

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.**

Applicants

MOTION RECORD

(Sale Approval and Vesting Order)

September 17, 2018

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TO: SERVICE LIST

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
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KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.**

Applicants

**NOTICE OF MOTION
(returnable September 18, 2018)
(Motion for Sale Approval and Vesting Order)**

Kraus Brands Inc., Kraus Canada Ltd., Kraus Carpet Inc., Kraus Properties Inc., Kraus USA Inc., and Strudex Inc. (collectively, the "**Applicants**", with the partnerships listed in Schedule "A" hereto, collectively, the "**Kraus Group**"), the Applicants in these proceedings, will make a motion to the Honourable Mr. Justice Penny sitting on the Commercial List on **Tuesday September 18, 2018, at 2:15 p.m.**, or as soon after that time as the motion can be heard, at the Court House at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR an Order substantially in the form attached hereto as Schedule "B" ("**Sale Approval and Vesting Order**");

- (a) if necessary, abridging the time for service and filing of this notice of motion and the motion record and dispensing with further service thereof;

- (b) approving the transaction ("**TPS Transaction**") contemplated by the asset purchase agreement between Kraus Canada LP, Kraus Properties LP and Kraus USA Inc. (collectively, the "**Kraus Sellers**") and Q.E.P. Co., Inc. and Roberts Company Canada, Ltd. (collectively, the "**Purchaser**"), dated September 10, 2018, as may be further supplemented or amended ("**Purchase Agreement**");
 - (c) vesting all of the Kraus Sellers' rights, title and interest in and to the Purchased Assets, as set out and described in the Purchase Agreement, in the Purchaser, free and clear of and from all Claims (as defined in the Sale Approval and Vesting Order), except for those permitted encumbrances, easements and restrictive covenants listed on Schedule "E" to the Sale Approval and Vesting Order;
 - (d) approving a certain transition services agreement (in support of the Purchase Agreement) made between the Kraus Sellers and the Purchaser for the provision of services to ensure the orderly transition of the sale of the TPS Business (defined below) to the Purchaser ("**Transition Services Agreement**");
 - (e) an Amended and Restated Initial Order, substantially in the form attached as Schedule "C" to this notice of motion, providing for certain amendments to the Initial Order including enhanced priority for the court-ordered charges;
-

- (f) approving the Pre-Filing Report of Deloitte Restructuring Inc. ("**Deloitte**") dated September 10, 2018, ("**Pre-Filing Report**") and the activities and conduct described therein;
- (g) if necessary, sealing from the public record any commercially-sensitive information and/or documents that may be filed on this motion; and
- (h) such further and other relief as this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

Overview

- (a) The Kraus Group is a vertically-integrated manufacturer of premium carpet for the commercial and residential market. It is also a distributor in North America of flooring products produced by other manufacturers ("**TPS Business**").
- (b) The Applicants are insolvent. As of August 31, 2018, the Kraus Group owes Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") and Red Ash Capital Partners II Limited Partnership ("**Red Ash**") the aggregate amount of at least \$148,170,248.
- (c) On September 11, 2018, the Applicants were granted creditor protection and related relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**"), pursuant to the Initial Order ("**Initial Order**") of the Honourable Mr. Justice Penny, dated September

11, 2018, and Deloitte was appointed monitor of the Kraus Group in the CCAA proceedings ("**Monitor**").

- (d) Also on September 11, 2018, a motion will be filed by Kraus Carpet Inc. with the United States Bankruptcy Court (District of Delaware) for the entry of a provisional order recognizing the within CCAA proceedings as a foreign main proceeding and granting a stay of execution against the debtors' assets in the United States.
- (e) The Purchase Agreement was concluded following a comprehensive and extensive sales process ("**Sale Process**") conducted by Deloitte Corporate Finance ("**DCF**").
- (f) Given the breadth, duration and results of the Sales Process, it can be demonstrated that no better or higher offer could be obtained that would generate more value for affected creditors.
- (g) Provided that the TPS Transaction can be achieved, and subject to the terms of a certain Forbearance Agreement described in the affidavit of Christopher Emmott, sworn September 10, 2018 ("**Emmott Affidavit**"), Wells Fargo is prepared to continue to extend funds under the Wells Credit Agreement. Failure to complete the TPS Transaction, however, would constitute a breach of the Forbearance Agreement and would result in the termination of forbearance.

Sale Process, Purchase Agreement and Transition Services Agreement

- (h) In or around March 2018, Red Ash (in consultation with Kraus Group management) engaged DCF for the purpose of soliciting offers to purchase the TPS Business.
 - (i) DCF proceeded to conduct the Sale Process, as described in the Pre-Filing Report and the Emmott Affidavit, pursuant to which DCF contacted an extensive list of potential strategic and financial buyers ("**Potential Purchasers**").
 - (j) Potential Purchasers were provided with a confidential information memorandum, upon execution of a non-disclosure agreement.
 - (k) On April 13, 2018, DCF received three expressions of interest from Potential Purchasers ("**EOI Potential Purchasers**") as a result of the Sale Process. DCF and the Kraus Group then invited the EOI Potential Purchasers to take part in the second phase of the Sale Process which included access to an electronic data room and presentations from the Kraus Group's management.
 - (l) On May 24, 2018, following the completion of the second phase of the Sale Process, DCF received a letter of interest from Q.E.P. Co., Inc.
 - (m) Thereafter, DCF and Q.E.P. Co., Inc. engaged in extensive negotiations regarding the purchase price.
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- (n) On August 9, 2018, Q.E.P. Co., Inc. signed the final LOI.
 - (o) The sale of the TPS Business to the Purchaser pursuant to the Purchase Agreement involves the following consideration:
 - (i) the Purchase Price (as defined in the Purchase Agreement); and
 - (ii) the assumption of the Assumed Liabilities (as defined in the Purchase Agreement).
 - (p) The Purchase Agreement is conditional upon the receipt of approval and vesting orders from the Canadian and United States Courts. The Applicants intend to seek the appropriate relief from the United States Bankruptcy Court.
 - (q) The purchase price to be paid pursuant to the Purchase Agreement represents the highest realizable price through the Sale Process. The TPS Transaction represents the best possible transaction in the circumstances for the benefit of the Kraus Group and its stakeholders.
 - (r) The TPS Transaction would benefit Wells Fargo and Red Ash in their capacity as secured creditors and, given the Purchaser's intention to restructure and continue the operation of the TPS Business, will benefit other stakeholders including, importantly, the approximately 160 employees who will continue to be employed by the Purchaser.
-

- (s) As part of the proposed sale of the Kraus Group's TPS Business, the Kraus Sellers have agreed to provide transition services to the Purchaser pursuant to the Transition Services Agreement. These transition services are necessary to ensure that the TPS Business is successfully transferred to the Purchaser as a going concern, including the preservation of customer relationships that are integral to the value of the business.

 - (t) The Applicants submit that the Purchase Agreement and Transition Services Agreement should be approved because:
 - (i) a comprehensive Sale Process was conducted that did not generate any offer greater than the secured debt held by Wells Fargo and Red Ash. Indeed, the offers received during the Sale Process were significantly less than the secured debt. It does not appear that a sale can be achieved on terms that are more favourable than those provided for in the TPS Transaction;

 - (ii) no creditor is prepared to continue to fund the operations of the Applicants. If a sale to the Purchaser cannot be achieved the Applicants will cease operations and liquidate their assets; and

 - (iii) a liquidation analysis completed by the Monitor, filed as Confidential Appendix "D" to the Pre-Filing Report demonstrates that Wells Fargo and Red Ash would incur an even greater shortfall on the secured debt should the assets and business of the Kraus Group be liquidated.
-

- (u) Pursuant to the Sale Approval and Vesting Order the Monitor shall be entitled to retain the net proceeds from the TPS Transaction on behalf of the Applicants to be dealt with by further order of this Court.
- (v) The consideration to be received in the transaction is fair and reasonable.
- (w) The process leading to the TPS Transaction was fair and reasonable in the circumstances and was overseen by DCF.
- (x) In all of the circumstances, the TPS Transaction is in the best interests of the creditors and other stakeholders of the Applicants.
- (y) The Monitor recommends that this court approve the Purchase Agreement.
- (z) The moving parties understand that the affected secured creditors, Wells Fargo and Red Ash, support the relief sought herein.
- (aa) The Applicants also seek an order approving the Pre-Filing Report and the activities and conduct described therein.

Amendment to Initial Order

- (bb) The Initial Order granted the Administration Charge and the Directors' Charge priority to all Encumbrances (as defined in the Initial Order) in favour of any other person other than (a) validly perfected security interest under a PPSA held by a person that was not served with the notice of
-

application, and (b) statutory super-priority deemed trusts and liens for unpaid employee source deductions.

- (cc) The proposed Amended and Restated Initial Order provides for the charges to rank in priority to all Encumbrances.
- (dd) The Applicant will provide notice to those parties that may be affected by the enhanced priority of the charges.

Other

- (ee) The provisions of the CCAA including section 36, and the inherent and equitable jurisdiction of this Honourable Court;
- (ff) Rules 1.04, 1.05, 2.01, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended;
- (gg) Section 137(2) of the Courts of Justice Act, R.S.O. 1990, c. C-43, as amended; and
- (hh) Such further and other grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The Emmott Affidavit and the exhibits attached thereto;
 - (b) The Pre-Filing Report;
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- (c) The confidential exhibits appended to the Emmott Affidavit and the Pre-Filing Report, which exhibits were ordered sealed by this Honourable Court;
- (d) The Initial Order dated September 11, 2018
- (e) The Transition Services Agreement, to be filed; and
- (f) Such other material as counsel may advise and this Honourable Court may permit.

September 11, 2018

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Lawyers for the Applicants

Schedule "A" – Partnerships

Kraus Brands LP

Kraus Canada LP

Kraus Carpet LP

Kraus Properties LP

Strudex LP

Schedule "B"

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

THE HONOURABLE)
MR. JUSTICE PENNY)
TUESDAY, THE 18TH
DAY OF SEPTEMBER, 2018

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
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Applicants

**APPROVAL AND VESTING ORDER
(PURCHASE AGREEMENT)**

THIS MOTION, made by the Applicants and the Partnerships listed in Schedule "A" hereto (collectively, the "**Kraus Group**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**"), for an order approving the sale transaction ("**Transaction**") contemplated by an asset purchase agreement dated as of September 10, 2018 ("**Purchase Agreement**") between Kraus Canada LP, Kraus Properties LP, Kraus USA Inc. (collectively, the "**Vendors**" and each, a "**Vendor**") and Q.E.P. Co., Inc. and Roberts Company Canada Inc. (together, the "**Purchasers**" and each, a "**Purchaser**") and appended to the affidavit of Christopher Emmott sworn September 10, 2018 ("**Emmott Affidavit**"), and vesting in the Purchasers all of the Vendors' right, title and interest in and to the Purchased Assets (as defined in the Purchase Agreement) free and clear of any claims and encumbrances, except certain Permitted Encumbrances (as defined in the Purchase Agreement), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING, the Notice of Motion, the Emmott Affidavit, the pre-filing report ("**Pre-Filing Report**") of Deloitte Restructuring Inc., in its capacity as the Court-appointed monitor ("**Monitor**") of the Kraus Group, and on hearing the submissions of counsel for the Kraus Group, and counsel for the Monitor, and no one appearing for any other person on the service list, although properly served as appears from the affidavit of service, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Pre-Filing Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the Purchase Agreement, the Transaction and all associated steps and transactions effected thereby are hereby approved, and the execution of the Purchase Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and Purchasers may deem necessary and mutually agree upon. The Vendors are hereby authorized and directed to complete the Transaction and to take such additional steps and execute such additional documents and instruments as may be necessary or desirable for the completion of the Transaction.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchasers substantially in the form attached as Schedule "B" hereto ("**Monitor's Certificate**"), all of the Vendors' right, title and interest in and to the Property described in the Purchase Agreement and listed on Schedule "C" hereto shall vest absolutely in the Purchasers, free and clear of and from any and all right, title, interest, benefits, priorities, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the initial order of the Honourable Justice Penny dated September 11, 2018 ("**Initial Order**")

in this CCAA proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; (iii) any liens, security interests or interests perfected through filing financing statements or other documents with the Secretary of State for the State of Delaware or any other registry or filing office in a state of the United States; (iv) any mortgage, deed of trust, lien, security interest, fixture filing or other interest perfected through filing with the Clerk of the Superior Court of Whitfield County, Georgia or any other registry of deeds, court clerk or filing authority of any county, municipality or state of the United States and (v) those Claims listed on Schedule "D" hereto, (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule "E") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Property are hereby expunged and discharged as against the Property.

4. **THIS COURT ORDERS** that upon the registration at the Clerk of the Superior Court for Whitfield County, Georgia of an Application for Vesting Order in the form prescribed by the *Land Titles Act* and/or the *Land Registration Reform Act* with respect to the Property described in the Purchase Agreement and listed on Schedule "C" hereto, the Clerk is hereby directed to enter the Purchasers as the owner of the Property in fee simple, and is hereby directed to delete and expunge from title to the Property all of the Claims listed in Schedule "D" hereto.

5. **THIS COURT ORDERS** that in the event that the Monitor does not deliver the Monitor's Certificate confirming that the conditions to closing set out in the Purchase Agreement have been satisfied or waived by the Vendors and the Purchasers by ●, 2018, which date may be extended without further court order by mutual consent of the Purchasers and the Vendors, the Transaction will be deemed terminated with immediate effect and this Approval and Vesting Order shall be of no further force and effect.

6. **THIS COURT ORDERS** that in addition to the powers of the Monitor under the Initial Order and the CCAA, the Monitor is authorized to act as escrow agent in respect

of the Holdbacks under the Purchase Agreement and is directed to administer the Holdbacks and any escrow accounts in respect thereof in accordance with the escrow agreement attached as Schedule "F" hereto ("**Escrow Agreement**"), which Escrow Agreement may not be varied or amended except by mutual consent of the Vendors and the Purchasers.

7. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Property ("**Net Proceeds**") shall stand in the place and stead of the Property, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the Net Proceeds from the sale of the Property with the same priority as they had with respect to the Property immediately prior to the sale, as if the Property had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

8. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

9. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Vendors and the Monitor are authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees pertaining to the Purchased Assets. The Purchasers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to them in a manner which is in all material respects identical to the prior use of such information by the Vendors.

10. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of one or more

of the Kraus Group and any bankruptcy order issued pursuant to any such applications; and

- (c) any assignment in bankruptcy made by one or more of the Kraus Group;

the entering into of the Purchase Agreement and the vesting of the Property in the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Kraus Group and shall not be void or voidable by creditors of the Kraus Group, nor shall they constitute nor be deemed to be fraudulent preferences, assignments, fraudulent conveyances, transfers at undervalue, or other reviewable transactions whether under the CCAA, the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation or otherwise, nor shall they constitute oppressive or unfairly prejudicial conduct, whether pursuant to any applicable federal or provincial legislation or otherwise.

11. **THIS COURT ORDERS** that the Monitor, Vendors and Purchasers may each apply to this Court from time to time for advice and direction with respect to any matter arising from or under this Order.

12. **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 Kraus Group, 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 Kraus Group and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Kraus Group, the Monitor and their respective agents in carrying out the terms of this Order.

SCHEDULE "A"

Partnerships

Kraus Brands LP

Kraus Canada LP

Kraus Carpet LP

Kraus Properties LP

Studex LP

SCHEDULE "B"

Form of Monitor's Certificate

Court File No.: CV-18-604756-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
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Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Penny of the Ontario Superior Court of Justice ("**Court**") dated September 11, 2018 ("**Initial Order**"), Deloitte Restructuring Inc. was appointed as the monitor ("**Monitor**") of the Applicants and the Partnerships listed on Schedule "A" to the Initial Order (collectively, the "**Kraus Group**").

B. Pursuant to an Order of the Court dated September 18, 2018 ("**Approval and Vesting Order**"), the Court approved the asset purchase agreement made as of September 10, 2018 ("**Purchase Agreement**") between Kraus Canada LP, Kraus Properties LP and Kraus USA Inc. ("**Vendors**") and Q.E.P. Co., Inc. and Roberts Company Canada Ltd. ("**Purchasers**") and provided for the vesting in the Purchasers of the Vendor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchasers of a certificate confirming (i) the payment by the Purchasers of the Purchase Price for the Purchased Assets pursuant to the Purchase Agreement; (ii) that the conditions to Closing as set out in the Purchase Agreement have been satisfied or

waived by the Vendors and the Purchasers; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement or the Approval and Vesting Order.

THE MONITOR CERTIFIES the following:

1. The Purchasers has paid the Purchase Price for the Purchased Assets pursuant to the Purchase Agreement, subject to the Holdbacks under the Purchase Agreement and the Escrow Agreement;
2. The conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by the Vendors and the Purchasers; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**DELOITTE RESTRUCTURING INC., in its
capacity as Monitor of the Applicants,
and not in its personal capacity**

Per: _____

Name:

Title:

SCHEDULE "C"

Purchased Assets

[To be completed]

SCHEDULE "D"

Claims to be deleted and expunged from title to Real Property

[To be completed]

SCHEDULE "E"

**Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property**

(unaffected by the Vesting Order)

[To be completed]

SCHEDULE "F"
Escrow Agreement

[To be completed]

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD.,
KRAUS CARPET INC., KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Court File No.: CV-18-604759-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced in Toronto

**APPROVAL AND VESTING ORDER
(PURCHASE AGREEMENT)**

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Schedule "C"

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) TUESDAY, THE 11TH
JUSTICE PENNY) DAY OF SEPTEMBER, 2018

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
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KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Christopher Emmott sworn September 10, 2018, and the exhibits thereto ("**Initial Affidavit**"), and the pre-filing report of the proposed monitor, Deloitte Restructuring Inc. ("**Monitor**"), dated September 10, 2018 ("**Pre-Filing Report**"), and on hearing the submissions of counsel for the Applicants and the partnerships listed in Schedule "A" hereto ("**Partnerships**") and counsel for the Monitor, and counsel for Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") such other counsel as were present and wished to be heard, no one appearing for any other party although duly served as appears from the affidavits of service, filed, and on reading the consent of Deloitte Restructuring Inc. to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies. Although not Applicants, the Partnerships (together with the Applicants, the "**Kraus Group**") shall enjoy the benefits of the protections and authorizations provided by this Order.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants 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. THIS COURT ORDERS that the Kraus Group shall 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 ("**Property**"). Subject to further Order of this Court, the Kraus Group shall continue to carry on business in a manner consistent with the preservation of its business ("**Business**") and Property. The Kraus Group is 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.

5. THIS COURT ORDERS that the Kraus Group shall be entitled to continue to utilize the cash management system currently in place as described in the Initial Affidavit or replace it with another substantially similar cash management system (the

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

6. THIS COURT ORDERS that the Kraus Group shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of 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 Kraus Group in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Kraus Group shall be entitled but not required to pay all reasonable expenses incurred by the Kraus Group in carrying on the Business in the ordinary course on or after the date of this Order, and in carrying out the provisions of this Order, and any other Order of this Court, 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 Kraus Group on or after the date of this Order.

8. THIS COURT ORDERS that the Kraus Group 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, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Kraus Group in connection with the sale of goods and services by the Kraus Group, 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 Kraus Group.

9. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Kraus Group shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Kraus Group and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of

such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Kraus Group 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 Kraus Group to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities, except in the ordinary course of the Business or pursuant to this Order or any other Order of this Court.

RESTRUCTURING

11. THIS COURT ORDERS that the Kraus Group shall, subject to such requirements as are imposed by the CCAA, 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 \$250,000 in any one transaction or \$1 million in the aggregate in any series of related transactions;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of restructuring 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 Kraus Group to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. THIS COURT ORDERS that the Kraus Group shall provide each of the relevant landlords with notice of the Kraus Group's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased

premises to observe such removal and, if the landlord disputes the Kraus Group'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 Kraus Group, or by further Order of this Court upon application by the Kraus Group on at least two (2) days notice to such landlord and any such secured creditors. If the Kraus Group 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 the Kraus Group's claim to the fixtures in dispute.

13. THIS COURT ORDERS that 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 Kraus Group 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 Kraus Group in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE KRAUS GROUP OR THE PROPERTY

14. THIS COURT ORDERS that until and including October 11, 2018, or such later date as this Court may order ("**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Kraus Group or the Monitor, or affecting the Business or the Property, except with the written consent of the Kraus Group and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Kraus Group or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Kraus Group or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Kraus Group and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Kraus Group to carry on any business which the Kraus Group is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

CONTINUATION OF SERVICES

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Kraus Group or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Kraus Group, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Kraus Group, and that the Kraus Group shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges

for all such goods or services received after the date of this Order are paid by the Kraus Group in accordance with normal payment practices of the Kraus Group or such other practices as may be agreed upon by the supplier or service provider and each of the Kraus Group and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Kraus Group. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Kraus Group with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Kraus Group 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 Kraus Group, if one is filed, is sanctioned by this Court or is refused by the creditors of the Kraus Group or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. THIS COURT ORDERS that the Kraus Group shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Kraus Group after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. THIS COURT ORDERS that the directors and officers of the Kraus Group shall be entitled to the benefit of and are hereby granted a charge ("**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 32 and 34 herein.

22. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Kraus Group'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 of this Order.

APPOINTMENT OF MONITOR

23. THIS COURT ORDERS that Deloitte Restructuring Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Kraus Group with the powers and obligations set out in the CCAA or set forth herein and that the Kraus Group and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Kraus Group 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.

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

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

- (c) assist the Kraus Group, to the extent required by the Kraus Group, in its dissemination to Wells Fargo of financial and other information as required by the Forbearance Agreement (as defined in the Initial Affidavit);
- (d) advise the Kraus Group in its development of the Plan and any amendments to the Plan;
- (e) assist the Kraus Group, to the extent required by the Kraus Group, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) 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 Kraus Group, to the extent that is necessary to adequately assess the Kraus Group's business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

25. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or

other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Kraus Group with information provided by the Kraus Group 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 Kraus Group 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 Kraus Group may agree.

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

29. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Kraus Group shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Kraus Group as part of the costs of these proceedings. The Kraus Group is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a monthly basis

and, in addition, the Kraus Group is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Kraus Group, retainers in the aggregate 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. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Kraus Group's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, 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 32 and 34 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

32. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge (collectively the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1 million); and

Second – Directors' Charge (to the maximum amount of \$1 million).

33. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that 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.

34. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

35. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Kraus Group shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Kraus Group also obtains the prior written consent of the Monitor, and any other Persons entitled to the benefit of the Charges ("**Chargees**"), or further Order of this Court.

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

- (a) the creation of the Charges shall create or be deemed to constitute a breach by the Kraus Group of any Agreement to which it is a party;
 - (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
 - (c) the payments made by the Applicant pursuant to this Order 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.

37. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Kraus Group's interest in such real property leases.

SERVICE AND NOTICE

38. THIS COURT ORDERS that the Monitor shall (a) without delay, publish in the Globe and Mail a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Kraus Group of more than \$1,000, and (iii) 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.

39. THIS COURT ORDERS that the E-Service Protocol of the Commercial List ("**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL www.insolvencies.deloitte.ca/en-ca/Kraus ("**Website**").

40. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding ("**Service List**"). The Monitor shall post the Service List, as may be updated from time

to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy or timeliness of making any changes to the Service List.

41. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Kraus Group and the Monitor are at liberty to serve or distribute 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 or facsimile transmission to the Kraus Group's creditors or other interested parties at their respective addresses as last shown on the records of the Kraus Group and that any such service or distribution by courier, personal delivery or facsimile transmission 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.

42. THIS COURT ORDERS that the Kraus Group and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Kraus Group's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

GENERAL

43. THIS COURT ORDERS that the Kraus Group or the Monitor may from time to time apply to this Court for advice and directions regarding the discharge of their respective powers and duties hereunder or the interpretation of this Order.

44. THIS COURT ORDERS that 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 Kraus Group, the Business or the Property.

45. 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 Kraus Group, 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 Kraus Group 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 Kraus Carpet Inc. in any foreign proceeding, or to assist the Kraus Group and the Monitor and their respective agents in carrying out the terms of this Order.

46. THIS COURT ORDERS that each of the Kraus Group 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 Kraus Carpet Inc. is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

47. THIS COURT ORDERS that any interested party (including the Kraus Group 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.

48. THIS COURT ORDERS that Confidential Exhibit "A" to the Initial Affidavit and Appendix "D" to the Pre-Filing Report, as well as Exhibits C and E to the Affidavit of Susan Mingie, sworn September 10, 2018, attached as Appendix "C" to the Pre-Filing Report, be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.

49. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

Schedule "A" – Partnerships

Kraus Brands LP

Kraus Canada LP

Kraus Carpet LP

Kraus Properties LP

Strudex LP

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS
CARPET INC., KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Court File No. CV-18-604759-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT
TORONTO

AMENDED AND RESTATED INITIAL ORDER

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED AND IN THE
MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS
CARPET INC., KRAUS PROPERTIES INC., KRAUS USA INC., AND STRUDEX INC. Applicants

CV-18-604759-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDINGS COMMENCED AT TORONTO

NOTICE OF MOTION
(returnable September 18, 2018)

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TAB 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.**

Applicants

**SUPPLEMENTARY AFFIDAVIT OF CHRISTOPHER EMMOTT
(sworn September 17, 2018)**

I, Christopher Emmott, of the City of London, in the United Kingdom, MAKE OATH

AND SAY:

1. I am a Director of Kraus Carpet Inc., one of the applicants herein. I have knowledge of the matters hereinafter deposed, which knowledge is either personal to me, obtained from a review of the documents referred to herein or, where indicated, based on information and belief upon being advised by others, in which case I verily believe such information to be true.

2. I swear this affidavit in support of a motion for sale approval returnable Tuesday, September 18, 2018. Unless otherwise defined, capitalized terms used herein have the definitions accorded to them in my affidavit sworn September 10, 2018 ("**Initial Affidavit**").

Transition Services Agreement

3. My Initial Affidavit (at paragraphs 113 to 115) referenced a Transition Services Agreement that was then being negotiated by the Purchasers and the Kraus Sellers to support the Purchase Agreement and the sale of the TPS Business.

4. The Transition Services Agreement was reached on September 16, 2018, and is attached as **Exhibit "A"** to this affidavit.

5. The objective of the Transition Services Agreement is to preserve value by ensuring a smooth and orderly going concern transition of the TPS Business from the Kraus Sellers to the Purchaser. To this end, it defines the extent to which the parties to the Purchase Agreement will provide certain services to each other on a transitional basis. Among other matters, it addresses the provision of specific services, standards of service, use of third party service providers, access to premises, compensation for services provided, invoice disputes and termination rights.

Sale of Dalton Georgia Premises

6. In furtherance of the Purchase Agreement, Q.E.P. Co., Inc. will acquire the Dalton Facility, a 162,000 square foot warehousing and logistics facility situated in Dalton, Georgia and currently owned and operated by Kraus US.

7. The Real Estate Purchase Agreement that documents the sale of the Dalton Facility and lands is referenced at section 7.02 of the Purchase Agreement ("**Real Estate Purchase Agreement**"). The Real Estate Purchase Agreement is also exhibited to the Purchase Agreement as Exhibit "B", but was inadvertently not included in the version of

the Purchase Agreement that was attached to my Initial Affidavit. A copy of the Real Estate Purchase Agreement (with purchase price redacted) is attached as **Exhibit "B"** to this affidavit. A copy of the unredacted Real Estate Purchase Agreement is attached to this affidavit as **Confidential Exhibit "A"**.

8. The Real Estate Purchase Agreement was negotiated and entered into concurrently with the Purchase Agreement. It is an Article 9.01 condition of closing of the Purchase Agreement that the transaction contemplated by the Real Estate Purchase Agreement close prior to or simultaneously with closing contemplated by the Purchase Agreement.

9. The real property and warehouse and logistic facility conveyed pursuant to the terms of the Real Estate Purchase Agreement are an integral element of the TPS Business which is being acquired by the Purchasers. The Dalton Facility is the best-placed hub for the distribution of hard-surface flooring products to TPS Business customers across the eastern United States.

10. The Dalton Facility lands and premises are subject to the Wells Fargo and Red Ash security package (including deed to secure debt and assignment of leases) described in the Initial Affidavit and the Pre-Filing Report. For this reason, and because the facilities are central to the operation of the business, they were marketed part and parcel with the TPS Business pursuant to the sales and divestiture process that is detailed in the affidavit of Susan Mingie filed in support of the sale approval motion.

11. The purchase price for the Dalton Facility is a component of the overall consideration contemplated by the Purchase Agreement, and it was the overall

consideration that the Kraus Group took into account in deciding to accept the Purchase Agreement.

12. The Monitor's confidential Liquidation Analysis, filed as Confidential Appendix "D" to the Pre-Filing Report, also supports the sale of the Dalton Facility as an essential component of the overall agreement and in terms of the reasonableness of the aggregate consideration to be paid to the Kraus Sellers.

13. To facilitate the conveyance of the Dalton Facility lands and premises, paragraph 4 of the draft Sale Approval and Vesting Order contemplates a vesting of the property in the Purchasers. I am advised by Kraus US counsel, Joseph Sgroi of the law firm of Honigman Miller Schwartz and Cohn LLP, and do verily believe, that this provision of the order will have force and effect to the extent recognized and enforced by the United States Bankruptcy Court (District of Delaware), and that such recognition will be pursued if the sale approval motion is granted by this Honourable Court.

Pre-Filing Payments

14. Post-CCAA filing a need has arisen for the Kraus Group to make certain ordinary course payments of properly owing pre-filing TPS Business trade liabilities. Such payments are necessary to preserve the going concern value of the business. Further, the settlement of specific pre-filing trade liabilities will not affect the overall consideration from the Purchase Agreement as the purchase price is based on the net working capital position of the business on closing.


15. Accordingly, the Kraus Group is seeking to amend the initial order of the Honourable Mr. Justice Penny, dated September 11, 2018, to permit the Kraus Group to pay certain pre-filing trade liabilities with the approval of the Monitor.

16. I swear this affidavit in support of the sale approval motion and for no other or improper purpose.

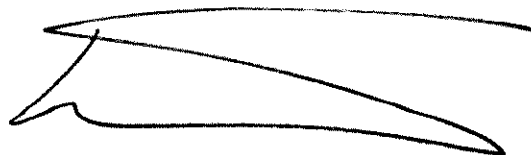
Waterloo
A.A.

SWORN BEFORE ME at the City of
~~Toronto~~, Province of Ontario on the 17th
day of September, 2018

Arshia Asif, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 12, 2020.



Commissioner for Taking Affidavits
(or as may be)




CHRISTOPHER EMMOTT

EXHIBIT A

This is Exhibit "A" referred to in the Affidavit of Christopher Emmott sworn September 17, 2018

**Arshia Asif, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 12, 2020.**



Commissioner for Taking Affidavits (or as may be)

TRANSITION SERVICES AGREEMENT

This Transition Services Agreement, dated as of [October ●], 2018 (this "Agreement"), is entered into between Kraus Canada LP, a limited partnership formed pursuant to the laws of the province of Ontario ("Kraus Canada"), Kraus Properties LP, a limited partnership formed pursuant to the laws of the province of Ontario ("Kraus Properties"), Kraus Carpet LP, a limited partnership formed pursuant to the laws of the province of Ontario ("Kraus Carpet") and Kraus USA Inc., a corporation incorporated pursuant to the laws of the state of Delaware ("Kraus USA" and collectively with Kraus Canada, Kraus Properties, and Kraus Carpet the "Vendors" and each a "Vendor") and Q.E.P. Co., Inc., a corporation incorporated pursuant to the laws of Delaware ("QEP USA") and Roberts Company Canada Limited, a company amalgamated under the laws of the province of Ontario ("QEP Canada", and together with QEP USA, the "Purchasers" and each a "Purchasers").

RECITALS

WHEREAS, Purchasers and Vendors have entered into that certain Asset Purchase Agreement, dated as of September 10, 2018 (the "Purchase Agreement"), under which Vendors, have agreed to sell and assign to Purchasers, and Purchasers have agreed to purchase and assume from the Vendors substantially all of the assets and liabilities related to the Business (as such term is defined in the Purchase Agreement), all as more fully described therein;

WHEREAS, in order to ensure an orderly transition of the Business and as a condition to consummating the transactions contemplated by the Purchase Agreement, Purchasers and Vendors have agreed to enter into this Agreement, under which each party will provide, or cause its Affiliates to provide, certain services to the other party, in each case on a transitional basis and subject to the terms and conditions set forth herein; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such terms in the Purchase Agreement.

NOW, THEREFORE, in consideration of the mutual agreements and covenants hereinafter set forth, Purchasers and Vendors hereby agree as follows:

ARTICLE 1 SERVICES

1.1 Provision of Services

- (a) Each party agrees to provide, or to cause its Affiliates to provide, the applicable services (the "Services") set forth on the exhibits attached hereto (as such exhibits may be amended or supplemented pursuant to the terms of this Agreement, collectively, the "Service Exhibits") to the other party for the respective periods and on the other terms and conditions set forth in this Agreement and in the respective Service Exhibits. The Vendors or the Purchasers, as provider of the Services shall be referred to herein as "Service Provider" and, the recipient of the Services shall be referred to herein as "Service Recipient".
- (b) Notwithstanding the contents of the Service Exhibits, Service Provider agrees to respond in good faith to any reasonable request by the Service Recipient for access to any additional services that are necessary for the operation of the Business and the operation of the Broadloom Business, as applicable, and that are not currently contemplated in the Service Exhibits, at a price to be agreed upon after good faith negotiations between the parties. Any such additional services so provided shall constitute Services under this Agreement and be subject in all respects to the provisions of this Agreement as if fully set forth on a Service Exhibit as of the date hereof.

- (c) Subject to Section 2.3, Section 2.4 and Section 3.5, the obligations of the Service Provider under this Agreement to provide Services shall terminate with respect to each Service on the end date specified in the applicable Service Exhibit (each, an "End Date").

1.2 Standard of Service

- (a) Vendors represent, warrant and agree that the Services they are responsible for shall be provided in good faith, in accordance with Law and, except as specifically provided in the applicable Service Exhibits, in a manner generally consistent with the historical provision of the Services and with the same standard of care as historically provided. Subject to Section 1.3, Vendors agree to assign sufficient resources and qualified personnel as are reasonably required to perform the Services in accordance with the standards set forth in the preceding sentence.
- (b) Purchasers represent, warrant and agree that the Services they are responsible for shall be provided in good faith, in accordance with Law and, except as specifically provided in the applicable Service Exhibits, in a manner generally consistent with the historical provision of the Services and with the same standard of care as historically provided. Subject to Section 1.3, Purchasers agree to assign sufficient resources and qualified personnel as are reasonably required to perform the Services in accordance with the standards set forth in the preceding sentence.
- (c) Except as expressly set forth herein or in any contract entered into hereunder, each party makes no representations, warranties or conditions of any kind, implied or expressed, with respect to the Services, including, without limitation, no conditions or warranties of merchantability or fitness for a particular purpose, which are specifically disclaimed. Each party acknowledges and agrees that this Agreement does not create a fiduciary relationship, partnership, joint venture or relationship of trust or agency between the parties and that all Services are provided by the applicable Service Provider as an independent contractor.

1.3 Third-Party Service Providers

It is understood and agreed that each party has been retaining, and will continue to retain, third-party service providers to provide some of the Services to the other party. In addition, each party shall have the right to hire other third-party subcontractors to provide all or part of any Service hereunder; except that if such subcontracting is inconsistent with past practices or such subcontractor is not already engaged with respect to such Service as of the date hereof, the applicable party shall obtain the prior written consent of the other party to hire such subcontractor, such consent not to be unreasonably withheld. Each party shall in all cases retain responsibility for the provision to the other party of Services to be performed by any third-party service provider or subcontractor or by any of party's Affiliates.

1.4 Access to Premises.

- (a) To enable the provision of the Services, the Service Recipient agrees that it shall provide to the employees of the Service Provider and its Affiliates and to any third-party service providers or subcontractors who provide Services, at no cost to the Service Provider, access to the facilities, assets and books and records of the Business or the Broadloom Business, as applicable, in all cases to the extent necessary for the Service Provider to fulfill its obligations under this Agreement.
- (b) The Service Provider agrees that all of the employees of such party and its Affiliates and any third-party service providers and subcontractors, when on the property of the Service Recipient or when given access to any equipment, computer, software, network or files owned or controlled by the service provider, shall conform to the policies and procedures of such party concerning health, safety and security, which are made known to party providing the Services in advance in writing.

ARTICLE 2 COMPENSATION

2.1 Responsibility for Wages and Fees

For such time as any employees of the Service Provider or any of such party's Affiliates are providing the Services to Service Recipient under this Agreement, (a) such employees will remain employees of the Service Provider or Service Provider's Affiliate, as applicable, and shall not be deemed to be employees of the Service Recipient for any purpose, and (b) Service Provider or Service Provider's Affiliate, as applicable, shall be solely responsible for the payment and provision of all wages, bonuses and commissions, employee benefits, including severance and worker's compensation, and the withholding and payment of applicable Taxes relating to such employment.

2.2 Terms of Payment and Related Matters

- (a) As consideration for provision of the Services, Service Recipient shall pay to the Service Provider the amount specified for each Service in the applicable Service Exhibit. In addition to such amount, if a party or any of its Affiliates incurs reasonable and documented out-of-pocket expenses in the provision of any Service, including, without limitation, licence fees and payments to third-party service providers or subcontractors, but excluding payments made to employees or any of its Affiliates under Section 2.1 (such included expenses, collectively, the "Out-of-Pocket Costs"), the Service Recipient shall reimburse the other party for all such Out-of-Pocket Costs in accordance with the invoicing procedures set forth in Section 2.2(b).
- (b) As more fully provided in the Service Exhibits and subject to the terms and conditions therein:
 - (i) Service Provider shall provide the Service Recipient, in accordance with Section 6.1 of this Agreement, with monthly invoices ("Invoices"), which shall set forth in reasonable detail, with such supporting documentation as the other party may reasonably request with respect to Out-of-Pocket Costs, amounts payable under this Agreement; and
 - (ii) payments under this Agreement shall be made within thirty (30) days after the date of receipt of an Invoice.
- (c) The parties intend that the compensation set forth in the respective Service Exhibits reasonably approximates the cost of providing the Services, including the cost of employee wages and compensation, without any intent to cause a party to receive profit or incur loss. If at any time a party believes that the payments contemplated by a specific Service Exhibit are materially insufficient to compensate it for the cost of providing the Services it is obligated to provide hereunder, or a party believes that the payments contemplated by a specific Service Exhibit materially overcompensates the other party for such Services, such party shall notify the other party as soon as possible, and the parties hereto will commence good faith negotiations toward an agreement in writing as to the appropriate course of action with respect to pricing of such Services for future periods.

2.3 Extension of Services

The parties agree that the Service Provider shall not be obligated to perform any Service after the applicable End Date; except that if the Service Recipient desires and the Service Provider agrees to continue to perform any of the Services after the applicable End Date, the parties shall negotiate in good faith to determine an amount that compensates such party for all of its costs for such performance, including the time of its employees and its Out-of-Pocket Costs. The Services so performed by the Service Provider after the applicable End Date shall continue to constitute Services under this Agreement

and be subject in all respects to the provisions of this Agreement for the duration of the agreed-upon extension period.

2.4 Terminated Services

Upon termination or expiry of any or all Services under this Agreement, or upon the termination of this Agreement in its entirety, the Service Provider shall not have further obligations to the Service Recipient to provide the applicable terminated Services and the parties will have no obligation to pay any future compensation or Out-of-Pocket Costs relating to such Services (other than for or in respect of Services already provided in accordance with the terms of this Agreement and received by a party before such termination).

2.5 Invoice Disputes

In the event of an Invoice dispute, the disputing party shall deliver a written statement to the other party no later than ten (10) days before the date payment is due on the disputed Invoice listing all disputed items and providing a reasonably detailed description of each disputed item. Amounts not so disputed shall be deemed accepted and shall be paid, notwithstanding disputes on other items, within the period set forth in Section 2.2(b). The parties shall seek to resolve all such disputes expeditiously and in good faith. Each party shall continue performing its Services in accordance with this Agreement pending resolution of any dispute.

2.6 No Right of Set-off

Each of the parties hereby acknowledges that it shall have no right under this Agreement to offset any amounts owed (or to become due and owing) to the other party, whether under this Agreement, the Purchase Agreement or otherwise, against any other amount owed (or to become due and owing) to it by the other party.

2.7 Taxes

The Service Recipient shall be responsible for all harmonized sales, goods and services, and provincial sales Taxes imposed or assessed as a result of the provision of Services by the Service Provider.

ARTICLE 3 TERMINATION

3.1 Termination of Agreement

Subject to Section 3.4, this Agreement shall terminate in its entirety on the date upon which all parties shall have no continuing obligation to perform any Services as a result of each of their expiration or termination in accordance with Section 2.4 or Section 3.2.

3.2 Breach

Any party (the "Non-breaching Party") may terminate this Agreement with respect to any Service, in whole but not in part, at any time upon prior written notice to the other party (the "Breaching Party") if the Breaching Party has failed (other than under Section 3.5) to perform any of its material obligations under this Agreement relating to such Service, and such failure shall have continued without cure for a period of fifteen (15) days after receipt by the Breaching Party of a written notice of such failure from the Non-breaching Party seeking to terminate such service. For the avoidance of doubt, non-payment for a Service in accordance with this Agreement and not the subject of a good-faith dispute shall be deemed a breach for purposes of this Section 3.2.

3.3 Termination of a Service

A Service Recipient may terminate any Service at any time prior to the applicable End Date by providing written notice to the Service Provider upon no less than thirty (30) days prior written notice.

3.4 Effect of Termination

Upon termination of this Agreement in its entirety pursuant to Section 3.1, all obligations of the parties hereto shall terminate, except for the provisions of Section 2.4, Section 2.6, Section 2.7, Article 4, Article 5 and Article 6, which shall survive any termination or expiry of this Agreement.

3.5 Force Majeure

The obligations of a party under this Agreement with respect to any Service shall be suspended during the period and to the extent that such party is prevented or hindered from providing such Service, or the other party is prevented or hindered from receiving such Service, due to any of the following causes beyond such party's reasonable control (such causes, "Force Majeure Events"): (i) acts of God, (ii) flood, fire or explosion, (iii) war, invasion, riot or other civil unrest, (iv) Governmental Order or Law, (v) actions, embargoes or blockades in effect on or after the date of this Agreement, (vi) action by any Governmental Authority, (vii) national or regional emergency, or (viii) any other event that is beyond the reasonable control of such party. The party suffering a Force Majeure Event shall give notice of suspension as soon as reasonably practicable to the other party stating the date and extent of such suspension and the cause thereof, and the parties shall resume the performance of their respective obligations as soon as reasonably practicable after the removal of the cause. No party shall be liable for the non-performance or delay in performance of its respective obligations under this Agreement when such failure is due to a Force Majeure Event. The applicable End Date for any Service so suspended shall be automatically extended for a period of time equal to the time lost by reason of the suspension.

ARTICLE 4 CONFIDENTIALITY

4.1 Confidentiality

- (a) During the term of this Agreement and thereafter, the parties hereto shall, and shall instruct their respective Affiliates, employees, officers, directors and third party service providers and subcontractors (collectively, "Representatives") to, maintain in confidence and not disclose the other party's financial, technical, sales, marketing, development, personnel, and other information, records, or data, including, without limitation, customer lists, supplier lists, trade secrets, designs, product formulations, product specifications or any other proprietary or confidential information, however recorded or preserved, whether written or oral (any such information, "Confidential Information"). Each party hereto shall use the same degree of care, but no less than reasonable care, to protect the other party's Confidential Information as it uses to protect its own Confidential Information of like nature. Unless otherwise authorized in any other agreement between the parties, any party receiving any Confidential Information of the other party (the "Receiving Party") may use Confidential Information only for the purposes of fulfilling its obligations under this Agreement (the "Permitted Purpose"). Any Receiving Party may disclose such Confidential Information only to its Representatives who have a need to know such information for the Permitted Purpose and who have been advised of the terms of this Section 4.1 and the Receiving Party shall be liable for any breach of these confidentiality provisions by such Persons; except that any Receiving Party may disclose such Confidential Information to the extent such Confidential Information is required to be disclosed by a Governmental Order, in which case the Receiving Party shall promptly notify, to the extent possible, the disclosing party (the "Disclosing Party"), and take reasonable steps to assist in contesting such Governmental Order or in protecting the Disclosing Party's rights before disclosure, and in which case the Receiving Party shall

only disclose such Confidential Information that it is advised by its counsel in writing that it is legally bound to disclose under such Governmental Order.

- (b) Notwithstanding the foregoing, "Confidential Information" shall not include any information that the Receiving Party can demonstrate: (i) was publicly known at the time of disclosure to it, or has become publicly known through no act of the Receiving Party or its Representatives in breach of this Section 4.1; (ii) was rightfully received from a third party without a duty of confidentiality; or (iii) was developed by it independently without any reliance on the Confidential Information.
- (c) Upon demand by the Disclosing Party at any time, or upon expiry or termination of this Agreement with respect to any Service, the Receiving Party agrees promptly to return or destroy, at the Disclosing Party's option, all Confidential Information. If such Confidential Information is destroyed, an authorized officer of the Receiving Party shall certify to such destruction in writing.

ARTICLE 5 LIMITATION OF LIABILITY; INDEMNIFICATION

5.1 Limitation of Liability

In no event shall a party have any liability under any provision of this Agreement for any punitive, exemplary, incidental, consequential, special or indirect damages, including loss of future revenue or income, loss of business reputation or opportunity relating to the breach or alleged breach of this Agreement, or diminution of value, or any damages based on any type of multiple, whether based on statute, contract, tort or otherwise, and whether or not arising from the other party's sole, joint, or concurrent negligence, strict liability, criminal liability or other fault. The parties acknowledge that the Services to be provided hereunder are subject to, and that the parties remedies under this Agreement are limited by, the applicable provisions of Section 1.2, including the limitations on representations, warranties and conditions with respect to the Services.

5.2 Indemnification

Subject to the limitations set forth in Section 5.1, Service Provider shall indemnify, defend and hold harmless the Service Recipient and its Affiliates and each of their respective Representatives (collectively, the "Indemnified Parties") from and against any and all Losses of the Indemnified Parties relating to, arising out of or resulting from the gross negligence or wilful misconduct of the Service Provider or its Affiliates or any third party that provides a Service to the Service Recipient pursuant to Section 1.3 in connection with the provision of, or failure to provide, any Services to the Service Recipient, unless such loss is caused by the Service Recipient or its Affiliates.

5.3 Indemnification Procedures

The matters set forth in Section 7.06 of the Purchase Agreement shall be deemed incorporated into, and made a part of, this Agreement.

ARTICLE 6 MISCELLANEOUS

6.1 Relationship Managers

Each party will designate from time to time one or more employees as its relationship managers (each, a "Relationship Manager") who will act as the primary contacts for such party with respect to all matters relating to this Agreement. No determination made by a Relationship Manager will constitute an amendment of this Agreement. The initial Relationship Managers for Vendors are Matt Holt and Chris Emmet, and the initial Relationship Managers for Purchasers are Mark Walter and Scott Stanton.

6.2 Notices

All invoices, notices, requests, consents, claims, demands, waivers and other communications hereunder (each, a "Notice") shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or email of a PDF document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the [third] day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such Notice must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 6.1):

(a) If to Vendors:

195 Joseph Street,
Kitchener, Ontario
N2G1J6

E-mail: chris.emmott@hilcocapital.com and matthew.holt@hilcocapital.com

with a copy to:

Cassels Brock & Blackwell LLP
Suite 2100, 40 King Street West,
Toronto, Ontario
M5H3C2

E-mail: lellis@casselsbrock.com
Attention: Larry Ellis

If to Purchasers:

Q.E.P. Co., Inc.
Suite A, 1001 Broken Sound Parkway, NW
Boca Raton, Florida 33487

E-mail: hschulman@qep.com

Attention: Harry Schulman, CEO

with a copy to:

Holland & Knight LLP
701 Brickell Avenue, Suite 3300
Miami, Florida USA 33131

E-mail: danielle.price@hkllaw.com
Attention: Danielle Price

and with a copy to:

Bennett Jones LLP
3400 One First Canadian Place, P.O. box 130
Toronto, ON Canada M5X 1A4

E-mail: cunninghamc@bennettjones.com
michaeli@bennettjones.com
Attention: Carl Cunningham
Ian Michael

6.3 Headings

The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

6.4 Severability

If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

6.5 Entire Agreement

This Agreement, including all Service Exhibits, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. If and to the extent that there is a conflict between the provisions of this Agreement and the provisions of the Purchase Agreement as it relates to the Services hereunder, the provisions of this Agreement shall control.

6.6 Successors and Assigns

This Agreement shall be binding upon and shall enure to the benefit of the parties hereto and their respective successors and permitted assigns. Neither party may assign its rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. No assignment shall relieve the assigning party of any of its obligations hereunder.

6.7 No Third-party Beneficiaries

This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.

6.8 Amendment and Modification; Waiver

This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

6.9 Governing Law; Forum Selection; Choice of Language

- (a) This Agreement shall be governed by and construed in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein. The parties expressly exclude the application of the International Sales Convention Act (Ontario) and the United Nations Convention on Contracts for the International Sale of Goods to this Agreement.
- (b) Any action or proceeding arising out of or based upon this Agreement, the other Transaction Documents or the transactions contemplated hereby or thereby may be brought in the courts of the province of Ontario, and each party irrevocably submits and agrees to attend to the exclusive jurisdiction of courts in any such action or proceeding. The parties irrevocably and unconditionally waive any objection to the venue of any action or proceeding in such courts and irrevocably waive and agree not to plead in any

such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

- (c) The parties confirm that it is their express wish that this Agreement, as well as any other documents relating to this Agreement, including notices, schedules and authorizations, have been and shall be drawn in the English language only. Les parties aux présentes confirment leur volonté expresse que cette convention, de même que tous les documents s'y rattachant, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.

6.10 Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

6.11 Condition Precedent

The effectiveness of this Agreement shall be subject to the parties receiving a written consent and acknowledgment from Vendors' lender, Wells Fargo, with respect to the Services titled "Accounts Receivable Remittance Reconciliation" and "Collection of Broadloom Accounts Receivable" to be provided under this Agreement in a form satisfactory to Wells Fargo and each of the parties.

[Signatures on following page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

KRAUS CANADA LP
by its' General Partner
Kraus Canada Ltd.

By: _____
Name:
Title:

KRAUS PROPERTIES LP
by its' General Partner
Kraus Properties Inc.

By: _____
Name:
Title:

KRAUS CARPET LP
by its' General Partner
Kraus Carpet Inc.

By: _____
Name:
Title:

KRAUS USA INC

By: _____
Name:
Title:

Q.E.P. CO., INC.

By: _____
Name:
Title:

ROBERTS COMPANY CANADA LTD.

By: _____
Name:
Title:

Accounts Receivable Remittance Reconciliation

Service Provider: Both Purchasers and Vendors

Description of Services:

- (1) On a daily basis in arrears Mark Cummings or Tim Burt will direct Wells Fargo to transfer a proportion, calculated in accordance with (2)(a) below, of the prior day's cash receipts into all of lock box accounts of the Vendors that relate to (i) Accounts Receivable (as such term is defined by the Asset Purchase Agreement) and (ii) accounts receivable of the Purchasers generated following the closing ("New A/R"). Vendors shall continue to permit Mark Cummings and Tim Burt to become an authorized signer on Vendor's bank accounts in order to perform the acts contemplated by this Schedule and shall provide Wells Fargo's written acknowledgment and consent to this arrangement and control over the bank accounts.
- (2)
 - (a) The proportion of the cash receipts to be distributed to Purchasers on a daily basis shall be allocated in the same proportion as the relative level of net sales of the Broadloom Business to the TPS business during last three full months. (For clarity, if in the three full months before closing net sales of the Broadloom Business were \$40 and net sales of the TPS business were \$60, the daily allocation of cash receipts would be 40% to Vendors and 60% to Purchasers, respectively). At the end of each month, Purchasers and Vendors shall adjust the proportion using the same methodology described above, which proportion shall be used for the daily transfers in the following month.
 - (b) Each Monday, Purchasers will prepare a detailed schedule summarizing the cash receipts into all of lock box accounts of Vendors during the previous calendar week and identify those that are Accounts Receivable (as such term is defined by the Asset Purchase Agreement) and cash receipts that relate to Broadloom Business accounts receivables. Purchasers will also specifically identify the portion of the Accounts Receivable that were attributable to Accounts Receivable based on the agreed upon resolution of cash receipts that cannot be specifically attributed as set forth in the Purchase agreement (i.e., "To the extent that a customer Account Receivable cannot be specifically attributed to the Business or Broadloom Business, such amount will be deemed to be allocated to the Business and to the Broadloom Business based on the relative level of net sales of the Business to the Vendors in the last three completed months prior to Closing.") (such amounts the "Unallocated Amounts"). Any difference between the actual amount of cash distributed to each of Purchasers and Vendors based on the methodology in 2(a) and the amount that reflects actual collections attributable Accounts Receivable and to Broadloom Business accounts receivable shall be settled from and prior to the next daily distribution of cash receipts. If there are not enough funds in the next daily distribution to settle such adjustment, the remaining adjustment shall be made from the following daily distribution and so on and so on. Mark Walter of QEP and either Matthew Holt or Chris Emmott of Kraus shall agree on such adjustment prior to it being paid. If the parties cannot agree on a reconciliation and adjustment, Section 2.07(c) of the Asset Purchase Agreement will apply to the disputed amounts.
 - (c) Purchasers and Vendors may agree to periodically review, but no more often than monthly, the Unallocated Amounts to determine if Purchasers and Vendors have additional information to determine whether such Unallocated Amounts relate to the TPS business or the Broadloom business and if such a determination can be made then Purchasers will reconcile such allocations and any adjustments between the previous amount of cash distributed to each of Purchasers and Vendors for such amounts and the actual allocations based on such additional information shall be settled from and prior to the next daily distribution of cash receipts. If there are not enough funds in the next daily distribution to settle such adjustment, the remaining adjustment shall be made from the following daily distribution and so on and so on.

- (3) In the event that a customer claims a Customer Credit Balance against Purchasers and such customer has no outstanding Accounts Receivables, Purchasers shall provide prompt notice of any such claim, and such amount shall be paid to Purchasers.
- (4) For so long as any Accounts Receivable remain outstanding or New A/R is being paid into the Vendors' lock boxes, each party shall have full access to the Books and Records, the personnel of, and working papers prepared by each other party to the extent that they relate to Accounts Receivable, Broadloom Business accounts receivable, Customer Credit Balances or New A/R; provided that such access shall be in a manner that does not interfere with the normal business operations of Purchasers and Vendors.

End Date: When the Accounts Receivable and New A/R have all been collected and remitted to Purchasers.

Fee: None

Collection of Broadloom Accounts Receivable:

Service Provider: Purchasers

Description of Services: Collections of Broadloom Business receivables

End Date: When the Broadloom Business accounts receivables have all been collected.

Fee:

- a. \$20,000 for the month of October, 2018;
- b. \$15,000 for the month of November, 2018; and
- c. \$10,000 for the month of December, 2018.

Any bank or lock box fees payable in respect of the lock box accounts shall be allocated between the parties on the basis of the proportion calculated in accordance with (2) above.

Software and Server Access

Description of Service:	Purchasers will allow Vendors reasonable access to the AS400 server and Dancik software in order to access records related to the Broadloom Business.
End Date:	180 days after Closing Date
Fee:	\$5,000 per month
Other:	

Third Party Warehousing

Description of Service:	Parties will split the cost of third party warehousing of products related to the Business and related to the Broadloom Business on proportional basis based on the value of the products shipped out of any such third party warehouse.
End Date:	180 days after Closing Date
Other:	

Paid Duties Recovery

Description of Service:	Purchaser employees will assist the Vendors, as requested by Vendors from time to time, in applying for and processing refunds for duties paid by the Vendors.
End Date:	Three years after Closing Date
Fee:	Vendors will pay out-of-pocket costs of Purchasers accrued in providing the service.
Other:	

Access to Facilities

Description of Service:	Purchasers will allow Vendors and their employees and agents reasonable access to the Leased Real Property and the real estate purchased under the Real Estate Purchase Agreement to remove any Excluded Assets from such locations. Vendors will allow Purchasers and their employees and agents reasonable access to the Vendor's owned and leased real property to remove any Purchased Assets from such locations.
End Date:	As needed.

EXHIBIT B

This is Exhibit "B" referred to in the Affidavit of Christopher Emmott sworn September 17, 2018

Arshia Asif, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires June 12, 2020.



Commissioner for Taking Affidavits (or as may be)

2216 ABUTMENT ROAD
DALTON, GEORGIA

PURCHASE AND SALE AGREEMENT

BETWEEN

KRAUS USA, INC.,
A DELAWARE CORPORATION

AS SELLER

AND

Q.E.P. CO., INC.,
A DELAWARE CORPORATION,

AS PURCHASER

SEPTEMBER 10, 2018

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into as of the 10th day of September, 2018 ("Effective Date") by and between Kraus USA, Inc., a Delaware corporation, survivor by merger of Kraus USA, Inc. and Barrett Carpet Mills, Inc., a Georgia corporation, ("Seller") and Q.E.P. Co., Inc., a Delaware corporation and/or assigns ("Purchaser").

RECITALS

WHEREAS, Kraus Group, an affiliate of Seller, and Purchaser are parties to that certain Letter of Intent dated as of August 9, 2018 in connection with the purchase and sale of Kraus Group's assets;

WHEREAS, in preparation for the sale of Kraus Group's assets to Purchaser, Kraus Canada LP, Kraus Properties LP, Seller (collectively, "Kraus Group"), and Purchaser are negotiating an Asset Purchase Agreement (the "APA");

WHEREAS, Kraus Group's assets include Seller's fee simple ownership of certain real property located in Dalton, Georgia, as further described herein;

WHEREAS, Seller and Purchaser desire to enter into this Agreement concerning the transfer of Seller's real property to Purchaser; and

WHEREAS, Seller and Purchaser shall enter into this Agreement and the APA concurrently such that the Effective Date of this Agreement and the date of the APA shall be the same.

AGREEMENT

In consideration of the mutual covenants and promises set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties to this Agreement, the parties agree to the following terms and conditions:

1. PURCHASE AND SALE. Subject to the terms of this Agreement, Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller all of Seller's right, title and interest in and to the following property (collectively, the "Property"):

1.1 That certain parcel of property located in Whitefield County, Georgia as more particularly described in Exhibit "A" (the "Realty");

1.2 The land and all buildings, structures and other improvements situated on the Realty (the "Improvements"); and

1.3 All strips, gores, all minerals, oil, gas and other hydrocarbon substances on and under the Realty, as well as all development and air rights relating to the Realty, all easements, privileges, rights-of-way, riparian and other water rights, rights to lands underlying any adjacent streets or roads, and other tenements, hereditaments and appurtenances, if any, pertaining to or accruing to the benefit of the Realty and Improvements.

2. CLOSING DATE. Subject to other provisions of this Agreement for extension or termination, closing on the transaction described in this Agreement (the "Closing") shall be held simultaneously with the closing contemplated in the APA (the "Closing Date"). Such date and time may not be extended without the prior written approval of both Seller and Purchaser, except as otherwise expressly provided for in this Agreement. In any and all events, notwithstanding any extension of the date and time of Closing, the Closing shall be held simultaneously with the closing of the transactions contemplated in the APA.

3. PURCHASE PRICE. The total purchase price (the "Purchase Price") to be paid by Purchaser to Seller for the Property is [REDACTED].

4. TITLE EVIDENCE. Purchaser has obtained an ALTA marketability title insurance commitment (the "Commitment") issued by Stewart Title Guaranty Company ("Title Insurer"), attached hereto as Exhibit "B" and the condition of title to the Property as disclosed by the Commitment is hereby approved by and accepted by Purchaser. Purchaser may obtain any number of future updates to the Commitment (individually a "Title Update" and collectively, "Title Updates") prior to Closing. Purchaser shall not be required to accept any additional Schedule B, Section 2 exceptions or additional Schedule B, Section 1 requirements. In the event any Title Update reveals any additional Schedule B, Section 2 exceptions or Schedule B, Section 1 requirements, Seller shall make commercially reasonable efforts to comply with said additional requirements and Purchaser shall have the right to object to any additional exceptions, pursuant to Section 6 of this Agreement. The exceptions appearing in Schedule B, Section 2 of the Commitment, ad valorem real estate taxes for 2018 and subsequent years, all applicable zoning ordinances and regulations, any matters disclosed by the Survey (as hereinafter defined) and any matters disclosed by any Title Update or Updated Survey (as such term is hereinafter defined) that either are not objected to in writing, or if objected to in writing by Purchaser, are those which Seller has elected not to remove or cure, or has been unable to remove or cure, and subject to which Purchaser has elected or is deemed to have elected to accept the conveyance of the Property are hereinafter referred to as "Permitted Exceptions." Notwithstanding anything in this Agreement or in the APA to the contrary, Purchaser shall be required to first exhaust commercially reasonable efforts to obtain compensation from the policy of title insurance issued by Title Insurer pursuant to the Commitment, as to any and all claims of Purchaser related to any alleged defect in title, prior to Purchaser being entitled to pursue any other available remedy against Seller with respect thereto.

5. SURVEY.

5.1 Purchaser has obtained a survey (the "Survey") of the Realty and Improvements, attached hereto as Exhibit "C" and hereby approves the condition of the Property as set forth in the Survey.

5.2 If any update to the Survey prior to Closing ("Updated Survey") shall reflect any new encroachments, overlaps, unrecorded easements or similar rights in third parties, or any other adverse matters not reflected in the Survey, then the same shall be deemed "title defects" as set forth herein.

6. TITLE DEFECTS.

6.1 If any Title Update prior to Closing shall reflect any new matter of title not otherwise shown in the Commitment, Purchaser may, no later than the five (5) days after receipt of such Title Update, notify Seller in writing specifying the new matter of title.

6.2 If Purchaser has given Seller timely written notice of any new matter of title, Seller shall have a period of five (5) days to decide whether or not Seller will use Seller's reasonable best efforts (which shall under no circumstances be construed to obligate Seller to bring suit to cure any such matter of title) to cause such matter of title for which Purchaser has made objection to be cured by the Closing Date and to notify Purchaser in writing of Seller's decision. Seller agrees to remove by payment, bonding, or otherwise any lien to which Seller has consented against the Property capable of removal by the payment of money or bonding. If Seller elects to use its reasonable best efforts to cure any matter of title objected to by Purchaser, Seller shall have at least thirty (30) days to effect such cure plus an additional thirty (30) days should the cure require additional time so long as Seller is proceeding diligently to effect such cure. The Closing Date shall be extended to accommodate the time needed to effect such cure, but in no event for a period to exceed sixty (60) days unless Seller and Purchaser agree to any longer period of time; *provided, however*, in no event shall the Closing Date be extended past the Termination Date (as defined in the APA) without the express written consent of Seller and Purchaser.

6.3 If Seller does not eliminate such defects timely, Purchaser shall have the option to:

6.3.1. Close and accept the title "as is," without reduction in the Purchase Price and without claim against Seller for such title defects (except for any lien to which Seller has consented that can be removed by the payment of money or bonding, for which credit shall be given Purchaser at the Closing); in such event the Closing shall take place ten (10) days after notice of such election, or on the Closing Date, whichever is later; or

6.3.2. Cancel this Agreement, in which event both parties shall be released from all further obligations under this Agreement (other than the indemnification obligations contained elsewhere in this Agreement).

7. REPRESENTATIONS, WARRANTIES AND COVENANTS.

7.1 Seller's Representations and Warranties. Seller represents and warrants to Purchaser and covenants and agrees with Purchaser, which representations and warranties shall be deemed to have been made again as of the Closing, as follows; provided, however, where the words "Seller's Knowledge, to Seller's knowledge, known to Seller, Seller has not received any notice" or similar words are hereinafter used in this Agreement, the representations and warranties (or other provisions of this Agreement) qualified by any of such phrases are made without investigation of the matter stated therein and are based solely on the current actual knowledge of Mark Cummings, the Chief Financial Officer of Seller, and Shawn Davies, the Chief Executive Officer of Seller.

7.1.1 Organization and Authority. Seller is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware. This Agreement (i) is and at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) is and at the time of Closing will be legal, valid and binding obligations of Seller, and (iii) does not and at the time of Closing will not violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject. All documents executed by Seller which are to be delivered to Buyer at Closing (i) are or at the time of Closing will be duly authorized, executed and delivered by Seller, (ii) are or at the time of Closing will be legal, valid and binding obligations of Seller, and (iii) do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject;

7.1.2 Foreign Person. Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Internal Revenue Code of 1986, as amended (the "Federal Code");

7.1.3 Contracts. Except as disclosed herein on Exhibit "D" attached hereto, in the Commitment, the Title Updates, the Survey, any Updated Survey or in the APA, Seller has not entered into any contracts, subcontracts, arrangements, licenses, concessions, easements, or other agreements, either recorded or unrecorded, written or oral, affecting all or any portion of the Property, or the use of it; Seller shall not modify any existing instrument nor enter into any new contract or other agreement affecting all or any portion of the Property, or the use of it, without the prior written consent of Purchaser, which consent will not be unreasonably withheld or delayed;

7.1.4 Pending Actions. Except as set forth on Exhibit "E" attached hereto, Seller has not received written notice of any (i) existing or pending improvement liens affecting the Property; (ii) violations of building codes and/or zoning ordinances or other governmental or regulatory laws, ordinances, regulations, orders or requirements affecting the Property; (iii) existing, pending or threatened lawsuits or appeals of prior lawsuits affecting the Property; (iv) existing, pending or threatened condemnation proceedings affecting the Property; or (v) existing, pending or threatened zoning, building or other moratoria, downzoning petitions, proceedings, restrictive allocations or similar matters that could affect Purchaser's use of the Property.

7.1.5 No Bankruptcy. Except as otherwise disclosed or contemplated in the APA, Seller has not been the subject of any filing of a petition under any federal or state bankruptcy law or any federal or state insolvency laws or laws for composition of indebtedness or for the reorganization of debtors.

7.1.6 Condemnation. Seller has not received any written notice of any condemnation proceedings relating to the Property ("Condemnation Notices"), except as set forth in Exhibit "E" attached hereto;

7.1.7 Physical Condition of Property. Except as otherwise disclosed in this Agreement, or as set forth in Exhibit "F" hereto, or as may be otherwise disclosed in writing by Seller to Purchaser prior to Closing, to Seller's knowledge, the roof (including the fascia and soffits), and walls do not have any material leaks or damage that would impair the

proper function of the Property for Purchaser's intended use and the septic tank and drain field, all appliances, heating, cooling, electrical, plumbing systems and machinery are in working condition. Notwithstanding anything to the contrary otherwise contained in this Agreement, the representations and warranties contained in this Section 7.1.7 shall terminate as of the earlier of (a) Closing, or (b) Purchaser obtaining possession of the Property pursuant to any lease as provided in Section 22 below.

7.1.8 Lease Brokerage. There are no written agreements with brokers providing for the payment from and after the Closing by Seller or Seller's successor-in-interest of leasing commissions or fees for procuring tenants with respect to the Property or for renewals or expansions with existing tenants, if any;

7.1.9 Compliance with Law. Seller shall comply prior to Closing in all material respects with all laws, rules, regulations, and ordinances of all governmental authorities having jurisdiction over the Property;

7.1.10 Environmental Matters. Except as otherwise disclosed in this Agreement and or contemplated in the APA or as otherwise set forth in Exhibit "G" hereto, or as may be otherwise disclosed in writing by Seller to Purchaser prior to Closing, and to Seller's knowledge, (i) during Seller's ownership of the Property, there has been no release of hazardous materials from or to the Property, (ii) Seller has not caused any toxic or hazardous materials or waste to be handled in, on or about the Property in such a manner that has resulted in, or could reasonably be expected to result in, material liability under environmental laws, (iii) during Seller's ownership of the Property, the Property is and has been in compliance with environmental laws in all material respects, and there is no pending governmental action with respect to the Property under environmental laws, (iv) during Seller's ownership of the Property, Seller has not received any written environmental notice that the Property has been contaminated by any hazardous material which would reasonably be expected to give rise to any current or future environmental claim, (v) no underground storage tanks, asbestos products or asbestos containing materials in any form or condition, materials or equipment containing polychlorinated biphenyls, or landfills, surface impoundments, or disposal areas, exist at the Property, and (vi) Seller has provided a true and complete copy of all Phase I and Phase II environmental site assessments, and any and all environmental reports, audits, records, sampling data, and risk assessments, related to compliance with environmental laws, or hazardous substances, which Seller commissioned or was otherwise required to obtain and which on the date hereof are in the possession or control of Seller, related to the operating and occupancy of the Property. Notwithstanding anything to the contrary otherwise contained in this Agreement, the representations and warranties contained in this Section 7.1.10 shall terminate as of the earlier of (a) Closing, or (b) Purchaser obtaining possession of the Property pursuant to any lease as provided in Section 22 below.

7.1.11 Insurance. Seller shall provide, and keep in force through the Closing, policies of fire, flood, windstorm, hazard and other casualty insurance as may be currently in force;

7.1.12 Restrictions on Sale. To Seller's knowledge there are no agreements currently in effect which restrict the sale of the Property;

7.1.13 No Contributions. To Seller's knowledge no commitments or agreements have been or will be made to any governmental authority, utility company, school board, church or other religious body, any homeowners or homeowners' association, or any other organization, group or individual, relating to the Property which would impose an obligation upon Purchaser to make any contributions or dedications of money or land to construct, install or maintain any improvements of a public or private nature on or off the Realty, or otherwise impose liability on Purchaser;

7.1.14 ERISA.

a. Seller represents, warrants and covenants that it is acting on its own behalf and that as of the date hereof it is not an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") which is subject to Title I of ERISA nor a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended, each of the foregoing hereinafter referred to collectively as a "Plan," and the assets of such Plans within the meaning of Department of Labor Regulation Section 2510.3-101.

b. Seller has no present intent to transfer the Property to any entity, person or employee benefit plan as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or to a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (each of the foregoing hereinafter referred to collectively as "Plan") which will cause a violation of ERISA.

c. Seller shall not assign its interest under this Agreement to any entity, person, or Plan which will cause a violation of ERISA.

7.1.15 OFAC. Seller (which for this purpose includes its partners, members, principal stockholders and any other constituent entities (i) has not been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <<<http://www.treas.gov/ofac/t11>> sdn.pdf> or at any replacement website or other replacement official publication of such list and (ii) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto.

7.1.16 Seller is the fee simple owner of the Property, free and clear of all encumbrances, except Permitted Exceptions.

7.1.17 Except for the representations and warranties set out in this Agreement, Seller has not made or does not make any other express or implied representation or warranty, either written or oral, including any representation or warranty as to the accuracy or completeness of any information regarding the Property furnished or made available to Purchaser and its representatives, or any representation or warranty arising from statute or otherwise in law.

7.2 Status of Seller's Representations. At all times during the term of this Agreement and as of Closing, all of Seller's representations, warranties and covenants in this Agreement shall be true and correct; no representation or warranty by Seller contained in this Agreement and no statement delivered or information supplied to Purchaser pursuant to this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements or information contained in them or in this Agreement not misleading.

7.3 Inspection.

7.3.1 Purchaser may, at Purchaser's expense, have inspection made of the Property by an appropriately licensed and insured person dealing in the construction, repair and maintenance of commercial properties. Purchaser shall be permitted reasonable access for inspection of the Property prior to Closing, as hereinafter provided, in order to confirm the status of the Property. Seller acknowledges that any such authorized inspections may include (without limitation) boring and testing the subsurface of the Property for purposes of performing geotechnical investigations and such additional environmental assessments as Purchaser determines to be reasonably necessary or advisable in evaluating the Property; provided, however, that any such physically intrusive boring or testing of the subsurface of the Property shall be subject to Seller's prior written approval and such access and indemnity agreement as Seller shall require ("Access Agreement"). In the event any such borings are performed, Purchaser agrees that after completing such inspections, Purchaser will promptly return the Property to the condition that existed prior to such borings. Seller agrees to allow Purchaser, Purchaser's agents, employees and consultants, access to the Property in accordance with the terms of the Access Agreement and the terms of this Agreement. Except with respect to invasive testing, Purchaser shall give Seller two (2) business days advance written notice of its entry onto the Property, which shall only be permitted during normal business hours, and Purchaser shall use commercially reasonable efforts to conduct its investigations at the Property in a manner that reasonably minimizes disruption to Seller's operation of the Property. Purchaser shall coordinate any attendance at any of the Property with Seller and any such attendance shall be undertaken in the company of a representative of Seller if Seller so requires. If Purchaser desires to conduct any invasive testing of the Property for asbestos or to assess the structural condition of the Improvements, or invasive testing of the Property for hazardous substances, including any Phase 2 testing of the soil or groundwater (the "Invasive Testing"), Purchaser, in addition to any requirements set forth above, shall provide a written request to do so, including the identity of the consultant proposed to conduct such testing and the proposed scope of testing, including in the case of testing of soil or ground water, all proposed soil and groundwater bore and test locations and the proposed depths of the sampling. Seller shall have the right, in its sole and absolute discretion, to deny all or any portion of the Purchaser's proposed testing, or to impose conditions on the same. If Seller consents to any invasive testing, Seller shall be provided an opportunity to take a portion of each sample being tested in a sufficient quantity to allow Seller split sample testing, if Seller chooses to perform its own testing. In addition, at Seller's written request, Purchaser shall provide to Seller copies of all laboratory analyses performed for Purchaser of samples taken from the Property promptly after Purchaser receives the same. At Seller's request, Purchaser shall promptly deliver to Seller copies of any third-party reports relating to any testing or other inspection of the Property performed for Purchaser; provided, however, absent such request Purchaser shall not deliver Seller any copies of such reports. All

such reports, tests and analyses shall be held in confidence by Purchaser and not disclosed or made available to any third party other than to Purchaser's attorneys and other professional advisors. Purchaser shall repair any and all physical damage to the extent caused by Purchaser's physical investigations under this Section 7.3 and shall indemnify, hold harmless and defend Seller, the agents, employees, officers and directors of Seller, any party owning a direct or indirect interest in Seller, the affiliates of Seller, and the partners, members, trustees, shareholders, directors, officers, employees and agents of each of the foregoing parties (such parties are referred to collectively with Seller as the "Seller-Related Parties"), from any loss, cost, liability, claim, demand, damage or expense (including, in the event of any release of hazardous substances caused by Purchaser or its agents, investigation and remediation costs) to the extent caused by Purchaser's inspections under this Section 7.3, provided that Purchaser's obligation to repair and indemnify shall not apply to repairs or any loss, cost, liability, claim, demand, damage or expense arising out of hazardous substances pre-existing on any Property, except to the extent Purchaser causes a release of, or exacerbates the condition of the same. Without limiting the generality of the foregoing indemnity, Purchaser shall remove any mechanic's or other lien which may be recorded against any Property by any party providing labor, materials or services at the request of Seller. As a condition precedent to making any Invasive Testing, Purchaser shall obtain and maintain, and shall cause each of its third-party consultants performing any physical inspection or investigation on any Property to obtain and maintain, liability insurance in the amount of not less than \$2,000,000.00 per occurrence for property damage and coverage in the amount of not less than \$2,000,000.00 per occurrence for bodily injury and provide a certificate of such insurance to Seller. Such insurance shall insure (but shall not limit) the contractual liability of Purchaser covering the indemnities herein and shall (i) name Seller as an additional insured, (ii) contain a cross-liability provision, and (iii) contain a provision that the insurance provided by Purchaser thereunder shall be primary and any other insurance available to Seller shall be noncontributing therewith. The obligations of Purchaser under this Section 7.3, shall survive the Closing or any termination of this Agreement, however caused.

7.3.2 Seller and Purchaser acknowledge and agree that Purchaser, at Purchaser's sole cost and expense, shall engage GLE Associates, Inc. to perform a Phase I Environmental Site Assessment of the Property by (the "Phase I ESA").

7.4 Survival and Limitations of Seller's Representations.

7.4.1 Survival. The representations and warranties of Seller set forth in this Agreement hereof as updated as of the Closing in accordance with the terms of this Agreement, shall survive Closing for a period of twelve (12) months; provided, however, that those representations and warranties of Seller pursuant to Section 7.1.7 (Physical Condition of Property) and Section 7.1.10 (Environmental Matters) shall terminate as of the earlier of (a) Closing, or (b) Purchaser obtaining possession of the Property pursuant to any lease as provided in Section 22 below.

7.4.2 Indemnification. Indemnification by Seller for Seller's breach of any provision of this Agreement shall be governed by the indemnification provisions contained in the APA.

7.5 Seller Covenants. Seller hereby covenants with Purchaser as follows:

7.5.1 From the Effective Date hereof until the Closing or earlier termination of this Agreement, Seller shall operate and maintain the Property, all fixtures on the Property and all appliances, heating, cooling, constructually sound electrical, plumbing systems and machinery at the property in the Ordinary Course (as defined in the APA);

7.5.2 Seller shall permit representatives of the Purchaser to have reasonable access, upon prior written notice and during normal business hours, and in a manner so as not to interfere with the normal business operations of Seller, to the Property, personnel, books, records, contracts, and other documents of or pertaining to the Property; provided, however, to the extent any such access is intended for any of the purposes addressed in Section 7.3, Section 7.3 shall govern and control.

7.6 Purchaser's Representations and Warranties. Purchaser hereby makes the following representations and warranties to Seller as of the Effective Date, which representations and warranties shall be deemed to have been made again as of the Closing:

7.6.1 Organization and Authority. Purchaser is a corporation, duly organized, validly existing and in good standing under the laws of the State of Delaware. This Agreement (i) is and at the time of Closing will be duly authorized, executed and delivered by Purchaser, (ii) is and at the time of Closing will be legal, valid and binding obligations of Purchaser, and (iii) does not and at the time of Closing will not violate any provision of any agreement or judicial order to which Purchaser is a party or to which Purchaser is subject. All documents executed by Purchaser which are to be delivered to Seller at Closing (i) are or at the time of Closing will be duly authorized, executed and delivered by Purchaser, (ii) are or at the time of Closing will be legal, valid and binding obligations of Purchaser, and (iii) do not and at the time of Closing will not violate any provision of any agreement or judicial order to which Purchaser is a party or to which Purchaser is subject.

7.6.2 Pending Actions. To Purchaser's knowledge, there is no action, suit, arbitration, unsatisfied order or judgment, government investigation or proceeding pending against Purchaser which, if adversely determined, could individually or in the aggregate materially interfere with the consummation of the transaction contemplated by this Agreement.

7.6.3 ERISA.

a. Purchaser represents, warrants and covenants that it is acting on its own behalf and that as of the date hereof it is not an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") which is subject to Title I of ERISA nor a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended, each of the foregoing hereinafter referred to collectively as a "Plan," and the assets of such Plans within the meaning of Department of Labor Regulation Section 2510.3-101.

b. Purchaser has no present intent to transfer the Property to any entity, person or employee benefit plan as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or to a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986, as amended (each of the foregoing hereinafter referred to collectively as "Plan") which will cause a violation of ERISA.

c. Purchaser shall not assign its interest under this Agreement to any entity, person, or Plan which will cause a violation of ERISA.

7.6.4 OFAC. Purchaser (which for this purpose includes its partners, members, principal stockholders and any other constituent entities) (i) has not been designated as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <<<http://www.treas.gov/ofac/t11>> [sdn.pdf](#)> or at any replacement website or other replacement official publication of such list; (ii) is currently in compliance with and will at all times during the term of this Agreement (including any extension thereof) remain in compliance with the regulations of the Office of Foreign Asset Control of the Department of the Treasury and any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action relating thereto; and (iii) has not used and will not use funds from illegal activities for any portion of the Purchase Price, including the Deposit.

7.7 Survival of Purchaser's Representations. The representations and warranties of Purchaser set forth in this Agreement hereof as updated as of the Closing in accordance with the terms of this Agreement, shall survive Closing for a period of twelve (12) months.

8. CONDITIONS PRECEDENT.

8.1 An express condition precedent to Purchaser's obligation to close this transaction is:

8.1.1 the representations and warranties of Seller set forth in this Agreement shall be true and correct in all material respects at and as of the date of this Agreement and at and as of the Closing Date, except to the extent that such representations and warranties are qualified by the term "material," or contain terms such as "Material Adverse Effect" or "Material Adverse Change," in which case such representations and warranties (as so written, including the term "material" or "Material") shall be true and correct in all respects at and as of the date of this Agreement and at and as of the Closing Date with the same effect as though made at and as of such date (except those representations and warranties that address matters only as of a specified date, the accuracy of which shall be determined as of that specified date in all respects); and

8.1.2 Seller shall have performed and complied with all of its covenants under this Agreement in all material respects through the Closing, except to the extent that such covenants are qualified by the term "material," or contain terms such as "Material Adverse Effect" or "Material Adverse Change," in which case Seller shall have performed and complied with all of such covenants (as so written, including the term "material" or "Material") in all respects through the Closing.

8.2 The following items are additional conditions precedent to Purchaser's obligation to close this transaction:

8.2.1 Seller shall have complied with the bankruptcy filing requirements and received the required approvals to sell the Property from the appropriate authorities, including the expiration of all appeal periods for such approvals, as described in further detail in the APA.

8.2.2 Seller shall comply with all Schedule B, Section 1 requirements in the Commitment and any Title Update, including, without limitation:

a. Seller shall furnish, in form and substance satisfactory to the Title Insurer, satisfactory proof in affidavit form establishing who is in possession of the Property.

b. Seller shall furnish, in form and substance satisfactory to the Title Insurer, satisfactory evidence that the improvements and/or repairs or alterations thereto are completed and that contractors, subcontractors, laborers and materialmen are paid in full.

c. Seller shall furnish, in form and substance satisfactory to the Title Insurer, satisfactory proof of payment of all taxes, charges, water bills, assessments, levied and assessed against the Property, which are due and payable, together with an affidavit from Seller stating that all taxes, charges, water bills, assessments, levied and assessed against the Property, which are due and payable, have been paid, and that Seller has no knowledge of any pending assessments.

d. Seller shall provide to the Title Insurer copies of the water bills for the last three billing cycles.

e. Seller and Purchaser shall provide proof in affidavit form, satisfactory to the Title Insurer, that both Seller and Purchaser (i) that no broker's services have been engaged with regard to the management, sale, purchase, lease, option or other conveyance of any interest in the Property and (ii) that no notice of lien for any such services has been received. In the event that said affidavit contains any qualification with respect to such services, proof of payment in full for such services, together with a lien waiver or estoppel letter from each identified broker, must be provided to the Title Insurer.

f. In a manner consistent with the APA, Seller shall provide a payoff letter or proof, satisfactory to the Title Insurer, of payment, satisfaction, and cancellation of record of Deed to Secure Debt and Assignment of Rents and Leases in favor of Wells Fargo Capital Finance Corporation Canada recorded in Deed Book 5930, Page 225, of the Records of Whitfield County, Georgia, and termination of UCC Financing Statements No. 155-2013-0443, 155-2018-0012, and 155-2018-0390.

8.2.3 The Phase I ESA shall not have identified any issues or concerns at the Property that cost or could reasonably be expected to cost in excess of \$100,000 to remediate.

8.3 It is and shall be an express condition precedent to Seller's obligation to deliver possession of the Property to Purchaser, either at the Closing or pursuant to any possible lease of the Property by Seller to Purchaser to the limited extent provided in Section 22 below, that the Phase I ESA shall have been completed and, *solely if requested in writing by Seller*, that a copy thereof has been delivered by Purchaser to Seller, together with copies provided to Seller of any further written report(s) as may result from any inspection(s) pursuant to Section 7.3.1 above and/or that constitute a baseline environmental report as contemplated by any policies, rules or regulations promulgated by the State of Georgia, Department of Natural Resources, Environmental Protection Division or as otherwise provided for under the laws of the State of Georgia and/or as customarily utilized in standard practice in connection with the purchase and sale of commercial real property in the State of Georgia.

9. DEFAULT BY SELLER. If any of the requirements in Section 8.1.1 and 8.1.2 have not been met or all other conditions precedent are not met as of Closing (or earlier specified date, if any), or Seller fails to perform any of the terms and conditions of this Agreement or is otherwise in default under this Agreement, then Purchaser, at Purchaser's sole option, may elect to:

9.1 Waive the default or failure and close "as is"; or

9.2 As its sole and exclusive remedy for default of Seller, cancel this Agreement by written notice to Seller given on or before the Closing Date, whereupon both parties shall be released from all further obligations under this Agreement and except for the indemnification obligations contained elsewhere in this Agreement neither party hereto shall have an obligations hereunder.

10. DEFAULT BY PURCHASER. In the event of the failure or refusal of Purchaser to close this transaction, without fault on Seller's part and without failure of title or any conditions precedent to Purchaser's obligations under this Agreement, Seller shall have the right to terminate this Agreement by written notice to Purchaser, whereupon the parties shall be relieved of all further obligations under this Agreement, except for indemnities from Purchaser which are to survive termination or cancellation of this Agreement.

11. PRORATIONS. Real estate and personal property taxes, insurance, rents, interest, costs and revenues and all other proratable items shall be prorated as of the Closing Date. In the event the taxes for the year of Closing are unknown, the tax proration will be based upon such taxes for the prior year and, at the request of either party, such taxes for the year of Closing shall be reprorated and adjusted when the tax bill for the year of Closing is received and the actual amount of taxes is known. All unpaid assessments (special and otherwise) against the Property, if any, existing as of the Closing Date shall be paid by Seller; provided, however if any such assessments are payable in installments, Seller shall only be responsible for payment of the then current installment prorated equitably between the parties.

12. CLOSING COSTS. At the Closing, Seller shall pay the recording fees, documentary stamps and surtax, if any, due on the limited warranty deed of conveyance. Seller shall also be responsible for the cost of recording any document necessary to cure title to the Property in the event Seller has agreed to effect any such cure. Purchaser shall pay any and all costs and expenses of inspections and feasibility studies and reports incident to Purchaser's

inspections, the cost of the Survey obtained by Purchaser, the cost of the preparation of the Commitment and the premium for the owner's title insurance policy together with any endorsements to be issued from the Commitment, and the cost of the municipal lien search obtained by Purchaser. Each party shall bear the recording costs of any instruments received by that party, except that Seller shall pay the recording costs on documents necessary to clear title to the extent Seller has agreed to effect any cure of title as aforescribed. Each party shall pay its own legal fees and costs.

13. CLOSING.

13.1 Seller shall convey title to the Property by good and sufficient limited warranty deed, subject only to the Permitted Exceptions. Seller shall also deliver to Purchaser at the Closing:

13.1.1 an owner's affidavit and indemnity, in form acceptable to Purchaser's Title Insurer to delete the standard exceptions relating to mechanics liens and the other standard exceptions customarily eliminated from Purchaser's owner's title insurance policy on the basis of an owner's affidavit and indemnity executed by Seller, which owner's affidavit and indemnity shall be on the Title Insurer's standard form with such changes as our reasonably requested by Seller and agreed upon by and between Seller and the Title Insurer;

13.1.2 instruments necessary to clear title, if any, but only to the extent that Seller has agreed to cure any title defects as hereinabove provided;

13.1.3 an appropriate quit claim bill of sale;

13.1.4 appropriate evidence of Seller's corporate existence and authority to sell and convey the Property, including without limitation: a certificate from the Secretary of State of Georgia of qualification to transact business in Georgia together with certified copies of any document filed with such articles; a certificate of due incorporation and good standing from the appropriate governmental authorities; and a certified copy of the resolution of Seller's board of directors identifying Seller's officers and authorizing this transaction and authorizing its officer(s) to execute all requisite documents;

13.1.5 any and all guarantees and warranties on all property conveyed pursuant to this Agreement, with assignment of all rights under the guaranties and warranties;

13.1.6 a non-foreign certificate and other documentation as may be appropriate and satisfactory to Purchaser to meet the non-withholding requirements under FIRPTA and any other federal statute or regulations (or, in the alternative, Seller shall cooperate with Purchaser in the withholding of funds pursuant to FIRPTA regulations);

13.1.7 an appropriate reporting form to be submitted with the deed at time of recordation; and

13.1.8 a vendor notice letter for each service contract, if any.

13.2 Seller and Purchaser shall each execute such other documents as are reasonably necessary to consummate this transaction.

14. BROKERS. The parties each represent and warrant to the other that there is no real estate broker, salesman or finder involved in this transaction. If a claim for brokerage or similar fees in connection with this transaction is made by any broker, salesman or finder other than the above-named broker(s) claiming to have dealt through or on behalf of one of the parties to this Agreement, then that party shall indemnify, defend and hold the other party under this Agreement harmless from all liabilities, damages, claims, costs, fees and expenses whatsoever (including reasonable attorneys' fees and court costs, including those for appellate matters and post judgment proceedings) with respect to said claim for brokerage. The provisions of this section shall survive the Closing or the termination or cancellation of this Agreement.

15. ASSIGNABILITY. Purchaser shall be entitled to assign Purchaser's rights and obligations under this Agreement to any entity wholly owned and controlled by Purchaser, but to no other person or entity. In the event of an assignment, the assignor shall be released from any and all of the assignor's obligations under this Agreement, provided that the assignee agrees in writing to be bound fully by the terms and conditions of this Agreement as if said assignee were the original signatory to it.

16. NOTICES. Any notices required or permitted to be given under this Agreement shall be delivered by pursuant to the terms set forth in Section 12.03 of the APA.

17. RISK OF LOSS.

17.1 The Property shall be conveyed to Purchaser in the same condition as on the date of this Agreement, ordinary wear and tear excepted, free of all tenancies or occupancies. Seller shall not remove any personal property comprising fixtures from the Property between the date of this Agreement and Closing.

17.2 Upon receipt of an offer or any notice or communication from any governmental or quasi-governmental body seeking to take under its power of eminent domain all or any portion of the Property, Seller shall promptly notify Purchaser of the receipt of same and shall send such communication, or a copy of it, to Purchaser. Upon receipt of such notice, Purchaser shall have the right to rescind this Agreement by delivery of written notice to Seller within thirty (30) days of Purchaser's receipt of the communication from Seller. In the event Purchaser elects to rescind, then Purchaser shall receive a refund of the Deposit, in which case both parties shall be relieved of all further obligations under this Agreement, except for the indemnities from Purchaser which are to survive termination or cancellation of this Agreement. In the event Purchaser elects not to rescind, then Purchaser shall be entitled to all condemnation awards and settlements. Seller and Purchaser agree to cooperate with each other to obtain the highest and best price for the condemned property.

17.3 In the event that the Property is damaged or destroyed by fire or other casualty prior to Closing, Seller may, in Seller's sole and absolute discretion, either (i) settle with its insurer and repair and restore the Property to substantially the same condition as before the fire or casualty, and the closing shall be deferred for up to ninety (90) days to permit such repair and restoration (plus an additional ninety (90) days should more time be reasonably necessary

and Seller is proceeding in good faith to repair/restore), or (ii) assign the proceeds of any casualty insurance to Purchaser upon Closing and credit Purchaser in an amount equal to its deductible under its casualty policy; provided, however, in any instance where the cost to repair/restore the Property exceeds \$250,000.00 unless Seller repairs and restores the Property as set forth in (i) above, Purchaser may elect to cancel this Agreement, in which case both parties shall be released from all further obligations under this Agreement. In the event that Seller elects, and Purchaser approves, to repair and restore the Property as hereinabove provided, the Closing shall be delayed to accommodate completion of such repairs and restoration for a period of time not to exceed one hundred eighty (180) days, as provided herein.

18. INDEMNITY. Seller shall and does indemnify and hold Purchaser harmless from any and all liability, including costs and attorneys' fees, including those for appellate proceedings:

18.1 for services rendered prior to Closing under any contracts for services to the Property existing now or at any time prior to Closing; and

18.2 for any personal property taxes remaining unpaid for calendar years prior to the year of Closing.

19. MISCELLANEOUS.

19.1 This Agreement shall be construed and governed in accordance with the laws of the State of Georgia, without application of conflicts of laws principles.

19.2 In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

19.3 In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees. Wherever provision is made in this Agreement for "attorneys' fees," such term shall be deemed to include accountants' and attorneys' fees and court costs, whether or not litigation is commenced, including those for appellate and post judgment proceedings and for paralegals and similar persons.

19.4 Each party has participated fully in the negotiation and preparation of this Agreement with full benefit of counsel. Accordingly, this Agreement shall not be more strictly construed against either party.

19.5 Whenever used in this Agreement, the singular shall include the plural, the plural shall include the singular, any gender shall include every other and all genders, and captions and paragraph headings shall be disregarded.

19.6 The captions in this Agreement are for the convenience of reference only and shall not be deemed to alter any provision of this Agreement.

19.7 Any reference in this Agreement to time periods less than six (6) days shall, in the computation thereof, exclude Saturdays, Sundays, and legal holidays; any time period provided for in this Agreement which shall end on Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next full business day.

19.8 This Agreement constitutes the entire agreement between the parties and may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought.

19.9 All references in this Agreement to exhibits, schedules, paragraphs, subparagraphs and sections refer to the respective subdivisions of this Agreement, unless the reference expressly identifies another document.

19.10 All of the terms of this Agreement, including but not limited to the representations, warranties and covenants of Seller, shall be binding upon and shall inure to the benefit of the parties to this Agreement and their respective successors and assigns.

19.11 Typewritten or handwritten provisions which are inserted in or attached to this Agreement as addenda or riders shall control all printed or pretyped provisions of this Agreement with which they may be in conflict.

19.12 Time is of the essence as to all material terms of this Agreement.

20. WAIVER OF JURY TRIAL. Seller and Purchaser mutually agree that they waive all rights to a trial by jury in the event of any dispute or court action arising from, growing out of, or related to, this Agreement. The parties acknowledge that this waiver is a significant consideration to Purchaser to enter into this Agreement.

21. TERMINATION.

21.1 Notwithstanding anything in this Agreement to the contrary, and if this Agreement has not earlier terminated as provided in this Agreement, unless Purchaser elects otherwise, this Agreement shall terminate automatically without any further action simultaneously with the termination of the APA.

21.2 If the Purchaser elects to not terminate this Agreement simultaneously with the termination of the APA, then, notwithstanding anything in this Agreement to the contrary:

21.2.1 the requirements of a simultaneous Closing with the closing under the APA set forth in this Agreement, including, but not limited to, Section 2 and Section 6.2, shall have no further effect and the Closing under this Agreement shall proceed independently of the APA under the terms and conditions set forth in this Agreement; and

21.2.2 as an additional condition precedent to the Closing, the Parties shall use good faith efforts to enter into an access agreement whereby Purchaser shall provide Seller with reasonable access to the Property for a reasonable time after the Closing in order for Seller to liquidate and move its assets located at the Property.

22. LEASE. If this Agreement has not earlier terminated, and if the Closing has not occurred on or prior to October 15, 2018, and subject to any other requirements in this Agreement, Seller shall lease the Property to Purchaser from October 15, 2018 until the earlier of the termination of this Agreement or the Closing Date, in exchange for US \$1.00; provided however:

22.1 In such event, Seller and Purchaser shall cooperate with one another in good faith to attempt to resolve any impediments to Closing as expeditiously as possible; and

22.2 If Closing has not occurred by October 31, 2018, or if this Agreement has not otherwise terminated, then, at Seller's sole option, Seller may terminate any such lease effective on or after April 30, 2019.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

KRAUS CANADA LP
by its' General Partner
Kraus Canada Ltd.

By: _____
Name:
Title:

KRAUS PROPERTIES LP
by its' General Partner
Kraus Properties Inc.

By: _____
Name:
Title:

KRAUS CARPET LP
by its' General Partner
Kraus Carpet Inc.

By: _____
Name:
Title:


KRAUS USA INC

By: _____
Name:
Title:

Q.E.P. CO., INC.


By:  _____
Name:
Title:

ROBERTS COMPANY CANADA LTD.

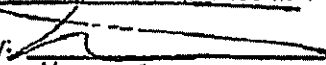
By:  _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

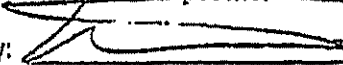
KRAUS CANADA LP
by its' General Partner
Kraus Canada Ltd.

By: 
Name: C. Emmott
Title: DIRECTOR

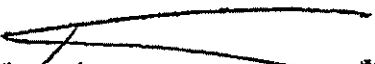
KRAUS PROPERTIES LP
by its' General Partner
Kraus Properties Inc.

By: 
Name: C. Emmott
Title: DIRECTOR

KRAUS CARPET LP
by its' General Partner
Kraus Carpet Inc.

By: 
Name: C. Emmott
Title: DIRECTOR

KRAUS USA INC

By: 
Name: C. Emmott
Title:

Q.E.P. CO., INC.

By: _____
Name:
Title:

ROBERTS COMPANY CANADA LTD.

By: _____
Name:
Title:

EXHIBIT "A"

RECORD LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, lying, situated and being in Land Lot 333, 12th District, 3rd Section, Whitfield County, Georgia, and being known and described as parts of Lots 9, 10 and 13 of the J. A. MacFarland Farm Subdivision, as per plat of said subdivision recorded in Plat Book 1, Page 86 (Plat Cabinet A, Slide 21), Whitfield County Land Records, and being more particularly described as follows:

COMMENCE at the northwest corner of the intersection of Brickyard Road with Abutment Road, run thence North along the west side of said Abutment Road 350 feet to THE TRUE POINT OF BEGINNING. FROM THE TRUE POINT OF BEGINNING AS TRUS ESTABLISHED, run South 88 degrees 35 minutes West 881.88 feet to an iron pin; thence continue South 88 degrees 29 minutes West 200 feet to an iron pin; thence North 01 degrees 31 minutes West 265 feet to an iron pin; thence North 88 degrees 29 minutes East 197.53 feet to a point; thence North 01 degree 31 minutes West 110.46 feet to a point; thence North 88 degrees 51 minutes East 681.66 feet to a point; thence South 01 degree 31 minutes East 180 feet to a point; thence North 88 degrees 51 minutes East 200 feet to a point; thence South 01 degree 31 minutes East 191.40 feet to the TRUE POINT OF BEGINNING.

LESS AND EXCEPT:

RIGHT-OF-WAY I: BEING that portion of the lands described above encompassed by a Public Road running in a northerly direction from the Brickyard Road traversing the westernmost portion of Parcel II and shown on the Plat prepared by Peter L. Bakum, dated September 3, 1974.

RIGHT-OF-WAY II: BEING that portion of the lands described above which Roy C. Barrett conveyed to Whitfield County as a right-of-way for Abutment Road by Right of Way Deed dated March 31, 1989 and filed and recorded on January 22, 1990 in Deed Book 2110, Page 337, Superior Court Clerk's Office, Whitfield County, Georgia.

RIGHT-OF-WAY III: BEING any portion of the lands described above which Roy C. Barrett conveyed to Whitfield County as a right-of-way for Abutment Road by Right of Way Deed dated March 31, 1989 and filed and recorded on August 1, 1989 in Deed Book 2078, Page 157, Superior Court Clerk's Office, Whitfield County, Georgia.

TOGETHER WITH:

All that tract and parcel and land and being part of land lot number 333 of the 12th District and 3rd Section of Whitfield County Georgia and being .50 acres more or less as per a survey of said property recorded in Plat Book D page 154 in records of the Clerk of Court of Superior Court of Whitfield County Georgia. Said Plat is hereby incorporated for a full and complete description of the property. This property is the same property conveyed to the grantors by a Warranty Deed recorded at Deed Book 2254 page 332 and 333 of Deed Record of Clerk of the Superior Court of Whitfield County Georgia on November 18, 1991.

EXHIBIT "A"

**ALSO DESCRIBED AS:
SURVEY LEGAL DESCRIPTION**

All that tract or parcel of land lying and being in Land Lot 333 of the 12th District, 3rd Section, City of Dalton, Whitfield County, Georgia and being more particularly described as follows:

COMMENCING at a point at the intersection of the westerly right-of-way of Abutment Road (80' right-of-way) and the southerly right-of-way of McFarland Road (50' right-of-way) if right-of-way lines were extended to form a point; **THENCE** leaving said intersection along the right-of-way of Abutment Road (80' right-of-way) South a distance of 814.18 feet to an iron pin set, said iron pin being the **POINT OF BEGINNING**.

THENCE from said **POINT OF BEGINNING** along the right-of-way of Abutment Road along a curve to the right with a radius of 2920.75 feet and an arc length of 191.19 feet, said curve having a chord bearing of South 01 degrees 56 minutes 11 seconds West and a chord distance of 191.16 feet to an iron pin set; **THENCE** leaving said right-of-way of Abutment Road North 89 degrees 52 minutes 39 seconds West a distance of 607.57 feet to a 3/4 inch rebar found; **THENCE** North 89 degrees 41 minutes 56 seconds West a distance of 443.75 feet to an iron pin set; **THENCE** North 00 degrees 30 minutes 22 seconds East a distance of 268.54 feet to a point; **THENCE** North 89 degrees 08 minutes 11 seconds West a distance of 2.47 feet to a rail road spike found; **THENCE** North 00 degrees 46 minutes 51 seconds East a distance of 110.36 feet to a 3/4 inch open top pipe found; **THENCE** South 88 degrees 52 minutes 51 seconds East a distance of 196.89 feet to a 1/2 inch open top pipe found; **THENCE** North 89 degrees 35 minutes 43 seconds East a distance of 43.47 feet to a 1/2 inch rebar found; **THENCE** North 89 degrees 43 minutes 19 seconds East a distance of 256.68 feet to a 1/2 inch rebar found; **THENCE** South 88 degrees 50 minutes 06 seconds East a distance of 381.54 feet to a 1/2 inch rebar found; **THENCE** South 00 degrees 06 minutes 04 seconds West a distance of 180.00 feet to an iron pin set; **THENCE** South 89 degrees 31 minutes 56 seconds East a distance of 178.23 feet to an iron pin, said iron pin being the **POINT OF BEGINNING**.

Said tract contains 364,740 square feet or 8.3733 acres.

EXHIBIT B
COMMITMENT

28686369.2

STEWART TITLE GUARANTY COMPANY
ALTA COMMITMENT
SCHEDULE A

Commitment No. 1279.0070(O)(R)(2)

PREPARED FOR:

HOLLAND & KNIGHT LLP
ATTN: Yandra Hernandez

INQUIRIES SHOULD
BE DIRECTED TO:

SPECIALIZED TITLE SERVICES, INC.
ATTN: George C. Calloway, Esq.
gcalloway@specializedtitle.com
6133 Peachtree Dunwoody Road, NE
Atlanta, Georgia 30328
T(770) 394-7000; F(770) 698-2028

1. Effective Date: August 8, 2018 at 5:00 p.m.

2. Policy or Policies to be issued:

ALTA Owner's Policy with Georgia modifications (6/17/06)
Policy Amount: \$2,862,000.00
Proposed Insured: Q.E.P. Co., Inc., a Delaware corporation

3. The estate or interest in the land described or referred to in this Commitment is:

Fee simple

4. Title to the insured estate or interest in the land is at the Effective Date hereof vested in:

Barrett Carpet Mills, Inc.

5. The land referred to in this Commitment is described as follows:

All that certain tract or parcel of land lying and being in Land Lot 333 of the 12th District, 3rd Section, Whitfield County, Georgia, and being more particularly described on Exhibit "A" attached hereto and by this reference made a part hereof.

SPECIALIZED TITLE SERVICES, INC.

By: _____
AUTHORIZED SIGNATORY

NOTE: This Commitment consists of insert pages labeled in Schedule A, Schedule B-Section 1, and Schedule B-Section 2. This Commitment is of no force and effect unless all schedules are included, along with any Rider pages incorporated by reference in the insert pages.

8/27/18 gct

1

ALTA Commitment with Georgia modifications 6/17/06

STEWART TITLE GUARANTY COMPANY
ALTA COMMITMENT
SCHEDULE B - SECTION 1

Commitment No. 1279.0070(O)(R)(2)

1. Instrument(s) creating the estate or interest to be insured must be approved, executed and filed for record, to wit:

Limited Warranty Deed from Barrett Carpet Mills, Inc., to Q.E.P. Co., Inc., a Delaware corporation, to convey title to the proposed insured.

Said deed must be executed pursuant to proper corporate authority, and the Company must be furnished satisfactory documentary proof thereof.

2. Payment of the full consideration to, or for the account of, the grantors or mortgagors.
3. Payment of all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable.
4. Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractor, subcontractor, labor and materialmen are all paid.
5. The following must be furnished in form and substance satisfactory to the Company to delete or amend (in accordance with the facts established) the Standard Exceptions set forth on the inside cover of this Commitment:

- (a) As to Standard Exception Number 2: Satisfactory proof in affidavit form establishing who is in possession of the subject property.
- (b) As to Standard Exception Numbers 5 and 6: A current and accurate survey and surveyors inspection report covering the subject property.
- (c) As to Standard Exception Number 3: Satisfactory evidence should be had that improvements and/or repairs or alterations thereto are completed; that contractors, subcontractors, laborers and materialmen are paid in full.
- (d) As to Standard Exception Number 4: Receipt of satisfactory proof of payment of all taxes, charges, water bills, assessments, levied and assessed against subject property, which are due and payable, together with an affidavit from the owner of the subject property as of the effective date of insured instrument, stating that all taxes, charges, water bills, assessments, levied and assessed against subject property which are due and payable have been paid, and that said owner has no knowledge of any pending assessments.

Note: The company requires copies of the water bills for the last three billing cycles.

6. Unless this transaction involves only real estate containing one to four residential units as shown on a current plat of survey, the Company must be furnished with:
- (a) satisfactory proof that the subject property is not "commercial real estate" as defined by O.C.G.A. § 44-14-601, or

**STEWART TITLE GUARANTY COMPANY
ALTA COMMITMENT
SCHEDULE B – SECTION 1 (CONTINUED)**

Commitment No. 1279.0070(O)(R)(2)

- (b) satisfactory proof in affidavit form from both the seller and the buyer (or the borrower if there is no sale involved) (i) that no broker's services have been engaged with regard to the management, sale, purchase, lease, option or other conveyance of any interest in the subject commercial real estate and (ii) that no notice of lien for any such services has been received. In the event that said affidavit contains any qualification with respect to such services, proof of payment in full for all such services, together with a lien waiver or estoppel letter from such identified broker, must be obtained.

Note: Where the possibility of a right to file a broker's lien is determined and no lien waiver nor estoppel letter is furnished to the Company, an exception as follows will be taken in the final policy:

"Any broker's lien, or right to a broker's lien, imposed by law."

7. Payment, satisfaction, and cancellation of record of Deed to Secure Debt and Assignment of Rents and Leases from Barrett Carpet Mills, Inc., a Georgia corporation, to Wells Fargo Capital Finance Corporation Canada, an Ontario corporation, dated August 6, 2013, filed for record August 14, 2013 at 1:23 p.m., recorded in Deed Book 5930, Page 225, Records of Whitfield County, Georgia.
8. Termination of record of UCC Financing Statement No. 155-2013-0443 having Barrett Carpet Mills, Inc., as Debtor, and Wells Fargo Capital Finance Corporation Canada, as Secured Party, filed for record April 12, 2013 at 10:32 a.m. in Whitfield County, Georgia, and entered in the Central Indexing System of Georgia; as continued by UCC Financing Statement Amendment No. 155-2018-0012 having Barrett Carpet Mills Inc., as Debtor, and Wells Fargo Bank, National Association, as Secured Party, filed for record January 4, 2018 at 2:44 p.m. in Whitfield County, Georgia, and entered in the Central Indexing System of Georgia; as further continued by UCC Financing Statement Amendment No. 155-2018-0390 having Barrett Carpet Mills, Inc., as Debtor, and Wells Fargo Capital Finance Corporation Canada, as Secured Party, filed for record March 22, 2018 at 9:53 a.m. in Whitfield County, Georgia, and entered in the Central Indexing System of Georgia.

AS A MATTER OF INFORMATION:

2017 State and County real property ad valorem taxes were paid December 15, 2017 as follows:

- (a) for Map Reference No. 12-333-01-014 in the amount of \$14,670.22;
- (b) for Map Reference No. 12-333-01-067 in the amount of \$138.58;
- (c) for Map Reference No. 12-333-01-071 in the amount of \$14,923.90; and
- (d) for Map Reference No. 12-333-01-036 in the amount of \$107.17.

Note: City of Dalton property taxes are collected by the County and included in the amounts referenced above.

STEWART TITLE GUARANTY COMPANY
ALTA COMMITMENT
SCHEDULE B -- SECTION 1 (CONTINUED)

Commitment No. 1279.0070(O)(R)(2)

AS A FURTHER MATTER OF INFORMATION:

The Tract II legal description contained in that certain Warranty Deed and Easement recorded in Deed Book 663, Page 240, Records of Whitfield County, Georgia, contains a scrivener's error regarding the compass direction in the third course.

**STEWART TITLE GUARANTY COMPANY
ALTA COMMITMENT
SCHEDULE B - SECTION 2**

Commitment No. 1279.0070(O)(R)(2)

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

1. Defects, liens, encumbrances, adverse claims, or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

Standard Exceptions

2. Rights or claims of parties in possession not shown by the public records.
3. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
4. Taxes or special assessments which are not shown as existing liens by the public records.
5. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.
6. Easements, or claims of easements, not shown by the public records.

Special Exceptions

7. All taxes for the year 2018 and subsequent years and any additional taxes due as a result of a reassessment or a rebilling of the subject property. Exception is taken as to all past due and payable water and sewer bills.
8. This policy of title insurance affords assurance as to the location of the boundary lines of the subject property, but does not insure the engineering calculations in computing the exact amount of acreage contained therein.
9. Utilities Easement from Roy Barrett to Barrett Carpet Mills, Inc., dated February 19, 1981, filed for record February 19, 1981 at 2:00 p.m., recorded in Deed Book 663, Page 245, Records of Whitfield County, Georgia.
10. Party Walls Agreement between Roy Barrett and Barrett Carpet Mills, Inc., a Georgia corporation, dated February 19, 1981, filed for record February 19, 1981 at 2:00 p.m., recorded in Deed Book 663, Page 247, aforesaid Records.
11. Intentionally deleted.

STEWART TITLE GUARANTY COMPANY
ALTA COMMITMENT
SCHEDULE B – SECTION 2 (CONTINUED)

Commitment No. 1279.0070(O)(R)(2)

12. Drainage rights contained in Right of Way Deed from Roy C. Barrett to Whitfield County, dated March 31, 1989, filed for record January 22, 1990 at 8:00 a.m., recorded in Deed Book 2110, Page 337, aforesaid Records.
13. ALTA/NSPS Land Title Survey for Holland & Knight LLP, Specialized Title Services, Inc., and Stewart Title Guaranty Company, prepared by Travis Pruitt & Associates, Inc., Job No. 1-18-0305.600, bearing the seal and certification of Jaime F. Higgins, Georgia Registered Land Surveyor No. 2802, dated August 23, 2018, last revised _____, 2018, discloses the following:
 - (a) Water vaults located in the eastern portion of the subject property;
 - (b) Power, telephone, and cable crossing the eastern portion of the subject property;
 - (c) Power lines traversing the central portion running north to south;
 - (d) Fire hydrants located in the southern boundary of the subject property;
 - (e) Storm drainage comprised of 24' RCP with drop inlets; and
 - (f) Gas regulator located in the northern portion of the subject property.
14. Any security interest created at closing.

NOTE: On loan policies, junior and subordinate matters, if any, will not be reflected in Schedule B.

EXHIBIT "A"

RECORD LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND, lying, situated and being in Land Lot 333, 12th District, 3rd Section, Whitfield County, Georgia, and being known and described as parts of Lots 9, 10 and 13 of the J. A. MacFarland Farm Subdivision, as per plat of said subdivision recorded in Plat Book 1, Page 86 (Plat Cabinet A, Slide 21), Whitfield County Land Records, and being more particularly described as follows:

COMMENCE at the northwest corner of the intersection of Brickyard Road with Abutment Road, run thence North along the west side of said Abutment Road 350 feet to **THE TRUE POINT OF BEGINNING**. **FROM THE TRUE POINT OF BEGINNING AS THUS ESTABLISHED**, run South 88 degrees 35 minutes West 881.88 feet to an iron pin; thence continue South 88 degrees 29 minutes West 200 feet to an iron pin; thence North 01 degrees 31 minutes West 265 feet to an iron pin; thence North 88 degrees 29 minutes East 197.53 feet to a point; thence North 01 degree 31 minutes West 110.46 feet to a point; thence North 88 degrees 51 minutes East 681.66 feet to a point; thence South 01 degree 31 minutes East 180 feet to a point; thence North 88 degrees 51 minutes East 200 feet to a point; thence South 01 degree 31 minutes East 191.40 feet to the **TRUE POINT OF BEGINNING**.

LESS AND EXCEPT:

RIGHT-OF-WAY I: BEING that portion of the lands described above encompassed by a Public Road running in a northerly direction from the Brickyard Road traversing the westernmost portion of Parcel II and shown on the Plat prepared by Peter L. Bakkum, dated September 3, 1974.

RIGHT-OF-WAY II: BEING that portion of the lands described above which Roy C. Barrett conveyed to Whitfield County as a right-of-way for Abutment Road by Right of Way Deed dated March 31, 1989 and filed and recorded on January 22, 1990 in Deed Book 2110, Page 337, Superior Court Clerk's Office, Whitfield County, Georgia.

RIGHT-OF-WAY III: BEING any portion of the lands described above which Roy C. Barrett conveyed to Whitfield County as a right-of-way for Abutment Road by Right of Way Deed dated March 31, 1989 and filed and recorded on August 1, 1989 in Deed Book 2078, Page 157, Superior Court Clerk's Office, Whitfield County, Georgia.

TOGETHER WITH:

All that tract and parcel and land and being part of land lot number 333 of the 12th District and 3rd Section of Whitfield County Georgia and being .50 acres more or less as per a survey of said property recorded in Plat Book D page 154 in records of the Clerk of Court of Superior Court of Whitfield County Georgia. Said Plat is hereby incorporated for a full and complete description of the property. This property is the same property conveyed to the grantors by a Warranty Deed recorded at Deed Book 2254 page 332 and 333 of Deed Record of Clerk of the Superior Court of Whitfield County Georgia on November 18, 1991.

EXHIBIT "A" ▶▶

ALSO DESCRIBED AS:
SURVEY LEGAL DESCRIPTION

All that tract or parcel of land lying and being in Land Lot 333 of the 12th District, 3rd Section, City of Dalton, Whitfield County, Georgia and being more particularly described as follows:

COMMENCING at a point at the intersection of the westerly right-of-way of Abutment Road (80' right-of-way) and the southerly right-of-way of McFarland Road (50' right-of-way) if right-of-way lines were extended to form a point; THENCE leaving said intersection along the right-of-way of Abutment Road (80' right-of-way) South a distance of 814.18 feet to an iron pin set, said iron pin being the POINT OF BEGINNING.

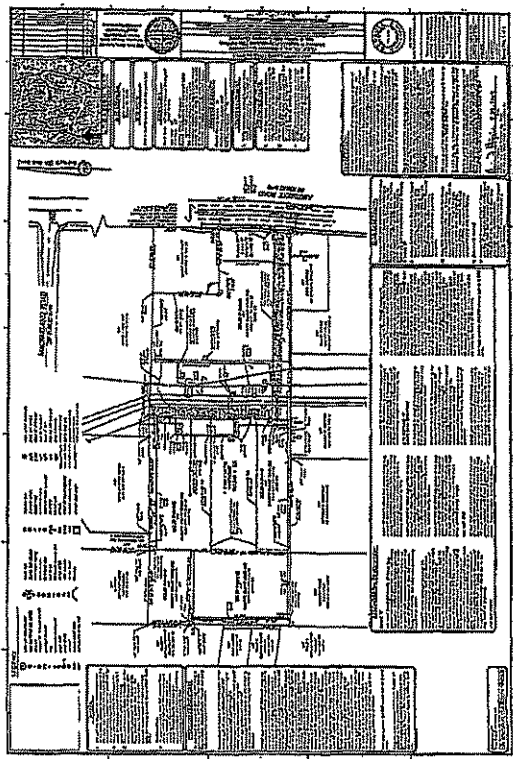
THENCE from said POINT OF BEGINNING along the right-of-way of Abutment Road along a curve to the right with a radius of 2920.75 feet and an arc length of 191.19 feet, said curve having a chord bearing of South 01 degrees 56 minutes 11 seconds West and a chord distance of 191.16 feet to an iron pin set; THENCE leaving said right-of-way of Abutment Road North 89 degrees 52 minutes 39 seconds West a distance of 607.57 feet to a 3/4 inch rebar found; THENCE North 89 degrees 41 minutes 56 seconds West a distance of 443.75 feet to an iron pin set; THENCE North 00 degrees 30 minutes 22 seconds East a distance of 268.54 feet to a point; THENCE North 89 degrees 08 minutes 11 seconds West a distance of 2.47 feet to a rail road spike found; THENCE North 00 degrees 46 minutes 51 seconds East a distance of 110.36 feet to a 3/4 inch open top pipe found; THENCE South 88 degrees 52 minutes 51 seconds East a distance of 196.89 feet to a 1/2 inch open top pipe found; THENCE North 89 degrees 35 minutes 43 seconds East a distance of 43.47 feet to a 1/2 inch rebar found; THENCE North 89 degrees 43 minutes 19 seconds East a distance of 256.68 feet to a 1/2 inch rebar found; THENCE South 88 degrees 50 minutes 06 seconds East a distance of 381.54 feet to a 1/2 inch rebar found; THENCE South 00 degrees 06 minutes 04 seconds West a distance of 180.00 feet to an iron pin set; THENCE South 89 degrees 31 minutes 56 seconds East a distance of 178.23 feet to an iron pin, said iron pin being the POINT OF BEGINNING.

Said tract contains 364,740 square feet or 8.3733 acres.

EXHIBIT C

SURVEY

28686369.2



28686369.2

EXHIBIT D
CONTRACTS

None.

EXHIBIT E

PENDING ACTIONS

On May 25, 2017, The Water Works and Sewer Board of the Town of Centre ("Plaintiff") filed a lawsuit against entities involved in the carpet manufacturing process, including Kraus USA, Inc. f/k/a Barrett Carpet Mills, Inc. ("Kraus"), in the Circuit Court of Cherokee County, Alabama (Case No. 13-CV-2017-900049.00). Plaintiff's Complaint alleges that it has been damaged by Kraus's and other similarly situated entities' use (or prior use) of perfluorinated compounds to impart water, stain and grease resistance to carpet and other textile products in manufacturing facilities located in Dalton, Georgia. On June 1, 2018, Kraus filed its answer and affirmative defenses to Plaintiff's Complaint disputing Plaintiff's allegations in their entirety. Kraus intends to defend itself vigorously against all claims made against it in the litigation.

EXHIBIT F

PHYSICAL CONDITION OF PROPERTY

Some roof leaks and other water ingress immaterial to operation of facility.

Some damage to walls immaterial to operation of facility.

EXHIBIT G
ENVIRONMENTAL MATTERS

Possible asbestos in roof panels.

At least two present or former underground storage tanks previously utilized for storage of substance believed to consist of latex.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS
CARPET INC., KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Court File No. CV-18-604759-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

SUPPLEMENTARY AFFIDAVIT

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Lawyers for the Applicants

CONFIDENTIAL EXHIBIT "A"

(filed separately)

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PROPOSED PLAN OF
COMPROMISE OR ARRANGEMENT WITH RESPECT TO
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC., KRAUS
PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.**

**FIRST REPORT OF THE MONITOR
SEPTEMBER 17, 2018**

A. INTRODUCTION

1. On September 11, 2018 (the “**Filing Date**”), Kraus Brands Inc., Kraus Canada Ltd., Kraus Carpet Inc., Kraus Properties Inc., Kraus USA Inc., and Strudex Inc. (collectively, the “**Applicants**”) filed for and obtained protection under the *Companies' Creditors Arrangement Act* (the “**CCAA**”). Pursuant to the Order of this Court granted September 11, 2018 (the “**Initial Order**”), Deloitte Restructuring Inc. (“**Deloitte**”) was appointed as the Monitor in these proceedings (the “**Monitor**”). The Initial Order provided for a stay of proceedings against the Applicants through October 11, 2018 and extended the relief under the Initial Order to the partnerships (the “**Partnerships**” and together with the Applicants, the “**Kraus Group**”) listed in Appendix “A” in the Pre-Filing Report (defined below). The proceedings commenced by the Applicants under the CCAA will be referred to herein as the “**CCAA Proceedings**”.

2. On September 11, 2018, Deloitte filed the Pre-Filing Report of the Proposed Monitor (the “**Pre-Filing Report**”) which, among other things, described certain background information about the Kraus Group, its 13-week cash flow projection (“**Cash Flow Statement**”), and the current status of the Kraus Group’s operations. Copies of the Pre-Filing Report, the Initial Order, and the service list in respect of the CCAA Proceedings are available on the Monitor’s website at <http://www.insolvencies.deloitte.ca/en-ca/kraus> (the “**Monitor’s Website**”).

3. At the hearing for the Initial Order, a comeback hearing in respect of the Initial Order was set by the Court for September 18, 2018 (the “**Comeback Hearing**”). At the Comeback Hearing, the Applicants will be seeking an order, among other things, approving an agreement of purchase and sale dated September 10, 2018 (the “**TPS Purchase Agreement**”) between Q.E.P. Co., Inc. (the “**Purchaser**”) and certain Applicants, as vendors (collectively the “**Vendor**”), and an Order vesting the Purchased Assets (as that term is defined in the TPS Purchase Agreement) in the Purchaser free and clear of liens and/or other encumbrances.

4. A more detailed description of the Kraus Group’s business operations and background in its restructuring proceedings in the period prior to the Filing Date was provided in the Emmott Affidavit (defined below) and in the Pre-Filing Report, which have been posted on the Monitor’s Website.

B. PURPOSE

5. The purpose of this First Report is to provide the Court with information and/or updates on the following:
- a) The activities of the Monitor from the Filing Date to the date of this First Report;
 - b) The Transition Services Agreement (defined below);
 - c) The TPS Purchase Agreement, including the sale of the Dalton Premises (defined below);
 - d) Pre-filing cash disbursements and the proposed amendment to the Initial Order in respect of such disbursements;
 - e) The Wells Fargo Borrowing Base;
 - f) Status of the Kraus Group's bankruptcy proceedings in the United States ("**U.S. Proceedings**"); and,
 - g) The Monitor's recommendations in respect of the relief sought by the Applicants.

C. TERMS OF REFERENCE AND DISCLAIMER

6. In preparing this First Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records and

financial information prepared by the Kraus Group, and discussions with management of the Applicants (“**Management**”) (collectively, the “**Information**”).

7. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Generally Accepted Assurance Standards (“**Canadian GAAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under Canadian GAAS in respect of the Information.
8. Some of the information referred to in this First Report consists of financial projections. An examination or review of the financial forecasts and projections, as outlined in the *Chartered Professional Accountants Canada Handbook*, has not been performed.
9. Future oriented financial information referred to in this First Report was prepared based on Management’s estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
10. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars. All terms not defined herein shall have the meanings ascribed to them from the Affidavit of Chris Emmott, sworn September 10, 2018 (“**Emmott Affidavit**”) and the Pre-Filing Report.

D. ACTIVITIES OF THE MONITOR SINCE THE FILING DATE

11. The Monitor fulfilled the requirements set out in Paragraph 39 of the Initial Order in respect of notifying Kraus Group's creditors and other stakeholders of the CCAA Proceedings including the following:

- a) The Monitor has arranged to publish a notice in the *Globe and Mail* (National Edition) on September 18, 2018 and September 25, 2018. The notice contains the information prescribed in accordance with Section 23(1)(a) of the CCAA. The Monitor will update the Court in a future report regarding the published notice.
- b) Within five business days after the date of the Initial Order, the Monitor;
 - i. On September 11, 2018, made the Initial Order, the Emmott Affidavit, and the Pre-Filing Report publicly available by posting them on the Monitor's Website;
 - ii. By September 14, 2018, sent a notice (the "Notice") to every known creditor having a known or potential claim against the Kraus Group of more than \$1,000 advising them that the Initial Order is publicly available on the Monitor's Website. A copy of the Notice is attached hereto as Appendix "A"; and
 - iii. Prepared a list of known or potential creditors of the Kraus Group showing their names, addresses and estimated claim amounts and

made it publicly available in the prescribed manner by posting it on the Monitor's Website on September 14, 2018.

12. The Monitor has also engaged in the following activities since the Filing Date:
 - a) Worked with Management to review disbursement approval and reporting procedures to allow for the monitoring of the Kraus Group's receipts and disbursements. This process is completed at the beginning of each week for the preceding week. As a complete weekly review cycle was not complete as of the date of the First Report, the Monitor will provide an update on any variance in the actual receipts and disbursements compared to the receipts and disbursements set out in the Cash Flow Statement within the Pre-Filing Report in a subsequent report;
 - b) Held discussions with Management and employees regarding the following:
 - i. The treatment of outstanding wages, vacation pay and other employee-related items;
 - ii. Various *ad-hoc* requests related to suppliers with respect to their rights and remedies with regard to the CCAA Proceedings; and,
 - iii. Management's strategy for realization of finished goods, raw materials and machinery in relation to the manufacturing of residential and commercial broadloom carpet ("**Broadloom Business**");

- c) Completed and filed the requisite statutory documentation with the Office of the Superintendent of Bankruptcy; and,
 - d) Attended to various inquiries which the Monitor received by the Monitor's dedicated telephone number (416-354-0883) and/or e-mail address (kraus@deloitte.ca) from the Kraus Groups' creditors and other stakeholders.
13. As discussed in the Pre-Filing Report, the Monitor has retained Miller Thomson LLP ("**Miller Thomson**") to act as its independent Canadian counsel. Miller Thomson, at the Monitor's request, has commenced its review of the Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") and Red Ash Capital Partners II Limited Partnerships' ("**Red Ash**") security within Canada. The Monitor will report to the Court on the validity of the Wells Fargo and Red Ash security in a future report.
14. The Monitor has retained Sheppard, Mullin, Richter & Hampton LLP as independent U.S. counsel ("**U.S. Counsel**"). U.S. Counsel has determined that it is unable to directly give an opinion over the Red Ash and Wells Fargo security within Delaware and Georgia and the Wells Fargo security within New York. As noted in the Pre-Filing Report, if there was a conflict, they would retain local counsel to complete the security review. U.S. Counsel have noted that the total cost of this security opinion will be less under this situation than if U.S. Counsel exclusively completed all security reviews. The retention of independent local counsel and the completion of the security opinions are both ongoing as of September 17, 2018.

E. TRANSITION SERVICES AGREEMENT

15. References made to paragraphs 3 to 5 of the supplementary affidavit of Chris Emmott, sworn September 17, 2018 (“**Supplementary Emmott Affidavit**”), wherein the Transition Services Agreement (defined below) is described.
16. The Monitor has reviewed an unsigned draft of the Transitional Services Agreement (the “**Transition Services Agreement**”) between the Purchaser and Vendor. The Monitor understands that this version will be the final version to be executed by the parties in the coming days.
17. The purpose of the Transition Services Agreement is to document the respective services that the Vendor and Purchaser will provide to each other commencing in October 2018. The intention of the parties is that the compensation charged for each of the services provided by one party to the other reasonably approximates that cost of that service, including the costs of employee wages and compensation and third party out-of-pocket costs. Settlement of amounts owing for services provided will be made monthly in arrears. The Monitor has not been privy to the negotiations of the costs for each service to be provided.
18. With respect to employees, responsibility for the payment of wages and compensation will remain with the party providing the service so there will be no change in the payment arrangements for these employees.

19. The Transition Services Agreement specifically covers the collection of accounts receivable, premises, software and server access, paid duty recoveries, and the sharing of third party warehouse costs.
20. The Transition Services Agreement terminates as each specific service is no longer required, and can also be terminated on 30-days' notice by the recipient party.

F. TPS PURCHASE AGREEMENT

Update on the TPS Business

21. The Monitor has been on-site at the head office of the Kraus Group in Waterloo, Ontario since the Filing Date. The Kraus Group has continued to operate the distribution and sale of flooring products to commercial and residential customers (the "**TPS Business**") as a going concern as stipulated by the Initial Order and the TPS Purchase Agreement.
22. Pursuant to the TPS Purchase Agreement, the Kraus Group is required to operate the TPS Business in the ordinary course of business and maintain the TPS Business "substantially intact".
23. The Monitor notes that the Kraus Group has been operating the TPS Business in accordance with the requirements of the TPS Purchase Agreement.

TPS Purchase Agreement

24. The Monitor set out information regarding its review and consideration of the TPS Purchase Agreement in paragraphs 47 to 51 of the Pre-Filing Report and concluded that there are no reasonable or likely alternatives that would offer a better return to the creditors of the Kraus Group. The Monitor is supportive of the TPS Purchase Agreement.

25. The Monitor has reviewed the draft Approval and Vesting Order (Purchase Agreement) that the Applicants intend to seek at the Comeback Hearing (“**Approval and Vesting Order**”) and note the following:
 - a) The Monitor is to certify the performance of the following:
 - i. The payment of the purchase price;
 - ii. The conditions to closing as set out in the TPS Purchase Agreement have been satisfied or waived by the two parties; and,
 - iii. The transaction has been completed to the satisfaction of the Monitor.

 - b) The Monitor is to enter into an escrow agreement with certain of the Applicants and the Purchaser (the “**Escrow Agreement**”) pursuant to which the Monitor will hold in escrow the holdback amount pursuant to the TPS Purchase Agreement until the conditions have been met pursuant to the Escrow Agreement and the funds are released by the Monitor.

26. The Monitor agrees to the duties summarized in the Approval and Vesting Order and agrees to be the escrow agent pursuant to the Escrow Agreement and to certify of the performance of the conditions pursuant to the Approval and Vesting Order.

Dalton Real Estate

27. Kraus USA Inc. owns and operates a 162,000 square foot facility in Dalton, Georgia, that provides warehousing and logistics services for the Kraus Group (the “**Dalton Premises**”). A purchase and sale agreement was made and entered into as of September 10, 2018 between Kraus USA, Inc. and the Purchaser for the sale of the Dalton Premises (the “**Dalton Premises Purchase and Sale Agreement**”). A copy of the Dalton Premises Purchase and Sale Agreement is attached as Exhibit “B” to the Supplementary Emmott Affidavit.
28. As described in the Supplementary Emmott Affidavit in paragraphs 6 to 13, the Dalton Premises are an integral element of the TPS Business that is being acquired by the Purchaser. The purchase price for the Dalton Premises pursuant to the TPS Purchase Agreement has been disclosed as part of the liquidation analysis performed by the Monitor and was negotiated and has been included as part of the overall consideration of the TPS Purchase Agreement. The purchase price for the Dalton Premises represents less than 10% of the purchase price contemplated by the TPS Purchase Agreement.
29. The Monitor notes that the last valuation of the Dalton Premises was obtained on April 15, 2014, after being carried out by William Yarbrough and Associates (“the **Dalton Appraisal**”). The Dalton Appraisal indicated a value lower than the purchase price

ascribed to the Dalton Premises in the TPS Purchase Agreement. The Monitor reviewed the overall purchase price of the TPS Purchase Agreement as part of the Liquidation Analysis, and noted that TPS Purchase Agreement, in its entirety, offered a higher return to the Kraus Group than a forced liquidation scenario. As such, the Monitor supports the overall transaction as contemplated in the TPS Purchase Agreement.

30. The Proposed Monitor understands from Management that the Applicants' secured lenders, Wells Fargo and Red Ash, have been consulted and are in favour of the proposed sale of the Dalton Premises, although the Proposed Monitor was not a party or privy to these discussions.

G. PRE-FILING CASH DISBURSEMENTS AND PROPOSED AMENDMENT TO THE INITIAL ORDER

31. The Kraus Group is seeking an amendment to the Initial Order to provide for the payment of up to \$10.0 million of certain pre-filing trade liabilities relating to the continuation of the TPS Business.
32. As noted in the Pre-Filing Report in paragraph 47, due to the unique nature of the TPS Purchase Agreement, there are certain pre-filing trade liabilities that are forecast to be paid in the normal course of operations during the CCAA in order to operate the TPS Business as a going concern in accordance with the TPS Purchase Agreement. The Monitor has obtained from Management an estimate of these amounts, which are forecast to total \$9.1

million over the first thirteen weeks of the CCAA Proceedings. These specific pre-filing trade liabilities are principally freight and inventory payments related to the TPS Business that are being specifically assumed as part of the TPS Purchase Agreement. The Monitor understands from Management that the settlement of these pre-filing trade liabilities is necessary as:

- a) The TPS Purchase Agreement is structured such that consideration is based on the net working capital position of the TPS Business as of the closing date. Accordingly, the settlement of the specific pre-filing TPS Business trade liabilities will not affect the overall consideration from the transaction, but will, instead, result in these liabilities being paid prior to closing;
- b) The settlement of the pre-filing TPS Business trade liabilities as they come due will greatly facilitate the continuation of the TPS Business in the ordinary course until closing;
- c) The going concern operation of the TPS Business is a key requirement of the TPS Purchase Agreement and, according to Management, is not possible without the payment of such pre-filing trade liabilities; and,
- d) These payments were provided for and included within the Cash Flow Statement included in the Pre-Filing Report and submitted to the Court in the Applicants' CCAA Proceedings filing materials.

33. The Monitor notes that if the TPS Purchase Agreement is not closed, these pre-filing trade liabilities will have been paid in preference to other unsecured creditors, but is of the view that this is necessary in order to facilitate the closing of the TPS Purchase Agreement.
34. Management and the Monitor discussed the forecast payments related to pre-filing amounts in the outstanding cheque listing as at the Filing Date, the disbursement schedule for the week of September 14, 2018, and the forecast payments for the period up to the close of the TPS Purchase Agreement. These payments have been summarized below:

Pre-Filing Anticipated Disbursements For the Week Ending (000's CAD)	Outstanding Cheque				
	Amounts	14-Sep-18	21-Sep-18	28-Sep-18	Total
TPS / QEP Transaction - A/P	\$ 427	\$ 2,239	\$ 2,171	\$ 4,291	\$ 9,129
TPS / QEP Transaction - Employees	1	509	529	-	1,039
Broadloom Business - Other Pre-Filing	2	3	-	-	5
Broadloom Business - Employees	41	370	264	-	674
Total	\$ 471	\$ 3,120	\$ 2,964	\$ 4,291	\$ 10,846

35. The Monitor has noted that additional pre-filing liabilities will be paid according to the terms of the Initial Order, which include payroll related costs associated with employees, including those that are necessary to facilitate the operations of the TPS Business and liquidation of the Broadloom Business. There are also pre-filing Broadloom amounts which have been paid during the week ended September 14, 2018. These payments relate to miscellaneous expenses less than \$500 each and total approximately \$5,000.
36. The Monitor reviewed confirmations from the Applicants' bank, which showed that outstanding cheques not included in the chart above had stop payment orders applied to

them. The Monitor will report on actual receipts and disbursements as against the Cash Flow Statement in a subsequent report.

H. WELLS FARGO BORROWING BASE

37. The Monitor obtained Management's Wells Fargo Borrowing Base Calculation ("WF BBC") dated September 11, 2018 that was submitted to Wells Fargo on September 12, 2018.
38. The Monitor reviewed the WF BBC and noted that it calculated borrowing base availability of \$5.7 million with collateral of approximately \$51.8 million compared with borrowings of \$46.1 million. The Kraus Group were outside their financial covenants with Wells Fargo.

I. STATUS OF THE KRAUS GROUP'S BANKRUPTCY PROCEEDINGS IN THE UNITED STATES

39. On September 11, 2018, Kraus Carpet Inc. (the "**Foreign Representative**") in its capacity as the authorized Foreign Representative of the Kraus Group in the CCAA Proceedings filed the Motion of Foreign Representative for Entry of Provisional and Final Orders Granting Recognition of Foreign Main Proceeding and Certain Related Relief (the "**Chapter 15 Motion**"), attached as Appendix "**B**", in the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**") seeking:

- a) Entry of a provisional order recognizing the CCAA Proceedings as a foreign main proceeding and granting a stay of execution against the Kraus Group's assets and applying section 362 and 365(e) of the Bankruptcy Code on an interim basis under section 1519 of the Bankruptcy Code; and
 - b) Entry of a final order recognizing the CCAA Proceedings as a foreign main proceeding and granting a stay of execution against the Kraus Group's assets and applying section 362 and 365(e) of the Bankruptcy Code under sections 1520 and 1521 of the Bankruptcy Code.
40. On September 12, 2018, the Bankruptcy Court held a hearing and granted the Chapter 15 Motion on an interim basis and entered a Provisional Order Granting Recognition of Foreign Main Proceeding and Certain Related Relief, recognizing the CCAA Proceedings as a foreign main proceeding and granting a stay of execution against the Kraus Group's assets and applying section 362 and 365(e) of the Bankruptcy Code.
41. In addition, on September 11, 2018, the Foreign Representative in its capacity as the authorized Foreign Representative of the Kraus Group in the CCAA Proceedings filed the Motion of Foreign Representative Pursuant to Sections 105(a), 363, 365, 1501, 1507, 1520, and 1521 of the United States Bankruptcy Code, and Rules 2002, 6004, 6006, and 9014, of the Federal Rules of Bankruptcy Procedure (the "**Sale Motion**") in the Bankruptcy Court for entry of an order:
- a) Recognizing and enforcing the approval and vesting order, if granted;

- b) Authorizing the sale of the Kraus Group's TPS Business free and clear of any and all liens, claims, encumbrances and other interests; and
 - c) Granting related relief.
42. A hearing date is scheduled for October 3, 2018 to consider the Sale Motion and entry of a final order on the Chapter 15 Motion, which will be summarized in a subsequent report of the Monitor.

J. RECOMMENDATIONS

43. In the Monitor's opinion, the Kraus Group is acting in good faith and with due diligence in accordance with the terms of the Initial Order in an effort to maximise the return to its creditors. To date, progress has been made to institute programs to sell the finished goods materials from the Broadloom Business and ensure the going concern value of the TPS Business in accordance with the Initial Order and the TPS Purchase Agreement.
44. The Kraus Group is seeking the Court's approval of:
- a) The Approval and Vesting Order (Purchase Agreement) filed on September 18, 2018 which remains subject to execution of the Transitional Services Agreement and the sale of the Dalton Premises as part of the TPS Purchase Agreement; and,

b) The amendment of the Initial Order to allow for payments of pre-filing trade creditors integral to the going concern operations of the TPS Business up to \$10.0 million.

45. For the reasons outlined herein, the Monitor recommends that the Court grant the relief sought by the Kraus Group.

All of which is respectfully submitted this 17th day of September, 2018.

**Deloitte Restructuring Inc.,
solely in its capacity as Court-appointed Monitor
of the Kraus Group and not in its personal capacity**



Per:
Paul M. Casey, CPA, CA, FCIRP, LIT
Senior Vice-President

Appendix "A"
Notice to Creditors

September 12, 2018

To Whom It May Concern:

RE: Kraus Brands Inc., Kraus Canada Ltd., Kraus Carpet Inc., Kraus Properties Inc., Kraus USA Inc., and Strudex Inc. (collectively, the “Kraus Group” or the “Applicants”)

Take notice that, on September 11, 2018, the Kraus Group sought and obtained protection pursuant to the *Companies’ Creditors Arrangement Act* (the “CCAA”) before the Ontario Superior Court of Justice (Commercial List) (the “Court”).

Deloitte Restructuring Inc. has been appointed as monitor in the Applicants’ CCAA proceedings (the “Monitor”) pursuant to the Initial Order of the Court dated September 11, 2018 (the “Initial Order”).

Copies of the Initial Order and the Applicants’ application materials have been posted on the Monitor’s website at: <http://www.insolvencies.deloitte.ca/en-ca/kraus> (the “Website”).

The Initial Order provides, among other things, for a stay of proceedings until October 11, 2018 (the “Stay Period”) in respect of the Applicants. The Stay Period may be extended by the Court from time to time.

During the Stay Period, all parties are prohibited from commencing or continuing legal or enforcement actions against the Applicants and all rights and remedies of any party against or in respect of the Applicants or its assets are stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of the Court.

Creditors are not required to file a proof of claim at this time.

Persons requiring further information not available on the Website should email the Monitor at kraus@deloitte.ca or call the Monitor’s dedicated phone line at 416-354-0883.

Deloitte Restructuring Inc.

In its capacity as Court Appointed Monitor of the Kraus Group
8 Adelaide Street West, Suite 200
Toronto, Ontario, M5H 0A9

Per:



Jordan Sleeth
Senior Vice-President

Appendix "B"

Provisional Order Granting Recognition of Foreign Main
Proceeding and Certain Related Relief

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
In re: : Chapter 15
 :
Kraus Carpet Inc., et al.,¹ : Case No. 18-12057 (KG)
 :
Debtors in a Foreign Proceeding. : Jointly Administered
 :
 : **RE: D.I. 5**
-----X

**PROVISIONAL ORDER GRANTING RECOGNITION OF FOREIGN MAIN
PROCEEDING AND CERTAIN RELATED RELIEF**

Upon the motion (the “Motion”)² of Kraus Carpet Inc. (the “Foreign Representative”), in its capacity as the authorized foreign representative of the above captioned debtors (the “Debtors”) in a Canadian proceeding (the “CCAA Proceeding”) under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the “CCAA”) pending before the Ontario Superior Court of Justice (the “Canadian Court”), pursuant to sections 105(a) 362, 365(e), 1517, 1519, 1520, and 1521 of title 11 of the United States Code (the “Bankruptcy Code”) for (a) entry of a provisional order recognizing the CCAA Proceeding as a foreign main proceeding and granting a stay of execution against the Debtors’ assets and applying section 362 and 365(e) of the Bankruptcy Code on an interim basis under section 1519 of the Bankruptcy Code and (ii) a final order recognizing the CCAA Proceeding as a foreign main proceeding and granting related

¹ The Debtors in these chapter 15 cases and the last four digits of each Debtor’s U.S. tax identification number or Canadian Business Number, as applicable, are as follows: Kraus USA Inc. (USA) (1024); Strudex Inc. (0906); Kraus Carpet Inc. (8687); Kraus Properties Inc. (1102); Kraus Canada Ltd. (1300); and Kraus Brands Inc. (8885). The Debtors’ mailing address for purposes of these chapter 15 cases is 65 Northfield Drive West, Waterloo, Ontario, Canada.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

relief; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with sections 157 and 1334 of title 28 of the United States Code, sections 109 and 1501 of the Bankruptcy Code, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to section 157(b) of title 28 of the United States Code; and due and proper notice of the provisional relief sought in the Motion having been provided under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and the appearances of all interested parties having been noted in the record of the Hearing; and upon the *Declaration of Christopher Emmott in Support of (A) Motion of Foreign Representative for Entry of Provisional and Final Orders Granting Recognition of Foreign Main Proceeding, and (B) Other First Day Relief* (the "Emmott Declaration"), and the verified chapter 15 petitions, filed contemporaneously with the Motion, the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the provisional relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon and sufficient cause appearing therefor,

THIS COURT HEREBY FINDS AND DETERMINES THAT:

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact

constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider this matter pursuant to sections 157 and 1334 of title 28 of the United States Code and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012.

C. This is a core proceeding pursuant to section 157(b)(2)(P) of title 28 of the United States Code.

D. Venue for this proceeding is proper before this Court pursuant to section 1410 of title 28 of the United States Code.

E. On September 11, 2018, these chapter 15 cases were commenced by the Foreign Representative's filing of a verified voluntary *Chapter 15 Petition for Recognition of a Foreign Proceeding* ("Verified Petition") for each Debtor. Attached to the Verified Petition was an order (the "CCAA Order") of the Canadian Court in the CCAA Proceeding appointing the Foreign Representative and granting additional relief.

F. The Foreign Representative has demonstrated a substantial likelihood of success on the merits that (a) the CCAA Proceeding is a "foreign main proceeding" as that term is defined in section 1502(4) of the Bankruptcy Code, (b) the Foreign Representative is a "foreign representative" as that term is defined in section 101(24) of the Bankruptcy Code, (c) all statutory elements for recognition of the CCAA Proceeding are satisfied in accordance with section 1517 of the Bankruptcy Code, (d) upon recognition of the CCAA Proceeding as a foreign main proceeding, section 362 of the Bankruptcy Code will automatically apply in these Chapter 15 cases pursuant to section 1520(a)(1) of the Bankruptcy Code, and (e) that application of section 365(e) on an interim basis to prevent contract counterparties from terminating their

prepetition contracts with the Debtors is entirely consistent with the injunctive relief afforded by the automatic stay under section 362.

G. The Foreign Representative has demonstrated that (a) the commencement or continuation of any proceeding or action in the United States against the Debtors and their business and all of its assets should be stayed pursuant to sections 105(a), 1519, and 1521 of the Bankruptcy Code, which protections, in each case, shall be coextensive with the provisions of section 362 of the Bankruptcy Code, to permit the fair and efficient administration of the CCAA Proceeding for the benefit of all stakeholders and (b) the relief requested in the Motion will neither cause an undue hardship nor create any hardship to parties in interest that is not outweighed by the benefits of the relief granted herein.

H. The Foreign Representative has demonstrated that without the protections of section 365(e) of the Bankruptcy Code, there is a material risk that key contracts will not be preserved and that counterparties to certain of the Debtors' agreements will take the position that the commencement of the CCAA Proceeding authorizes them to terminate such contracts or accelerate obligations thereunder.

I. The Foreign Representative has demonstrated that such termination or acceleration of the Debtors' contracts, if permitted and valid, would result in irreparable damage to the value of the Debtors' assets in the United States, and cause substantial harm to the Debtors' creditors and other parties in interest.

J. The Foreign Representative has demonstrated that no injury will result to any party that is greater than the harm to the Debtors' assets and property in the absence of the relief requested in the Motion.

K. The interests of the public and public policy of United States will be served by entry of this Order.

L. The Foreign Representative and the Debtors are entitled to the full protections and rights available pursuant to section 1519(a)(1)-(3) of the Bankruptcy Code.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted as set forth herein.
2. The CCAA Order is hereby given full force and effect on an interim basis, including, without limitation, the stay of proceedings to the extent set forth in the CCAA Order, and shall be given full force and effect in the United States until otherwise ordered by this Court.
3. While this Order is in effect, the Foreign Representative and the Debtors are entitled to the full protections and rights pursuant to section 1519(a)(1) of the Bankruptcy Code, which protections shall be coextensive with the provisions of section 362 of the Bankruptcy Code, and this Order shall operate as a stay of any execution against the Debtors' assets within the territorial jurisdiction of the United States.
4. While this Order is in effect, pursuant to sections 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, sections 362 and 365(e) of the Bankruptcy Code are hereby made applicable in this case to the Debtors and their property within the territorial jurisdiction of the United States.
5. All entities (as that term is defined in section 101(15) of the Bankruptcy Code), other than the Foreign Representative and its authorized representatives and agents, are hereby enjoined from:
 - a) execution against any of the Debtors' assets;

- b) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, or to recover a claim, including without limitation any and all unpaid judgments, settlements, or otherwise against the Debtors in the United States;
- c) taking or continuing any act to create, perfect, or enforce a lien or other security interest, set-off, or other claim against the Debtors' or any of their property;
- d) transferring, relinquishing, or disposing of any property of the Debtors by any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative;
- e) commencing or continuing an individual action or proceeding concerning the Debtors' assets, rights, obligations, or liabilities; and
- f) terminating contracts or otherwise accelerating obligations or exercising remedies thereunder.

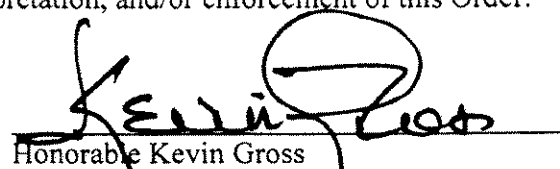
6. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable to these proceedings pursuant to Bankruptcy Rule 7065, no notice to any person is required prior to entry and issuance of this Order. Pursuant to Bankruptcy Rule 7065, the provisions of Federal Rule 65(c) are hereby waived, to the extent applicable.

7. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: Sept. 12, 2018
Wilmington, Delaware


Honorable Kevin Gross
United States Bankruptcy Judge

TAB 4

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

-----X
In re: : Chapter 15
: :
Kraus Carpet Inc., et al.,¹ : Case No. 18-12057 (KG)
: :
Debtors in a Foreign Proceeding. : Jointly Administered
: :
: **RE: D.I. 5**
-----X

**PROVISIONAL ORDER GRANTING RECOGNITION OF FOREIGN MAIN
PROCEEDING AND CERTAIN RELATED RELIEF**

Upon the motion (the "Motion")² of Kraus Carpet Inc. (the "Foreign Representative"), in its capacity as the authorized foreign representative of the above captioned debtors (the "Debtors") in a Canadian proceeding (the "CCAA Proceeding") under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the "CCAA") pending before the Ontario Superior Court of Justice (the "Canadian Court"), pursuant to sections 105(a) 362, 365(e), 1517, 1519, 1520, and 1521 of title 11 of the United States Code (the "Bankruptcy Code") for (a) entry of a provisional order recognizing the CCAA Proceeding as a foreign main proceeding and granting a stay of execution against the Debtors' assets and applying section 362 and 365(e) of the Bankruptcy Code on an interim basis under section 1519 of the Bankruptcy Code and (ii) a final order recognizing the CCAA Proceeding as a foreign main proceeding and granting related

¹ The Debtors in these chapter 15 cases and the last four digits of each Debtor's U.S. tax identification number or Canadian Business Number, as applicable, are as follows: Kraus USA Inc. (USA) (1024); Strudex Inc. (0906); Kraus Carpet Inc. (8687); Kraus Properties Inc. (1102); Kraus Canada Ltd. (1300); and Kraus Brands Inc. (8885). The Debtors' mailing address for purposes of these chapter 15 cases is 65 Northfield Drive West, Waterloo, Ontario, Canada.

² Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Motion.

relief; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with sections 157 and 1334 of title 28 of the United States Code, sections 109 and 1501 of the Bankruptcy Code, and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to section 157(b) of title 28 of the United States Code; and due and proper notice of the provisional relief sought in the Motion having been provided under the circumstances; and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and the appearances of all interested parties having been noted in the record of the Hearing; and upon the *Declaration of Christopher Emmott in Support of (A) Motion of Foreign Representative for Entry of Provisional and Final Orders Granting Recognition of Foreign Main Proceeding, and (B) Other First Day Relief* (the "Emmott Declaration"), and the verified chapter 15 petitions, filed contemporaneously with the Motion, the record of the Hearing and all of the proceedings had before the Court; and the Court having found and determined that the provisional relief sought in the Motion is in the best interests of the Debtors, their creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation thereon and sufficient cause appearing therefor,

THIS COURT HEREBY FINDS AND DETERMINES THAT:

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052 made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact

constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction to consider this matter pursuant to sections 157 and 1334 of title 28 of the United States Code and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated as of February 29, 2012.

C. This is a core proceeding pursuant to section 157(b)(2)(P) of title 28 of the United States Code.

D. Venue for this proceeding is proper before this Court pursuant to section 1410 of title 28 of the United States Code.

E. On September 11, 2018, these chapter 15 cases were commenced by the Foreign Representative's filing of a verified voluntary *Chapter 15 Petition for Recognition of a Foreign Proceeding* ("Verified Petition") for each Debtor. Attached to the Verified Petition was an order (the "CCAA Order") of the Canadian Court in the CCAA Proceeding appointing the Foreign Representative and granting additional relief.

F. The Foreign Representative has demonstrated a substantial likelihood of success on the merits that (a) the CCAA Proceeding is a "foreign main proceeding" as that term is defined in section 1502(4) of the Bankruptcy Code, (b) the Foreign Representative is a "foreign representative" as that term is defined in section 101(24) of the Bankruptcy Code, (c) all statutory elements for recognition of the CCAA Proceeding are satisfied in accordance with section 1517 of the Bankruptcy Code, (d) upon recognition of the CCAA Proceeding as a foreign main proceeding, section 362 of the Bankruptcy Code will automatically apply in these Chapter 15 cases pursuant to section 1520(a)(1) of the Bankruptcy Code, and (e) that application of section 365(e) on an interim basis to prevent contract counterparties from terminating their

prepetition contracts with the Debtors is entirely consistent with the injunctive relief afforded by the automatic stay under section 362.

G. The Foreign Representative has demonstrated that (a) the commencement or continuation of any proceeding or action in the United States against the Debtors and their business and all of its assets should be stayed pursuant to sections 105(a), 1519, and 1521 of the Bankruptcy Code, which protections, in each case, shall be coextensive with the provisions of section 362 of the Bankruptcy Code, to permit the fair and efficient administration of the CCAA Proceeding for the benefit of all stakeholders and (b) the relief requested in the Motion will neither cause an undue hardship nor create any hardship to parties in interest that is not outweighed by the benefits of the relief granted herein.

H. The Foreign Representative has demonstrated that without the protections of section 365(e) of the Bankruptcy Code, there is a material risk that key contracts will not be preserved and that counterparties to certain of the Debtors' agreements will take the position that the commencement of the CCAA Proceeding authorizes them to terminate such contracts or accelerate obligations thereunder.

I. The Foreign Representative has demonstrated that such termination or acceleration of the Debtors' contracts, if permitted and valid, would result in irreparable damage to the value of the Debtors' assets in the United States, and cause substantial harm to the Debtors' creditors and other parties in interest.

J. The Foreign Representative has demonstrated that no injury will result to any party that is greater than the harm to the Debtors' assets and property in the absence of the relief requested in the Motion.

K. The interests of the public and public policy of United States will be served by entry of this Order.

L. The Foreign Representative and the Debtors are entitled to the full protections and rights available pursuant to section 1519(a)(1)-(3) of the Bankruptcy Code.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Motion is granted as set forth herein.
2. The CCAA Order is hereby given full force and effect on an interim basis, including, without limitation, the stay of proceedings to the extent set forth in the CCAA Order, and shall be given full force and effect in the United States until otherwise ordered by this Court.
3. While this Order is in effect, the Foreign Representative and the Debtors are entitled to the full protections and rights pursuant to section 1519(a)(1) of the Bankruptcy Code, which protections shall be coextensive with the provisions of section 362 of the Bankruptcy Code, and this Order shall operate as a stay of any execution against the Debtors' assets within the territorial jurisdiction of the United States.
4. While this Order is in effect, pursuant to sections 1519(a)(3) and 1521(a)(7) of the Bankruptcy Code, sections 362 and 365(e) of the Bankruptcy Code are hereby made applicable in this case to the Debtors and their property within the territorial jurisdiction of the United States.
5. All entities (as that term is defined in section 101(15) of the Bankruptcy Code), other than the Foreign Representative and its authorized representatives and agents, are hereby enjoined from:
 - a) execution against any of the Debtors' assets;

- b) the commencement or continuation, including the issuance or employment of process, of a judicial, administrative, arbitral, or other action or proceeding, or to recover a claim, including without limitation any and all unpaid judgments, settlements, or otherwise against the Debtors in the United States;
- c) taking or continuing any act to create, perfect, or enforce a lien or other security interest, set-off, or other claim against the Debtors' or any of their property;
- d) transferring, relinquishing, or disposing of any property of the Debtors by any entity (as that term is defined in section 101(15) of the Bankruptcy Code) other than the Foreign Representative;
- e) commencing or continuing an individual action or proceeding concerning the Debtors' assets, rights, obligations, or liabilities; and
- f) terminating contracts or otherwise accelerating obligations or exercising remedies thereunder.

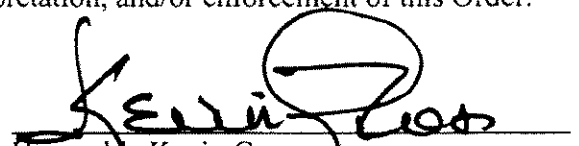
6. Pursuant to Rule 65(b) of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable to these proceedings pursuant to Bankruptcy Rule 7065, no notice to any person is required prior to entry and issuance of this Order. Pursuant to Bankruptcy Rule 7065, the provisions of Federal Rule 65(c) are hereby waived, to the extent applicable.

7. Notwithstanding any applicability of any Bankruptcy Rules, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

8. The Foreign Representative is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

9. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and/or enforcement of this Order.

Dated: Sept. 12, 2018
Wilmington, Delaware


Honorable Kevin Gross
United States Bankruptcy Judge

TAB 5

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) TUESDAY, THE 11TH
) DAY OF SEPTEMBER, 2018
JUSTICE PENNY)
) as amended and restated on
) TUESDAY, THE 18TH
) DAY OF SEPTEMBER, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Christopher Emmott sworn September 10, 2018, and the exhibits thereto ("**Initial Affidavit**"), and the pre-filing report of the proposed monitor, Deloitte Restructuring Inc. ("**Monitor**"), dated September 10, 2018 ("**Pre-Filing Report**"), and on hearing the submissions of counsel for the Applicants and the partnerships listed in Schedule "A" hereto ("**Partnerships**") and counsel for the Monitor, and counsel for Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") such other counsel as were present and wished to be heard, no one appearing for any other

party although duly served as appears from the affidavits of service, filed, and on reading the consent of Deloitte Restructuring Inc. to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies. Although not Applicants, the Partnerships (together with the Applicants, the "**Kraus Group**") shall enjoy the benefits of the protections and authorizations provided by this Order.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants 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. THIS COURT ORDERS that the Kraus Group shall 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 ("**Property**"). Subject to further Order of this Court, the Kraus Group shall continue to carry on business in a manner consistent with the preservation of its business ("**Business**") and Property. The Kraus Group is 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.

5. THIS COURT ORDERS that the Kraus Group shall be entitled to continue to utilize the cash management system currently in place as described in the Initial Affidavit or replace it with another substantially similar cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Kraus Group of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Kraus Group, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Kraus Group shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of 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;
- (b) the fees and disbursements of any Assistants retained or employed by the Kraus Group in respect of these proceedings, at their standard rates and charges; and
- (c) amounts owing to vendors determined by the Kraus Group to be necessary in order to ensure an uninterrupted supply of goods and/or services to the Kraus Group that are material to the continued operation of the Business, provided that such payments shall not exceed in an aggregate amount of \$10 million and are approved in advance by the Monitor.jmn

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Kraus Group shall be entitled but not required to pay all reasonable expenses incurred by the Kraus Group in carrying on the Business in the ordinary course on or after the date of this Order, and in carrying out the provisions of this Order, and any other Order of this Court, 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 Kraus Group on or after the date of this Order.

8. THIS COURT ORDERS that the Kraus Group 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, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Kraus Group in connection with the sale of goods and services by the Kraus Group, 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 Kraus Group.

9. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Kraus Group shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Kraus Group and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Kraus Group 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 Kraus Group to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities, except in the ordinary course of the Business or pursuant to this Order or any other Order of this Court.

RESTRUCTURING

11. THIS COURT ORDERS that the Kraus Group shall, subject to such requirements as are imposed by the CCAA, 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 \$250,000 in any one transaction or \$1 million in the aggregate in any series of related transactions;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

- (c) pursue all avenues of restructuring 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 Kraus Group to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. THIS COURT ORDERS that the Kraus Group shall provide each of the relevant landlords with notice of the Kraus Group's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Kraus Group'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 Kraus Group, or by further Order of this Court upon application by the Kraus Group on at least two (2) days notice to such landlord and any such secured creditors. If the Kraus Group 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 the Kraus Group's claim to the fixtures in dispute.

13. THIS COURT ORDERS that 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 Kraus Group 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 Kraus Group in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE KRAUS GROUP OR THE PROPERTY

14. THIS COURT ORDERS that until and including October 11, 2018, or such later date as this Court may order ("**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Kraus Group or the Monitor, or affecting the Business or the Property, except with the written consent of the Kraus Group and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Kraus Group or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Kraus Group or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Kraus Group and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Kraus Group to carry on any business which the Kraus Group is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

CONTINUATION OF SERVICES

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Kraus Group or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Kraus Group, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Kraus Group, and that the Kraus Group shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Kraus Group in accordance with normal payment practices of the Kraus Group or such other practices as may be agreed upon by the supplier or service provider and each of the Kraus Group and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Kraus Group. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Kraus Group with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Kraus Group 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 Kraus Group, if one is filed, is sanctioned by this Court or is refused by the creditors of the Kraus Group or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. THIS COURT ORDERS that the Kraus Group shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Kraus Group after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. THIS COURT ORDERS that the directors and officers of the Kraus Group shall be entitled to the benefit of and are hereby granted a charge ("**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 32 and 34 herein.

22. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Kraus Group'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 of this Order.

APPOINTMENT OF MONITOR

23. THIS COURT ORDERS that Deloitte Restructuring Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Kraus Group with the powers and obligations set out in the CCAA or set forth herein and that the Kraus Group and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Kraus Group 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.

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

- (a) monitor the Kraus Group's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Kraus Group, to the extent required by the Kraus Group, in its dissemination to Wells Fargo of financial and other information as required by the Forbearance Agreement (as defined in the Initial Affidavit);
- (d) advise the Kraus Group in its development of the Plan and any amendments to the Plan;
- (e) assist the Kraus Group, to the extent required by the Kraus Group, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) 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 Kraus Group, to the extent that is necessary to adequately assess the Kraus Group's business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

25. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Kraus Group with information provided by the Kraus Group 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 Kraus Group 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 Kraus Group may agree.

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

29. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Kraus Group shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Kraus Group as part of the costs of these proceedings. The Kraus Group is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a monthly basis and, in addition, the Kraus Group is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Kraus Group, retainers in the aggregate 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. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Kraus Group's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, 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 32 and 34 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

32. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge (collectively the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1 million); and

Second – Directors' Charge (to the maximum amount of \$1 million).

33. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that 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.

34. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person.

35. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Kraus Group shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Kraus Group also obtains the prior written consent of the Monitor, and any other Persons entitled to the benefit of the Charges ("**Chargees**"), or further Order of this Court.

36. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings,

incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall create or be deemed to constitute a breach by the Kraus Group of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order 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.

37. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Kraus Group's interest in such real property leases.

SERVICE AND NOTICE

38. THIS COURT ORDERS that the Monitor shall (a) without delay, publish in the Globe and Mail a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Kraus Group of more than \$1,000, and (iii) 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.

39. THIS COURT ORDERS that the E-Service Protocol of the Commercial List ("**Protocol**") is approved and adopted by reference herein and, in this proceeding, the

service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL www.insolvencies.deloitte.ca/en-ca/Kraus ("**Website**").

40. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding ("**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy or timeliness of making any changes to the Service List.

41. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Kraus Group and the Monitor are at liberty to serve or distribute 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 or facsimile transmission to the Kraus Group's creditors or other interested parties at their respective addresses as last shown on the records of the Kraus Group and that any such service or distribution by courier, personal delivery or facsimile transmission 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.

42. THIS COURT ORDERS that the Kraus Group and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Kraus Group's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or

judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

GENERAL

43. THIS COURT ORDERS that the Kraus Group or the Monitor may from time to time apply to this Court for advice and directions regarding the discharge of their respective powers and duties hereunder or the interpretation of this Order.

44. THIS COURT ORDERS that 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 Kraus Group, the Business or the Property.

45. 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 Kraus Group, 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 Kraus Group 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 Kraus Carpet Inc. in any foreign proceeding, or to assist the Kraus Group and the Monitor and their respective agents in carrying out the terms of this Order.

46. THIS COURT ORDERS that each of the Kraus Group 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 Kraus Carpet Inc. is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

47. THIS COURT ORDERS that any interested party (including the Kraus Group 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.

48. THIS COURT ORDERS that Confidential Exhibit "A" to the Initial Affidavit and Appendix "D" to the Pre-Filing Report, as well as Exhibits C and E to the Affidavit of Susan Mingie, sworn September 10, 2018, attached as Appendix "C" to the Pre-Filing Report, be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.

49. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

Schedule "A" – Partnerships

Kraus Brands LP

Kraus Canada LP

Kraus Carpet LP

Kraus Properties LP

Strudex LP

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC., KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Court File No. CV-18-604759-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT
TORONTO**

AMENDED AND RESTATED INITIAL ORDER

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Lawyers for the Applicants

TAB 6

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.) TUESDAY, THE 11TH
) DAY OF SEPTEMBER, 2018
JUSTICE PENNY) as amended and restated on
) TUESDAY, THE 18TH
) DAY OF SEPTEMBER, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC.,
KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended ("**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Christopher Emmott sworn September 10, 2018, and the exhibits thereto ("**Initial Affidavit**"), and the pre-filing report of the proposed monitor, Deloitte Restructuring Inc. ("**Monitor**"), dated September 10, 2018 ("**Pre-Filing Report**"), and on hearing the submissions of counsel for the Applicants and the partnerships listed in Schedule "A" hereto ("**Partnerships**") and counsel for the Monitor, and counsel for Wells Fargo Capital Finance Corporation Canada ("**Wells Fargo**") such other counsel as were present and wished to be heard, no one appearing for any other

party although duly served as appears from the affidavits of service, filed, and on reading the consent of Deloitte Restructuring Inc. to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies. Although not Applicants, the Partnerships (together with the Applicants, the "**Kraus Group**") shall enjoy the benefits of the protections and authorizations provided by this Order.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants 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. THIS COURT ORDERS that the Kraus Group shall 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 ("**Property**"). Subject to further Order of this Court, the Kraus Group shall continue to carry on business in a manner consistent with the preservation of its business ("**Business**") and Property. The Kraus Group is 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.

5. THIS COURT ORDERS that the Kraus Group shall be entitled to continue to utilize the cash management system currently in place as described in the Initial Affidavit or replace it with another substantially similar cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Kraus Group of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Kraus Group, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Kraus Group shall be entitled but not required to pay the following expenses whether incurred prior to, on or after the date of 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 Kraus Group in respect of these proceedings, at their standard rates and charges; ~~and~~
- (c) amounts owing to vendors determined by the Kraus Group to be necessary in order to ensure an uninterrupted supply of goods and/or services to the Kraus Group that are material to the continued operation of the Business, provided that such payments shall not exceed in an aggregate amount of \$10 million and are approved in advance by the Monitor jmn

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, the Kraus Group shall be entitled but not required to pay all reasonable expenses incurred by the Kraus Group in carrying on the Business in the ordinary course on or after the date of this Order, and in carrying out the provisions of this Order, and any other Order of this Court, 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 Kraus Group on or after the date of this Order.

8. THIS COURT ORDERS that the Kraus Group 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, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Kraus Group in connection with the sale of goods and services by the Kraus Group, 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 Kraus Group.

9. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Kraus Group shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Kraus Group and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Kraus Group 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 Kraus Group to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities, except in the ordinary course of the Business or pursuant to this Order or any other Order of this Court.

RESTRUCTURING

11. THIS COURT ORDERS that the Kraus Group shall, subject to such requirements as are imposed by the CCAA, 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 \$250,000 in any one transaction or \$1 million in the aggregate in any series of related transactions;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and

- (c) pursue all avenues of restructuring 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 Kraus Group to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. THIS COURT ORDERS that the Kraus Group shall provide each of the relevant landlords with notice of the Kraus Group's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Kraus Group'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 Kraus Group, or by further Order of this Court upon application by the Kraus Group on at least two (2) days notice to such landlord and any such secured creditors. If the Kraus Group 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 the Kraus Group's claim to the fixtures in dispute.

13. THIS COURT ORDERS that 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 Kraus Group 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 Kraus Group in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE KRAUS GROUP OR THE PROPERTY

14. THIS COURT ORDERS that until and including October 11, 2018, or such later date as this Court may order ("**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Kraus Group or the Monitor, or affecting the Business or the Property, except with the written consent of the Kraus Group and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Kraus Group or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Kraus Group or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Kraus Group and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Kraus Group to carry on any business which the Kraus Group is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

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

CONTINUATION OF SERVICES

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Kraus Group or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Kraus Group, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Kraus Group, and that the Kraus Group shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Kraus Group in accordance with normal payment practices of the Kraus Group or such other practices as may be agreed upon by the supplier or service provider and each of the Kraus Group and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

18. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Kraus Group. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Kraus Group with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Kraus Group 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 Kraus Group, if one is filed, is sanctioned by this Court or is refused by the creditors of the Kraus Group or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. THIS COURT ORDERS that the Kraus Group shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Kraus Group after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. THIS COURT ORDERS that the directors and officers of the Kraus Group shall be entitled to the benefit of and are hereby granted a charge ("**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 32 and 34 herein.

22. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Kraus Group'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 of this Order.

APPOINTMENT OF MONITOR

23. THIS COURT ORDERS that Deloitte Restructuring Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Kraus Group with the powers and obligations set out in the CCAA or set forth herein and that the Kraus Group and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the

Kraus Group 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.

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

- (a) monitor the Kraus Group's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Kraus Group, to the extent required by the Kraus Group, in its dissemination to Wells Fargo of financial and other information as required by the Forbearance Agreement (as defined in the Initial Affidavit);
- (d) advise the Kraus Group in its development of the Plan and any amendments to the Plan;
- (e) assist the Kraus Group, to the extent required by the Kraus Group, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) 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 Kraus Group, to the extent that is necessary to adequately assess the Kraus Group's business and financial affairs or to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and

- (h) perform such other duties as are required by this Order or by this Court from time to time.

25. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Kraus Group with information provided by the Kraus Group 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 Kraus Group 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 Kraus Group may agree.

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

29. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Kraus Group shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Kraus Group as part of the costs of these proceedings. The Kraus Group is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a monthly basis and, in addition, the Kraus Group is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Kraus Group, retainers in the aggregate 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. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Kraus Group's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, 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 32 and 34 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

32. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge (collectively the "**Charges**"), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1 million); and

Second – Directors' Charge (to the maximum amount of \$1 million).

33. THIS COURT ORDERS that the filing, registration or perfection of the Charges shall not be required, and that 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.

34. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, ~~notwithstanding the order of perfection or attachment, other than (a) any validly perfected security interest under the *Personal Property Security Act* (Ontario) or such other applicable provincial legislation that has not been served with notice of this Order; and (b) statutory super-priority deemed trusts and liens for unpaid employee source deductions.~~

~~35. THIS COURT ORDERS that the Kraus Group shall be entitled, on a subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges have not obtained priority.~~

~~35.~~ 36. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Kraus Group shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Kraus Group also obtains the prior written consent of the Monitor, and any other Persons entitled to the benefit of the Charges ("**Chargees**"), or further Order of this Court.

~~37.~~ ~~37.~~ THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall create or be deemed to constitute a breach by the Kraus Group of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
- (c) the payments made by the Applicant pursuant to this Order 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.

~~38.~~ ~~38.~~ THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Kraus Group's interest in such real property leases.

SERVICE AND NOTICE

~~39.~~ ~~39.~~ THIS COURT ORDERS that the Monitor shall (a) without delay, publish in the Globe and Mail a notice containing the information prescribed under the CCAA, (b) within five days after the date of this Order, (i) make this Order publicly available in the

manner prescribed under the CCAA, (ii) send, in the prescribed manner, a notice to every known creditor who has a claim against the Kraus Group of more than \$1,000, and (iii) 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.

~~39.~~ 40. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (“**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL www.insolvencies.deloitte.ca/en-ca/Kraus (“**Website**”).

~~40.~~ 41. THIS COURT ORDERS that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (“**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy or timeliness of making any changes to the Service List.

~~41.~~ 42. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Kraus Group and the Monitor are at liberty to serve or distribute 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 or facsimile transmission to the Kraus Group’s creditors or other interested parties at their respective addresses as last shown on the records of the Kraus Group and that any such service or distribution by courier,

personal delivery or facsimile transmission 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.

~~42.~~ ~~43.~~ THIS COURT ORDERS that the Kraus Group and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Kraus Group's creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

GENERAL

~~43.~~ ~~44.~~ THIS COURT ORDERS that the Kraus Group or the Monitor may from time to time apply to this Court for advice and directions regarding the discharge of their respective powers and duties hereunder or the interpretation of this Order.

~~44.~~ ~~45.~~ THIS COURT ORDERS that 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 Kraus Group, the Business or the Property.

~~45.~~ ~~46.~~ 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 Kraus Group, 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 Kraus Group 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 Kraus Carpet Inc. in any foreign proceeding, or to assist the Kraus Group and the Monitor and their respective agents in carrying out the terms of this Order.

46. ~~47.~~ THIS COURT ORDERS that each of the Kraus Group 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 Kraus Carpet Inc. is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

47. ~~48.~~ THIS COURT ORDERS that any interested party (including the Kraus Group 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.

48. ~~49.~~ THIS COURT ORDERS that Confidential Exhibit "A" to the Initial Affidavit and Appendix "D" to the Pre-Filing Report, as well as Exhibits C and E to the Affidavit of Susan Mingie, sworn September 10, 2018, attached as Appendix "C" to the Pre-Filing Report, be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.

49. ~~50.~~ THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

Schedule "A" – Partnerships

Kraus Brands LP

Kraus Canada LP

Kraus Carpet LP

Kraus Properties LP

Strudex LP

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS CARPET INC., KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Court File No. CV-18-604759-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
PROCEEDING COMMENCED AT
TORONTO

AMENDED AND RESTATED INITIAL ORDER

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF KRAUS BRANDS INC., KRAUS CANADA LTD., KRAUS
CARPET INC., KRAUS PROPERTIES INC., KRAUS USA INC., and STRUDEX INC.

Court File No. CV-18-604759-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

**MOTION RECORD
(Sale Approval and Vesting Order)**

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