant~~ Kyoto is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order. ~~To the extent Kyoto does not execute the Commitment Letter or deliver the Definitive Documents, the Monitor is hereby authorized and directed to execute and deliver the Commitment Letter and Definitive Documents for and on behalf of Kyoto.~~

35. ~~34.~~ The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the "Interim Lender's Charge") on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall have the priority set out in paragraphs ~~3738~~ and ~~3940~~ hereof.

36. ~~35.~~ Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon ~~7~~ ¹⁰ days notice to ~~the Applicant~~ Kyoto and the Monitor, may exercise any and all of its rights and remedies against ~~the Applicant~~ Kyoto or the Property under or pursuant to the Commitment Letter, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to ~~the Applicant~~ Kyoto and set off and/or consolidate any amounts owing by the Interim Lender to ~~the Applicant~~ Kyoto against the obligations of ~~the Applicant~~ Kyoto to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against ~~the Applicant~~ Kyoto and for the appointment of a trustee in bankruptcy of ~~the Applicant~~ Kyoto; and

(c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the ~~Applicant~~ Kyoto or the Property.

37. ~~36.~~ The Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the ~~Applicant~~ Kyoto under the CCAA, or any proposal filed by the ~~Applicant~~ Kyoto under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

38. ~~37.~~ The priorities of the Directors' Charge, the Administration Charge and the Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$~~*100,000~~);

Second – Interim Lender's Charge; and

Third – Directors' Charge (to the maximum amount of \$~~*20,000~~).

39. ~~38.~~ The filing, registration or perfection of the Directors' Charge, the Administration Charge or the Interim Lender's Charge (collectively, the "Charges") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, 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.

40. ~~39.~~ Each of the Directors' Charge, the Administration Charge and the Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person. ~~[See Explanatory Notes.]~~

41. ~~40.~~ Except as otherwise expressly provided for herein, or as may be approved by this Court, the ~~Applicant~~ Kyoto shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the Interim Lender's Charge, unless the ~~Applicant~~ Kyoto also obtains the prior written consent of the Monitor, the

Interim Lender and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.

42. ~~41.~~ The Directors' Charge, the Administration Charge, ~~{the Commitment Letter, the Definitive Documents}~~ and the Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the Interim 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 in this Order;
- (b) any application(s) for bankruptcy order(s) issued pursuant to 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~~ Kyoto, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof ~~{, including the Commitment Letter or the Definitive Documents,}~~ shall create or be deemed to constitute a new breach by ~~the Applicant~~ Kyoto of any Agreement to which it is a party;
 - (ii) 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 {the Applicant~~ Kyoto entering into the Commitment Letter, or ~~}~~ execution, delivery or performance of the Definitive Documents; and

- (iii) the payments made by the Applicant Kyoto pursuant to this order, {including the Commitment Letter or the Definitive 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.

ALLOCATION

43. ~~42.~~ Any interested Person may apply to this Court on notice to any other party likely to be affected, for an order to allocate the Administration Charge, the Interim Lender's Charge and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

44. ~~43.~~ The Monitor shall (i) without delay, publish in [~~newspapers specified by the Court~~] the Calgary Herald and the Lethbridge Herald a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant Kyoto of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those 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.
45. ~~44.~~ The Applicant Kyoto and the Monitor shall be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or e-mail to the Applicant Kyoto's creditors or other interested Persons at their respective addresses as last shown on the records of the Applicant Kyoto and that any such service or notice by courier, personal delivery, facsimile transmission or e-mail shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing. The Monitor shall establish and maintain a website in respect of these proceedings at [~~insert website address~~] http://documentcentre.eycan.com and shall post there as soon as practicable:

- (a) all materials prescribed by ~~statue~~ statute or regulation to be made publically available;
and
- (b) all applications, reports, affidavits, orders or other materials filed in these proceedings by or behalf of the Monitor, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.

GENERAL

- 46. ~~45. The Applicant~~ Kyoto 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.
- 47. ~~46. Notwithstanding Rule 6.11 of the Alberta Rules of Court, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.~~
- 48. ~~47. 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~~ Kyoto, the Business or the Property.
- 49. ~~48. 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~~ Kyoto, 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 to make such orders and to provide such assistance to ~~the Applicant~~ Kyoto and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist ~~the Applicant~~ Kyoto and the Monitor and their respective agents in carrying out the terms of this Order.
- 50. ~~49. Each of the Applicant~~ Kyoto and the Monitor 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 that the Monitor is authorized and empowered to act as a representative in respect

of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

51. ~~50~~—Any interested party (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.
52. ~~51~~—This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of Queen's Bench of Alberta

SCHEDULE "B"

Clerk's stamp:

COURT FILE NUMBER

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

**IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, RSC, 1985, c C-36, AS
*AMENDED;***

AND IN THE MATTER OF KYOTO FUELS CORPORATION

APPLICANT

T&E VENTURES INC.

RESPONDENTS

KYOTO FUELS CORPORATION

DOCUMENT

CCAA INITIAL ORDER

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING THIS
DOCUMENT

Rose LLP
#810, 333-5 Ave S.W.
Calgary, AB T2P 3B6
Ph. (403) 776-0525
Fx. (403) 776-0501
File No.:

Attention: Mr. Matthew R. Lindsay

DATE ON WHICH ORDER WAS
PRONOUNCED

April 30, 2014

NAME OF JUSTICE WHO MADE THIS
ORDER

The Honourable Justice Romaine

UPON the application of T&E Ventures Inc. (the "**Applicant**"); **AND UPON** having read the Originating Application, the Affidavit of Myles Hamilton, dated April 29, 2013 (the "**Hamilton Affidavit**"); and the Affidavit of Service of _____, filed; **AND UPON** reading the consent of Ernst & Young Inc. to act as Monitor and upon noting that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application; **AND UPON** hearing counsel for the Applicant, the proposed Monitor, Kyoto Fuels Corporation ("**Kyoto**"), and _____; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. Kyoto 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 a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. Kyoto shall:
 - (a) remain in possession and control of its current and future assets, undertakings and properties 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 and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

- (d) only make such payments on behalf of Kyoto as are:
 - (i) authorized under this Order;
 - (ii) consistent with the Cash Flows (as this term is defined in the Hamilton Affidavit); or
 - (iii) as may otherwise be approved by the Monitor; and
- 5. To the extent permitted by law, Kyoto shall be entitled but not required to pay the following expenses, incurred prior to or after this Order:
 - (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay 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 Kyoto in respect of these proceedings, at their standard rates and charges.
- 6. Except as otherwise provided to the contrary herein, Kyoto shall be entitled but not required to pay all reasonable expenses incurred by Kyoto in carrying on the Business in the ordinary course after 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 Kyoto following the date of this Order.
- 7. Kyoto shall remit, in accordance with legal requirements, 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, and

(iv) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by Kyoto in connection with the sale of goods and services by Kyoto, 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 Kyoto.

8. Until a real property lease is disclaimed or resiliated in accordance with the CCAA, Kyoto may 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 as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by Kyoto from time to time for the period commencing from and including the date of this Order ("**Rent**"), but shall not pay any rent in arrears.

9. Except as specifically permitted in this Order, Kyoto is hereby directed, until further order of this Court:

(a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by Kyoto to any of its creditors as of the date of this Order;

(b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and

(c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

10. Kyoto shall subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph 34), have the right to:
 - (a) permanently or temporarily cease, downsize or shut down any of its business or operations and to dispose of redundant or non-material assets not exceeding \$10,000 in any one transaction or \$50,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to Kyoto (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
 - (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate on such terms as may be agreed upon between Kyoto and such employee, or failing such agreement, to deal with the consequences thereof in the Plan; and
 - (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

11. Kyoto shall provide each of the relevant landlords with notice of Kyoto'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. If the landlord disputes Kyoto'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 Kyoto, or by further order of this Court upon application by Kyoto on at least two (2) days' notice to such landlord and any such secured creditors. If Kyoto disclaims or resiliates 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 disclaimer or resiliation of the lease shall be without prejudice to Kyoto's claim to the fixtures in dispute.

12. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, 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, on giving Kyoto and the Monitor 24 hours' prior written notice; and
 - (b) at the effective time of the disclaimer or resiliation, 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 Kyoto in respect of such lease or leased premises and such landlord shall be entitled to notify Kyoto 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.

NO PROCEEDINGS AGAINST KYOTO OR THE PROPERTY

13. Until and including May 29, 2014, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (each, a "**Proceeding**") shall be commenced or continued against or in respect of Kyoto or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of Kyoto or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. 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**"), whether judicial or extra-judicial, statutory or non-statutory against or in respect of Kyoto or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
- (a) empower Kyoto to carry on any business which Kyoto 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 security interest; or
 - (d) prevent the registration of a claim for lien.
15. Nothing in this Order shall prevent any party from taking an action against Kyoto where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

16. During the Stay Period, no person shall accelerate, suspend, 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 Kyoto, except with the written consent of Kyoto and the Monitor, or leave of this Court.
17. No Person, including Kyoto and all directors, officers, agents and employees of Kyoto, shall remove, alter, tamper with or destroy any books, records, data, documents, files and similar property of Kyoto, including as may exist in electronic form.

CONTINUATION OF SERVICES

18. During the Stay Period, all persons having:
- (a) statutory or regulatory mandates for the supply of goods and/or services; or
 - (b) oral or written agreements or arrangements with Kyoto, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or Kyoto
- are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by Kyoto or exercising any other remedy provided under such agreements or arrangements. Kyoto 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 usual prices or charges for all such goods or services received after the date of this Order are paid by Kyoto in

accordance with the payment practices of Kyoto, or such other practices as may be agreed upon by the supplier or service provider and each of Kyoto and the Monitor, or as may be ordered by this Court. Nothing in this Order has the effect of prohibiting a person 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.

NO OBLIGATION TO ADVANCE MONEY OR EXTEND CREDIT

19. Notwithstanding anything else contained in this Order, no creditor of Kyoto shall be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to Kyoto.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of Kyoto with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of Kyoto whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of Kyoto, if one is filed, is sanctioned by this Court or is refused by the creditors of Kyoto or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. Kyoto shall indemnify its directors and officers against obligations and liabilities that they may incur as directors and or officers of Kyoto after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
22. The directors and officers of Kyoto shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$20,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 38 and 40 herein.
23. 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) Kyoto's 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 21 of this Order.

APPOINTMENT OF MONITOR

- 24. Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business and financial affairs and Kyoto with the powers and obligations set out in the CCAA or set forth herein and that Kyoto and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by Kyoto pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
- 25. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
 - (a) monitor Kyoto's receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court, at such times and intervals as the Monitor may deem appropriate, with respect to matters relating to:
 - (i) the Property, the Business, and such other matters as may be relevant to the proceedings herein;
 - (ii) environmental assessments of the Property, including regarding permits, licences, approvals, permissions or material concerns for Kyoto; and
 - (iii) options for a potential restructuring, sale, liquidation or alternative transaction for Kyoto, including any assessment of strategic partners, the preparation of a data room and the viability of the foregoing alternatives through a CCAA or other proceeding;

- (c) immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of Kyoto;
- (d) assist Kyoto, to the extent required by Kyoto, in its dissemination to the Interim Lender and its counsel on a bi-monthly basis of financial and other information as agreed to between Kyoto and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;
- (e) advise Kyoto in its preparation of Kyoto's cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the Interim Lender;
- (f) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (g) advise the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (h) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of Kyoto to the extent that is necessary to adequately assess Kyoto's Property, Business and financial affairs or to perform its duties arising under this Order;
- (i) be at liberty to engage independent legal counsel, or such other persons (including assistants or advisors, each a "**Restructuring Consultant**") as the Monitor deems necessary or advisable, respecting the exercise of its powers and performance of its obligations under this Order and to make such investigations of Kyoto as the Monitor deems appropriate;
- (j) hold funds in trust or in escrow, to the extent required, to facilitate settlements between Kyoto and any other Person; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

26. 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, or by inadvertence in relation to the due exercise of powers or

performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, 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 or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation.

27. The Monitor shall provide any creditor of Kyoto and the Interim Lender (as defined below) with information provided by Kyoto 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 Kyoto 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 Kyoto may agree.
28. 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 any Restructuring Consultant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by Kyoto as part of the costs of these proceedings. Kyoto is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, and any Restructuring Consultant on a bi-monthly basis and, in addition, Kyoto is hereby authorized to pay to the Monitor, counsel to the Monitor, and any Restructuring Consultant, retainers in such amount as the Monitor and the Applicant may agree, never to exceed, in aggregate, the amount of \$100,000, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
30. The Monitor and its legal counsel shall pass their accounts from time to time.

31. The Monitor, counsel to the Monitor, and any Restructuring Consultant, as security for the professional fees and disbursements incurred both before and after the granting of this Order, 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 \$100,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel and Restructuring Consultant, 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 38 and 40 hereof.

INTERIM FINANCING

32. Kyoto is hereby authorized and empowered to obtain and borrow under a credit facility from T&E Ventures Inc. (the "**Interim Lender**") in order to finance Kyoto's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$400,000 unless permitted by further order of this Court.
33. Such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between Kyoto and the Interim Lender dated as of April 29, 2014 (the "**Commitment Letter**"), filed.
34. Kyoto is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and Kyoto is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order. To the extent Kyoto does not execute the Commitment Letter or deliver the Definitive Documents, the Monitor is hereby authorized and directed to execute and deliver the Commitment Letter and Definitive Documents for and on behalf of Kyoto.

35. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall have the priority set out in paragraphs 38 and 40 hereof.
36. Notwithstanding any other provision of this Order:
- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon 7 days notice to Kyoto and the Monitor, may exercise any and all of its rights and remedies against Kyoto or the Property under or pursuant to the Commitment Letter, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to Kyoto and set off and/or consolidate any amounts owing by the Interim Lender to Kyoto against the obligations of Kyoto to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against Kyoto and for the appointment of a trustee in bankruptcy of Kyoto; and
 - (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of Kyoto or the Property.
37. The Interim Lender shall be treated as unaffected in any plan of arrangement or compromise filed by Kyoto under the CCAA, or any proposal filed by Kyoto under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

38. The priorities of the Directors' Charge, the Administration Charge and the Interim Lender's Charge, as among them, shall be as follows:
- First – Administration Charge (to the maximum amount of \$100,000);
- Second – Interim Lender's Charge; and
- Third – Directors' Charge (to the maximum amount of \$20,000).
39. The filing, registration or perfection of the Directors' Charge, the Administration Charge or the Interim Lender's Charge (collectively, the "**Charges**") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, 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.
40. Each of the Directors' Charge, the Administration Charge and the Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.
41. Except as otherwise expressly provided for herein, or as may be approved by this Court, Kyoto shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the Interim Lender's Charge, unless Kyoto also obtains the prior written consent of the Monitor, the Interim Lender and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.
42. The Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents and the Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the Interim 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 in this Order;
- (b) any application(s) for bankruptcy order(s) issued pursuant to 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 Kyoto, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Commitment Letter or the Definitive Documents, shall create or be deemed to constitute a new breach by Kyoto of any Agreement to which it is a party;
 - (ii) 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 Kyoto entering into the Commitment Letter, or execution, delivery or performance of the Definitive Documents; and
 - (iii) the payments made by Kyoto pursuant to this order, including the Commitment Letter or the Definitive 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.

ALLOCATION

43. Any interested Person may apply to this Court on notice to any other party likely to be affected, for an order to allocate the Administration Charge, the Interim Lender's Charge and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

44. The Monitor shall (i) without delay, publish in the Calgary Herald and the Lethbridge Herald a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against Kyoto of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those 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.
45. Kyoto and the Monitor shall be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or e-mail to Kyoto's creditors or other interested Persons at their respective addresses as last shown on the records of Kyoto and that any such service or notice by courier, personal delivery, facsimile transmission or e-mail shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing. The Monitor shall establish and maintain a website in respect of these proceedings at <http://documentcentre.eycan.com> and shall post there as soon as practicable:
- (a) all materials prescribed by statute or regulation to be made publically available; and
 - (b) all applications, reports, affidavits, orders or other materials filed in these proceedings by or behalf of the Monitor, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.

GENERAL

46. Kyoto 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.
47. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.

48. 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 Kyoto, the Business or the Property.
49. 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 Kyoto, 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 to make such orders and to provide such assistance to Kyoto and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist Kyoto and the Monitor and their respective agents in carrying out the terms of this Order.
50. Each of Kyoto and the Monitor 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 that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
51. Any interested party (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.
52. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of Queen's Bench of Alberta