

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 500-11-060598-212

DATE: JANUARY 7, 2022

PRESIDING : THE HONOURABLE MARIE-ANNE PAQUETTE, J.S.C.

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

BLACKROCK METALS INC.

-and-

BLACKROCK MINING INC.

-and-

BRM METALS GP INC.

-and-

BLACKROCK METALS LP

Applicants

-and-

DELOITTE RESTRUCTURING INC.

Monitor

AMENDED AND RESTATED INITIAL ORDER

CONSIDERING the Applicants' *Application for the issuance of (i) an Initial Order, (ii) an Amended and Restated Initial Order, and (iii) an Order approving a Sale and Investment Solicitation Process and approving a Stalking Horse Agreement of Purchase and Sale* (the "**Application**"), the exhibits and the affidavits of Sean Cleary and Robert Boisjoli in support thereof, the consent of Deloitte Restructuring Inc. to act as monitor (the "**Monitor**"), relying upon the submissions of counsel and being advised that the interested parties, including secured creditors who are likely to be affected by the charges created herein were given prior notice of the presentation of the Application;

CONSIDERING the Pre-Filing Report and the Second Report of the Monitor;

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

WHEREFORE, THE COURT:

1. **GRANTS** the Application.
2. **ISSUES** an order pursuant to the CCAA (the "**Order**"), divided under the following headings:
 - Service
 - Application of the CCAA
 - Effective Time
 - Plan of Arrangement
 - Stay of Proceedings against the Applicants and the Property
 - Stay of Proceedings against the Directors and Officers
 - Possession of Property and Operations
 - No Exercise of Rights or Remedies
 - No Interference with Rights
 - Shareholders' Meeting
 - Continuation of Services
 - Non-Derogation of Rights
 - Interim Financing
 - Directors' and Officers' Indemnification and Charge
 - Restructuring
 - Powers of the Monitor
 - Priorities and General Provisions Relating to the CCAA Charges
 - Hearing Scheduling and Details
 - General

SERVICE

3. **ORDERS** that any prior delay for presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION OF THE CCAA

4. **DECLARES** that the Applicants are debtor companies to which the CCAA applies.
5. **DECLARES** that the consolidation of these CCAA proceedings in respect of the Applicants shall be for administrative purposes only and shall not affect a consolidation of the assets and property or of the debts and obligations of each of the Applicants.

EFFECTIVE TIME

6. **DECLARES** that this Order and all of its provisions are effective as of 12:01 a.m. Montreal time, province of Quebec, on January 7, 2022 (the “**Effective Time**”) and that all further references to time in this Order shall be to Montreal time.

PLAN OF ARRANGEMENT

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

STAY OF PROCEEDINGS AGAINST THE APPLICANTS AND THE PROPERTY

8. **ORDERS** that, until and including March 4, 2022, or such later date as the Court may order (the “**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 Applicants, or affecting the Applicants’ business operations and activities (the “**Business**”) or the Property (as defined hereinbelow), including as provided in paragraph 16 hereinbelow except with leave of this Court. Any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.
9. **ORDERS** that the rights of Her Majesty in right of Canada and Her Majesty in right of a Province are suspended in accordance with the terms and conditions of subsection 11.09 CCAA.
10. **ORDERS** that each of OMF Fund II H Ltd. and Investissement Québec (the “**Secured Creditors**”) shall be unaffected creditors in these CCAA proceedings, shall not be subject to the stay of proceedings or any other limitations of creditors’ rights or recourses provided for in this Order and that nothing in this Order shall prevent either of the Secured Creditors from enforcing its security against the Property in conformity with its contractual rights, subject only to: i) the Secured Creditors providing advance notice of their intention to do so; and ii) this Court’s prior authorisation.

STAY OF PROCEEDINGS AGAINST THE DIRECTORS AND OFFICERS

11. **ORDERS** that during the Stay Period and except as permitted under subsection 11.03(2) of the CCAA, no Proceeding may be commenced, or continued against any former, present or future director or officer of the Applicants nor against any person

deemed to be a director or an officer of the Applicants under subsection 11.03(3) CCAA (each, a “**Director**”, and collectively the “**Directors**”) in respect of any claim against such Directors which arose prior to the Effective Time and which relates to any obligation of the Applicants where it is alleged that any of the Directors is under any law liable in such capacity for the payment of such obligation.

POSSESSION OF PROPERTY AND OPERATIONS

12. **ORDERS** that the Applicants shall remain in possession and control of their present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (collectively the “**Property**”), the whole in accordance with the terms and conditions of this Order.
13. **ORDERS** that each of the Applicants is authorized to complete outstanding transactions and engage in new transactions with other Applicants (collectively, “**Intercompany Transactions**”), and to continue, on and after the date of this Order, to effect Intercompany transactions in the ordinary course of the Business. All ordinary course Intercompany Transactions among the Applicants shall continue on terms consistent with existing arrangements or past practice, subject to such changes thereto, or to such governing principles, policies or procedures as the Monitor may require, or subject to this Order or further Order of this Court.
14. **ORDERS** that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:
 - (a) all outstanding and future wages, salaries, bonuses, expenses, benefits and vacation pay 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 agent, advisor or counsel retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges; and
 - (c) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Applicants prior to the date of this Order by third party suppliers up to a maximum aggregate amount of \$100,000, if, in the opinion of the Applicants, the supplier is critical to the business and ongoing operations of the Applicants.
15. **ORDERS** that the Applicants are authorized to 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) Québec Pension Plan; and (iv) income taxes; and
 - (b) all goods and services, harmonized sales or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicants and

in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order.

NO EXERCISE OF RIGHTS OR REMEDIES

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

NO INTERFERENCE WITH RIGHTS

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

SHAREHOLDERS’ MEETING

19. **ORDERS** that the time limit to call and hold the annual shareholders’ meeting is extended subject to further order of this Court.

CONTINUATION OF SERVICES

20. **ORDERS** that during the Stay Period and subject to paragraph 22 hereof and subsection 11.01 CCAA, all Persons having verbal or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, utility or other goods or services made available to the Applicants, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply or, as the case may be, interrupting, delaying or stopping the transit of such goods or services as may be required by the Applicants, and that

the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, domain names or other services, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants, without having to provide any security deposit or any other security, in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and the Applicants, with the consent of the Monitor, or as may be ordered by this Court.

21. **ORDERS** that, notwithstanding anything else contained herein and subject to subsection 11.01 CCAA, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided to the Applicants 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 make further advance of money or otherwise extend any credit to the Applicants.
22. **ORDERS** that, without limiting the generality of the foregoing and subject to Section 21 of the CCAA, if applicable, cash or cash equivalents placed on deposit by the Applicants with any Person during the Stay Period, whether in an operating account or otherwise for themselves or for another entity, shall not be applied by such Person in reduction or repayment of amounts owing to such Person as of the date of this Order or due on or before the expiry of the Stay Period or in satisfaction of any interest or charges accruing in respect thereof; however, this provision shall not prevent any financial institution from: (i) reimbursing itself for the amount of any cheques drawn by Applicants and properly honoured by such institution; or (ii) holding the amount of any cheques or other instruments deposited into the Applicants' account until those cheques or other instruments have been honoured by the financial institution on which they have been drawn.

NON-DEROGATION OF RIGHTS

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

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

24. **ORDERS** that, if and only if the Directors are not already covered by the existing liability insurance, the Applicants shall indemnify their Directors from all claims relating to any obligations or liabilities they may incur and which have accrued by reason of or in relation to their respective capacities as directors or officers of the Applicants after the Effective Time, except where such obligations or liabilities were incurred as a result of such directors' or officers' gross negligence, wilful misconduct or gross or intentional fault as further detailed in Section 11.51 CCAA.

25. **ORDERS** that the Directors of the Applicants shall be entitled to the benefit of and are hereby granted a charge, hypothec and security in the Property to the extent of the aggregate amount of \$250,000 (the “**Directors’ Charge**”), as security for the indemnity provided in paragraph 25 of this Order as it relates to obligations and liabilities that the Directors may incur in such capacity after the Effective Time. The Directors’ Charge shall have the priority established by paragraphs 47 and 48 of this Order.
26. **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 Directors 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 for which the Directors are entitled to be indemnified.

INTERIM FINANCING

27. **ORDERS** that the Applicants are hereby authorized to borrow and repay from OMF Fund II H Ltd. and Investissement Québec (collectively, the “**Interim Lender**”) such amounts from time to time after this Order as the Applicants may consider necessary or desirable, up to a maximum principal amount of \$2M outstanding at any time, on the terms and conditions as set forth in the Sixth Amending Agreement (Exhibit P-23 in support of the Application) (the “**Interim Financing Agreement**”) and in the other Interim Financing Documents (as defined hereinafter), to fund the ongoing expenditures of the Applicants and to pay such other amounts as are permitted by the terms of this Order and the Interim Financing Documents (the “**Interim Facility**”).
28. **ORDERS** that the Applicants are hereby authorized to execute and deliver such credit agreements, security documents and other definitive documents (collectively with the Interim Financing Agreement and the Credit Agreement (as defined therein), the “**Interim Financing Documents**”) as may be required by the Interim Lender in connection with the Interim Facility and that the Applicants are hereby authorized to perform all of its obligations under the Interim Financing Documents.
29. **ORDERS** that the Applicants shall pay to the Interim Lender, when due, all amounts owing (including principal, interest, fees and expenses, including without limitation, all reasonable fees and disbursements of counsel and all other reasonably required advisers to, or agents of, the Interim Lender on a full indemnity basis (the “**Interim Lender Expenses**”)) under the Interim Financing Documents and shall perform all of their other obligations to the Interim Lender pursuant to the Interim Financing Documents and this Order.
30. **DECLARES** that all of the Property of the Applicants is hereby subject to a charge, hypothec and security for an aggregate amount of \$2,4M (the “**Interim Lender Charge**”) in favour of the Interim Lender as security for all obligations of the Applicants to the Interim Lender with respect to all amounts owing (including principal, interest and the Interim Lender Expenses) under or in connection with the Interim Financing Documents. The Interim Lender Charge shall not serve as a security for the obligations incurred by the Applicants towards the Interim Lender prior to this Order. The Interim Lender Charge shall have the priority established by paragraphs 47 and 48 of this Order.

31. **ORDERS** that the claims of the Interim Lender pursuant to the Interim Financing Documents shall not be compromised or arranged pursuant to the Plan or these proceedings and the Interim Lender, in that capacity, shall be treated as an unaffected creditor in these proceedings and in any Plan.
32. **ORDERS** that the Interim Lender may:
- (a) notwithstanding any other provision of this Order, take such steps from time to time as it may deem necessary or appropriate to register, record or perfect the Interim Lender Charge and the Interim Financing Documents in all jurisdictions where it deems it is appropriate; and
 - (b) notwithstanding the terms of the paragraph to follow, refuse to make any advance to any of the Applicants if any of them fails to meet the provisions of the Interim Financing Documents.
33. **ORDERS** that the Interim Lender shall not take any enforcement steps under the Interim Financing Documents or the Interim Lender Charge without providing at least 5 business days written notice (the "**Notice Period**") of a default thereunder to the Applicants, the Monitor and to creditors whose rights are registered or published at the appropriate registers. Upon expiry of such Notice Period, the Interim Lender shall be entitled to take any and all steps under the Interim Financing Documents and the Interim Lender Charge and otherwise permitted at law, but without having to send any demands under Section 244 of the BIA or pursuant to articles 2757 and following of the *Civil Code of Québec*.
34. **ORDERS** that, subject to further order of this Court, no order shall be made varying, rescinding, or otherwise affecting paragraphs 27 to 34 hereof unless either: (a) notice of a motion for such order is served on the Interim Lender by the moving party within seven (7) days after that party was served with this Order; or (b) the Interim Lender applies for or consents to such order.

RESTRUCTURING

35. **DECLARES** that, to facilitate the orderly restructuring of their business and financial affairs (the "**Restructuring**") but subject to such requirements as are imposed by the CCAA and the Interim Financing Documents, the Applicants shall have the right, subject to approval of the Monitor, or further order of the Court, to:
- (a) permanently or temporarily cease, downsize or shut down any of their operations or locations as they deem appropriate;
 - (b) pursue all avenues to finance or refinance, market, convey, transfer, assign or in any other manner dispose of the Business or Property, in whole or part, subject to further order of the Court and sections 11.3 and 36 CCAA;
 - (c) terminate the employment of such of their employees or temporarily or permanently lay off such of their employees as they deem appropriate and, to the extent any amounts in lieu of notice, termination or severance pay or other amounts in respect thereof are not paid in the ordinary course, make provision, on such terms as may be agreed upon between the Applicants

and such employee, or failing such agreement, make provision to deal with any consequences thereof as the Applicants may determine;

- (d) subject to the provisions of section 32 CCAA, disclaim or resiliate, any of their agreements, contracts or arrangements of any nature whatsoever, with such disclaimers or resiliation to be on such terms as may be agreed between the Applicants and the relevant party, or failing such agreement, to make provision for the consequences thereof in the Plan; and
 - (e) subject to section 11.3 CCAA, assign any rights and obligations of Applicants.
36. **DECLARES** that, if a notice of disclaimer or resiliation is given to a landlord of the Applicants pursuant to section 32 of the CCAA and subsection 35(d) of this Order, then: (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours by giving the Applicants and the Monitor 24 hours prior written notice; and (b) at the effective time of the disclaimer or resiliation, the landlord shall be entitled to take possession of any such leased premises and re-lease any such leased premises to third parties on such terms as any such landlord may determine without waiver of, or prejudice to, any claims or rights of the landlord against the Applicants, provided nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.
37. **ORDERS** that the Applicants shall provide to any relevant landlord notice of the Applicants' intention to remove any fittings, fixtures, installations or leasehold improvements at least seven (7) days in advance. If the Applicants have already vacated the leased premises, it shall not be considered to be in occupation of such location pending the resolution of any dispute between the Applicants and the landlord.
38. **DECLARES** that, in order to facilitate the Restructuring, the Applicants may, subject to the approval of the Monitor, or further order of the Court, settle claims of customers and suppliers that are in dispute.
39. **DECLARES** that, pursuant to sub-paragraph 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, and equivalent provisions of the *Act Respecting the Protection of Personal Information in the Private Sector*, R.S.Q. c. P-39.1, the Applicants are permitted, in the course of these proceedings, to disclose personal information of identifiable individuals in their possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to their advisers (individually, a "**Third Party**"), but only to the extent desirable or required to negotiate and complete the Restructuring or the preparation and implementation of the Plan or a transaction for that purpose, provided that the Persons to whom such personal information is disclosed enter into confidentiality agreements with the Applicants binding them to maintain and protect the privacy of such information and to limit the use of such information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to the Applicants or destroyed. In the event that a Third Party acquires personal information as part of the Restructuring

or the preparation or implementation of the Plan or a transaction in furtherance thereof, such Third Party may continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Applicants.

POWERS OF THE MONITOR

40. **ORDERS** that Deloitte Restructuring Inc. is hereby appointed to monitor the business and financial affairs of the Applicants as an officer of this Court (the "**Monitor**") and that the Monitor, in addition to the prescribed powers and obligations, referred to in Section 23 of the CCAA:

- (a) shall, without delay, (i) publish once a week for two (2) consecutive weeks, in LaPresse+ and the Globe and Mail National Edition and (ii) within five (5) business days after the date of this Order (A) post on the Monitor's website (the "**Website**") a notice containing the information prescribed under the CCAA, (B) make this Order publicly available in the manner prescribed under the CCAA, (C) send, in the prescribed manner, a notice to all known creditors having a claim against the Applicants of more than \$1,000, advising them that this Order is publicly available, and (D) prepare a list showing the names and addresses of such creditors and the estimated amounts of their respective claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder;
- (b) shall monitor the Applicants' receipts and disbursements;
- (c) shall assist the Applicants, to the extent required by the Applicants, in dealing with their creditors and other interested Persons during the Stay Period;
- (d) shall assist the Applicants, to the extent required by the Applicants, with the preparation of their cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;
- (e) shall advise and assist the Applicants, to the extent required by the Applicants, to review the Applicants' business and assess opportunities for cost reduction, revenue enhancement and operating efficiencies;
- (f) shall assist the Applicants, to the extent required by the Applicants, with the Restructuring and in their negotiations with their creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;
- (g) shall report to the Court on the state of the business and financial affairs of the Applicants or developments in these proceedings or any related proceedings within the time limits set forth in the CCAA and at such time as considered appropriate by the Monitor or as the Court may order;
- (h) shall report to this Court and interested parties, including but not limited to creditors affected by the Plan, with respect to the Monitor's assessment of, and recommendations with respect to, the Plan;

- (i) may retain and employ such agents, advisers and other assistants as are reasonably necessary for the purpose of carrying out the terms of this Order, including, without limitation, one or more entities related to or affiliated with the Monitor;
- (j) may engage legal counsel to the extent the Monitor considers necessary in connection with the exercise of its powers or the discharge of its obligations in these proceedings and any related proceeding, under this Order or under the CCAA;
- (k) may act as a “foreign representative” of the Applicants or in any other similar capacity in any insolvency, bankruptcy or reorganisation proceedings outside of Canada and may engage legal counsels in the relevant jurisdiction to the extent that the Monitor considers necessary in its capacity as “foreign representative” or in any other similar capacity;
- (l) may give any consent or approval as may be contemplated by this Order or the CCAA; and
- (m) may perform such other duties as are required by this Order or the CCAA or by this Court from time to time.

Unless expressly authorized to do so by this Court, the Monitor shall not otherwise interfere with the business and financial affairs carried on by the Applicants, and the Monitor is not empowered to take possession of the Property nor to manage any of the business and financial affairs of the Applicants.

- 41. **ORDERS** that the Applicants and their Directors, officers, employees and agents, accountants, auditors and all other Persons having notice of this Order shall forthwith provide the Monitor with unrestricted access to all of the Business and Property, including, without limitation, the premises, books, records, data, including data in electronic form, and all other documents of the Applicants in connection with the Monitor’s duties and responsibilities hereunder.
- 42. **DECLARES** that the Monitor may provide creditors and other relevant stakeholders of the Applicants with information in response to requests made by them in writing addressed to the Monitor and copied to the Applicants’ counsel. In the case of information that the Monitor has been advised by the Applicants is confidential, proprietary or competitive, the Monitor shall not provide such information to any Person without the consent of the Applicants unless otherwise directed by this Court.
- 43. **DECLARES** that if the Monitor, in its capacity as Monitor, carries on the business of the Applicants or continues the employment of the Applicants’ employees, the Monitor shall benefit from the provisions of section 11.8 of the CCAA.
- 44. **DECLARES** that no action or other proceedings shall be commenced against the Monitor relating to its appointment, its conduct as Monitor or the carrying out the provisions of any order of this Court, except with prior leave of this Court, on at least seven (7) days notice to the Monitor and its counsel. The entities related to or affiliated with the Monitor shall also be entitled to the protection, benefits and privileges afforded to the Monitor pursuant to this paragraph.

45. **ORDERS** that the Applicants shall pay the reasonable fees and disbursements of the Monitor, the Monitor's legal counsel, the Applicants' legal counsels and other advisers, directly related to these proceedings, the Plan and the Restructuring, whether incurred before or after this Order, and shall provide each with a reasonable retainer in advance on account of such fees and disbursements, if so requested.
46. **DECLARES** that the Monitor, the Monitor's legal counsel, the Applicants' legal counsels and the Monitor and the Applicants' respective advisers, as security for the professional fees and disbursements incurred both before and after the making of this Order and directly related to these proceedings, the Plan and the Restructuring, be entitled to the benefit of and are hereby granted a charge and security in the Property to the extent of the aggregate amount of \$1M (the "**Administration Charge**"), having the priority established by paragraphs 47 and 48 of this Order.

PRIORITIES AND GENERAL PROVISIONS RELATING TO THE CCAA CHARGES

47. **DECLARES** that the priorities of the Administration Charge, the Directors' Charge, the Transaction Charge (as defined in the *Order Approving a Sale and Investment Solicitation Process and Approving a Stalking Horse Agreement of Purchase and Sale*) and the Interim Lender Charge (collectively, the "**CCAA Charges**"), as between them, with respect to any Property to which they apply, shall be as follows:
 - (a) First, the Administration Charge;
 - (b) Second, the Directors' Charge;
 - (c) Third, the Transaction Charge; and
 - (d) Fourth, the Interim Lender Charge.
48. **DECLARES** that each of the CCAA Charges shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, deemed trusts, encumbrances or security of whatever nature or kind (collectively, the "**Encumbrances**") affecting the Property charged by such Encumbrances.
49. **ORDERS** that, except as otherwise expressly provided for herein, the Applicants shall not seek to grant any Encumbrances in or against any Property that rank in priority to, or *pari passu* with, any of the CCAA Charges unless the Applicants obtain the prior written consent of the Monitor and the prior approval of the Court.
50. **DECLARES** that each of the CCAA Charges shall attach, as of the Effective Time, to all present and future Property of the Applicants, notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent.
51. **DECLARES** that each of the CCAA Charges and the rights and remedies of the beneficiaries of such Charges, shall be valid and enforceable and shall not otherwise be limited or impaired in any way by: (i) these proceedings and the declaration of insolvency made herein; (ii) any application for a bankruptcy order filed pursuant to the BIA in respect of the Applicants or any bankruptcy order made pursuant to any such application or any assignment in bankruptcy made or deemed to be made in

respect of the Applicants; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any agreement, lease, sub-lease, offer to lease or other arrangement which binds the Applicants (a "**Third Party Agreement**"), and notwithstanding any provision to the contrary in any Third Party Agreement:

- (a) the creation of any of the CCAA Charges shall not create or be deemed to constitute a breach by the Applicants of any Third Party Agreement to which it is a party; and
 - (b) any of the beneficiaries of the CCAA Charges shall not have liability to any Person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the CCAA Charges.
52. **DECLARES** that notwithstanding: (i) these proceedings and any declaration of insolvency made herein; (ii) any application for a bankruptcy order filed pursuant to the BIA in respect of the Applicants and any bankruptcy order allowing such application or any assignment in bankruptcy made or deemed to be made in respect of the Applicants; and (iii) the provisions of any federal or provincial statute, the payments or disposition of Property made by the Applicants pursuant to this Order and the granting of the CCAA Charges, do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances, preferential payments, transfers at under value or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law.
53. **DECLARES** that the CCAA Charges shall be valid and enforceable as against all Property of the Applicants and against all Persons, including, without limitation, any trustee in bankruptcy, receiver, receiver and manager or interim receiver of the Applicants, for all purposes.

HEARING SCHEDULING AND DETAILS

54. **ORDERS** that, subject to further Order of this Court, all applications in these CCAA proceedings are to be brought on not less than five (5) calendar days' notice to all Persons on the service list prepared by the Monitor or counsel for the Monitor in connection with these CCAA proceedings (the "**Service List**"). Each application shall specify a date (the "**Initial Return Date**") and time (the "**Initial Return Time**") for the hearing.
55. **ORDERS** that any Person wishing to object to the relief sought on an application in these CCAA proceedings must serve responding materials or a notice stating the objection to the application and the grounds for such objection (a "**Notice of Objection**") in writing to the moving party, the Applicants and the Monitor, with a copy to all Persons on the Service List, no later than 5 P.M. on the date that is three (3) calendar days prior to the Initial Return Date (the "**Objection Deadline**").
56. **ORDERS** that, if no Notice of Objection is served by the Objection Deadline, the Judge having carriage of these proceedings (the "**Presiding Judge**") may determine: (a) whether a hearing is necessary; (b) whether such hearing will be in person, by videoconference, by telephone or by written submissions only; and (c) the parties from whom submissions are required (collectively, the "**Hearing**

Details”). In the absence of any such determination, a hearing will be held in the ordinary course.

57. **ORDERS** that, if no Notice of Objection is served by the Objection Deadline, the Monitor shall communicate with the Presiding Judge regarding whether a determination has been made by the Presiding Judge concerning the Hearing Details. The Monitor shall thereafter advise the Service List of the Hearing Details and the Monitor shall report upon its dissemination of the Hearing Details to the Court in a timely manner, which may be contained in the Monitor's next report in these proceedings.
58. **ORDERS** that, if a Notice of Objection is served by the Objection Deadline, the interested parties shall appear before the Presiding Judge on the Initial Return Date at the Return Time, or such earlier or later time as may be directed by the Court, to, as the Court may direct: (a) proceed with the hearing on the Initial Return Date and at the Initial Return; or (b) establish a schedule for the delivery of materials and the hearing of the contested application and such other matters, including interim relief, as the Court may direct.

GENERAL

59. **ORDERS** that no Person shall commence, proceed with or enforce any Proceedings against any of the Directors, employees, legal counsel or financial advisers of the Applicants or of the Monitor in relation to the Business or Property of the Applicants, without first obtaining leave of this Court, upon five (5) days written notice to the Applicants' counsel and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.
60. **DECLARES** that this Order and any proceeding or affidavit leading to this Order, shall not, in and of themselves, constitute a default or failure to comply by the Applicants under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.
61. **DECLARES** that, except as otherwise specified herein, the Applicants and the Monitor are at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective given addresses as last shown on the records of the Applicants and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
62. **DECLARES** that the Applicants and any party to these proceedings may serve any court materials in these proceedings on all represented parties electronically, by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that the Applicants shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.
63. **ORDERS** that Exhibit P-14, Exhibit P-15 and Exhibit P-21 to the Application shall be filed under seal and kept confidential until further order of this Court.

64. **DECLARES** that, unless otherwise provided herein, under the CCAA, or ordered by this Court, no document, order or other material need be served on any Person in respect of these proceedings, unless such Person has served a Notice of Appearance on the solicitors for the Applicants and the Monitor and has filed such notice with this Court, or appears on the Service List, save and except when an order is sought against a Person not previously involved in these proceedings.
65. **DECLARES** that the Applicants or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of this Order on notice only to each other.
66. **DECLARES** that this Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
67. **DECLARES** that the Monitor, with the prior consent of the Applicants, shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which the Monitor shall be the foreign representative of the Applicants. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.
68. **REQUESTS** the aid and recognition of any Court or regulatory or administrative body in any Province of Canada and any Canadian federal court or regulatory or administrative body as well as any federal or state court or regulatory or administrative body in the United States of America and any court or regulatory or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.
69. **DECLARES** that, for the purposes of any application to any foreign court or regulatory or administrative body, the Applicants' centre of main interest is located in the Province of Quebec, Canada.
70. **ORDERS** the provisional execution of this Order notwithstanding any appeal.

MARIE-ANNE PAQUETTE, J.S.C.

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