

COURT FILE NUMBERS 25-2386427
25-2386434

COURT COURT OF QUEEN'S BENCH OF
ALBERTA IN BANKRUPTCY AND
INSOLVENCY

JUDICIAL CENTRE CALGARY

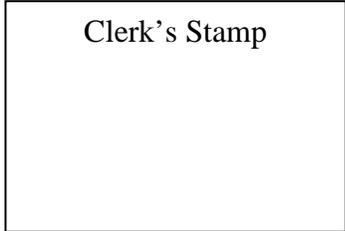
APPLICANT IN THE MATTER OF THE DIVISION I PROPOSAL
PROCEEDINGS OF ASPEN AIR CORPORATION
and ASPEN AIR U.S. CORP.

DOCUMENT **APPLICATION – SALE APPROVAL AND
VESTING**

ADDRESS FOR SERVICE AND CONTACT McMillan LLP
Suite 1700, 421 - 7 Avenue S.W.
INFORMATION OF PARTY Calgary, AB T2P 4K9
FILING THIS DOCUMENT Phone: 403-531-4700
Fax: 403-531-4720
Attention: Adam Maerov
Phone: 403-215-2752
Email: adam.maerov@mcmillan.ca

Attention: Kourtney Rylands
Phone: 403-355-3326
Email: kourtney.rylands@mcmillan.ca

File No. 258090



NOTICE TO RESPONDENT(S)

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the master/judge. To do so, you must be in Court when the application is heard as shown below:

Date:	November 19, 2018
Time:	1:30 PM
Where:	Calgary Courts Center
Before Whom:	Justice K. M. Horner

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

Remedy Claimed or Sought: Aspen Air Corporation (“**Aspen Air**”) and Aspen Air U.S. Corp. (“**Aspen Air US**” and together, the “**Aspen Companies**”) apply for an Order, substantially in the form attached as Schedule “A” hereto:

1. Declaring that the Application is properly returnable on November 19, 2018, that service of the Application and the affidavit of Onkar Dhaliwal, sworn on November 9, 2018, on the service list created and maintained in respect of the within proceedings (the “**Service List**”) is validated, good and sufficient and that no persons other than those on the Service List are entitled to service of the materials filed in connection with the within Application.
2. Approving the Agreement of Purchase and Sale between Aspen Air US (the “**Vendor**”) and Aspen Air U.S. LLC (the “**Purchaser**”) for the sale of substantially all of the assets of Aspen Air US to Aspen Air U.S. LLC (the “**Purchase and Sale Agreement**”), the sale and vesting of the purchased assets as contemplated therein, and the assumption and assignment of other agreements related thereto (the “**Invico Transaction**”).
3. Establishing a cash reserve to be held by the Proposal Trustee (as defined below) or any trustee in bankruptcy that may be appointed in respect of either or both of the Aspen Companies in trust for the benefit of persons entitled to be paid amounts secured by the Administration Charge, the D&O Charge (each as defined below) and amounts sufficient to fund the costs of administration of any bankruptcy of either or both of the Aspen Companies.
4. Ordering that upon the delivery of a Proposal Trustee’s certificate to the Purchaser all of the vendor’s right, title and interest in and to the assets described in the Purchase and Sale

Agreement (the “**Assets**”) shall vest absolutely in the name of the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, encumbrances, other financial or monetary claims, or interests, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and whether by payment, set off or otherwise.

5. Ordering that under no circumstances shall the Purchaser be deemed a successor of or to the Vendor for any claims of any kind or nature whatsoever against or in the Vendor or the Assets, other than as expressly agreed to by Purchaser in the Purchase and Sale Agreement. Following the delivery of the Proposal Trustee’s Certificate, no person with a claim shall interfere with the Purchaser’s title to or use and enjoyment of the Assets based on or related to such claim or any actions that the Vendor may take in the within proceedings.

6. Authorizing the Vendor and the Proposal Trustee to take all necessary steps and to execute and deliver all such conveyance documents, bills of sale, assignments, conveyances, transfers, deeds, representations, indicia of title, tax elections, documents and instruments of whatsoever nature or kind, to register or file any such documents or notices thereof with any office of registration or recording, and for the conveyance of the Assets to the Purchaser, as may be reasonably necessary or desirable to consummate the Invico Transaction in accordance with the terms of the Purchase and Sale Agreement.

7. Requesting 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 the Order and to assist the Vendor, the Proposal Trustee and their agents in carrying out the terms of the Order.

8. Ordering and declaring that the Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.

9. Such further and other relief as counsel for the Applicants may advise and this Honourable Court may permit.

Grounds for Making this Application: The grounds for the Application are as follows:

10. Each of Aspen Air and Aspen Air US filed Notices of Intention to Make a Proposal under Subsection 50.4(1) of the *Bankruptcy and Insolvency Act* (the “**NOIs**”) on June 6, 2018. Deloitte Restructuring Inc. (the “**Proposal Trustee**”) was named as Proposal Trustee of Aspen Air and Aspen Air US (the “**Proposal Proceedings**”).
11. Pursuant to the initial order of Justice G.A. Campbell granted on June 26, 2018 (the “**Initial Order**”), the Court approved, among other things:
 - (a) a first ranking Administration Charge to secure payment of the fees and expenses of counsel to the Aspen Companies, the Proposal Trustee and counsel to the Proposal Trustee up to CAD \$150,000 (the “**Administration Charge**”);
 - (b) a second ranking charge to secure payment of the interim financing approved by the Initial Order up to CAD \$250,000, which was amended to CAD \$750,000 by the Order of Justice A.D. Macleod granted October 3, 2018 (the “**DIP Charge**”). The DIP Charge secures the repayment of the interim financing granted by Invico Diversified Income Fund Limited Partnership (“**Invico**”) to the Aspen Companies (the “**Invico Interim Financing**”).
 - (c) a third ranking charge to secure payment of the indemnity granted by the Aspen Companies to the directors and officers of the Aspen Companies in the amount of CAD \$150,000 (the “**D&O Charge**”); and
 - (d) the implementation of a Sale and Investor Solicitation Process pursuant to which bids would be solicited for the purchase of the undertakings, property and assets of the Aspen Companies or for an investment in the Aspen Companies (the “**SISP**”).

12. The Initial Order also authorized the Proposal Trustee to act as foreign representative in the United States Bankruptcy Court and to seek an Order recognizing the Proposal Proceedings as foreign main proceedings under Chapter 15 of the United States Bankruptcy Code.
13. Pursuant to a motion brought by the Proposal Trustee the Proposal Proceedings were recognized by the United States Bankruptcy Court for the District of Montana as foreign main proceedings under Chapter 15 of the US Bankruptcy Code on August 1, 2018. The contents of the Initial Order and subsequent Orders were also recognized under Chapter 15 of the US Bankruptcy Code (the “**Recognition Proceedings**”).
14. Subsequent to the granting of the Initial Order, the first secured lender of the Aspen Companies, ATB Financial, assigned all of its debt and security to CF Capital Corporation (the “**CF Security**”). CF Capital Corporation had also previously agreed to provide interim financing (the “**DIP**”) to the Aspen Companies. Pursuant to the Order of Justice D.B. Nixon granted August 15, 2018 (the “**CF Payout Order**”), the Court authorized the Aspen Companies to borrow funds from Invico to repay all amounts owing to CF Capital Corporation. The CF Payout Order also authorized and approved the assignment of the CF Security to Invico, the Invico Interim Financing and an amendment to the DIP Charge to refer to Invico rather than CF Capital Corporation. Invico is now the first secured creditor and DIP lender of the Aspen Companies.

The Sale and Investor Solicitation Process

15. Pursuant to the Initial Order the Aspen Companies engaged the financial advisor, Whitehorn Capital (the “**Financial Advisor**”), to implement the SISP.
16. The SISP was initiated on August 10, 2018, pursuant to which the Financial Advisor:
 - (a) published notice of the SISP in the Globe and Mail, a national Canadian newspaper, on August 14, 2018;
 - (b) prepared an initial teaser sale document;
 - (c) developed an initial listing of potential bidders;

- (d) prepared and delivered an information memorandum which summarized the acquisition opportunity and delivered such memorandum to 54 potential bidders;
 - (e) established and maintained an electronic data room;
 - (f) prepared confidentiality agreements to be executed by potential bidders; and
 - (g) granted five parties who executed confidentiality agreements access to the data room and the opportunity to conduct due diligence discussions with management of the Aspen Companies and in certain instances site visits of the real and personal property of Aspen Air US in Montana.
17. The Financial Advisor received multiple non-binding indications of interest on the Phase I Bid Deadline of September 18, 2018.
18. The Financial Advisor, with the assistance of the Proposal Trustee and the Aspen Companies, determined that of the non-binding indications of interest received from interested parties on or before the Phase I Bid Deadline, only one party met the criteria to be a Qualified Phase II Bidder.
19. On October 1, 2018, the Financial Advisor delivered correspondence to Invico advising that Invico was determined to be a Qualified Phase II Bidder pursuant to the provisions of the SISP.
20. Since October 3, 2018, the Aspen Companies have worked with Invico to negotiate a transaction.

Purchase and Sale Agreement

21. Aspen Air US, as vendor, and Aspen Air U.S. LLC, an assignee of Invico, as purchaser (the “**Purchaser**”), entered into the Purchase and Sale Agreement dated November 9, 2018.
22. The Purchase and Sale Agreement provides for, among other things:

- (a) the purchase by the Purchaser of all of the undertaking, property and assets of Aspen Air US, the purchase price of which is to be satisfied by:
 - (i) the set-off, by the Purchaser, of the amounts outstanding under:
 - (1) the Invico Facility;
 - (2) the Invico Interim Financing;
 - (3) certain leases between Invico and Aspen Air US;
 - (ii) the assumption, by the Purchaser, of the Assumed Obligations (as defined in the Purchase and Sale Agreement);
 - (iii) the assumption, by Aspen Air US, of the Invico Sub Debt (as defined in the Purchase and Sale Agreement) in consideration for the release of an equivalent amount of intercompany debt currently owing by Aspen Air US to Aspen Air; and
 - (iv) the Purchaser paying, in cash, an amount sufficient to satisfy any liabilities and obligations secured by the Administration Charge and amounts required to fund the bankruptcy proceedings of the Aspen Companies.

23. The Assumed Obligations consist of:

- (i) any cure amounts required to assign certain contracts from Aspen Air US to the Purchaser;
- (ii) the ordinary course unsecured liabilities of Aspen Air US's trade creditors for goods purchased by or services rendered to Aspen Air US prior to the closing of the Purchase and Sale Agreement;
- (iii) liabilities for employees who receive and accept offers of employment from the Purchaser; and

- (iv) municipal realty tax liabilities accrued against the real and personal property that comprise the real and personal property of Aspen Air US in Montana.
- 24. The Invico Sub Debt consists of units of subordinated securities issued by Aspen Air consisting of 254 units, under which there was and remains outstanding USD \$2,344,911 in principal and USD \$1,070,840 in accrued interest.
- 25. Aspen Air US is party to a significant number of executory contracts and unexpired leases (collectively, the “**Assigned Contracts**”). The Purchase and Sale Agreement contemplates that these Assigned Contracts will be assigned by Aspen Air US to the Purchaser. The Aspen Companies are not aware of any cure costs which would be payable with respect to the Assigned Contracts. The assignment of the Assigned Contracts is a critical component of the Purchase and Sale Agreement and the Purchaser has advised that it is prepared to and capable of performing all obligations owing on the Assigned Contracts.
- 26. Due to the results of the SISP, the Aspen Companies, supported by the Proposal Trustee, are of the view that the Purchase and Sale Agreement is in the best interests of the estate and the stakeholders of Aspen Air US, and should be approved for the following reasons:
 - (a) the SISP was approved by the Initial Order and recognized pursuant to the Recognition Proceedings;
 - (b) the Proposal Trustee supported the SISP;
 - (c) the SISP was implemented and conducted by a third party Financial Advisor;
 - (d) the SISP exposed the assets of the Aspen Companies to market testing in a commercially reasonable and fair manner;
 - (e) the SISP and the marketing efforts conducted pursuant to the SISP balanced the economic realities of the Aspen Companies with the need to design and implement a sales process to maximize the value of the assets of the Aspen Companies for all stakeholders;

- (f) the Financial Advisor and the Aspen Companies determined that Invico was the only Qualified Phase II Bidder;
 - (g) the Purchase and Sale Agreement will ensure the continuation of the business of the Aspen Companies in a restructured format, and continued employment for Aspen Air US employees; and
 - (h) the Proposal Trustee has advised that the Invico Transaction represents a better result than a liquidation of the assets of Aspen Air US under a bankruptcy.
27. Pursuant to the Purchase and Sale Agreement the closing of the Invico Transaction is conditional upon, among other things:
- (a) each counterparty to an Assigned Contract deemed critical to the Purchaser either not objecting, or consenting, as required, to the assignment of the applicable Assigned Contract;
 - (b) the Purchaser accepting the aggregate amount of the Assumed Obligations;
 - (c) acceptance of the Purchaser's offer of employment by each employee deemed critical by the Purchaser;
 - (d) the disclaimer by Aspen Air US of all Benefit Plans (as defined in the Purchase and Sale Agreement);
 - (e) the Assumed Obligations not exceeding the Cure Amount Cap (as defined in the Purchase and Sale Agreement); and
 - (f) Aspen Air US entering into an agreement with Invico under which it assumes the obligations of Aspen Air under the Invico Sub Debt, Aspen Air ceases to be liable for the Invico Sub Debt, and the Invico Sub Debt is amended to be convertible into shares in the capital of the Purchaser.
28. The sale of the Assets in accordance with the terms and conditions of the Purchase and Sale Agreement represents the highest and best value for Aspen Air US and its creditors,

and the approval of the transactions contemplated by the Purchase and Sale Agreement, including the sale of the Assets free and clear of all liens, is critical to achieving this result.

29. Such further and other grounds as counsel for the Aspen Companies may advise and this Honourable Court may permit.

Material or Evidence to be Relied On: The Applicants will rely on the following evidence:

30. The Affidavit of Onkar Dhaliwal, sworn on November 9, 2018.

31. The Fourth Report of the Proposal Trustee, filed; and

32. Such further and other evidence as counsel for the Applicants may advise.

Applicable Rules:

33. Rules 6.28, 6.3(1), 6.9, 11.27 of the Alberta Rules of Court; and

34. Such further and other rules as counsel for the Applicants may advise and this Honourable Court may permit.

Applicable Acts and Regulations:

35. The *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, section 50.4(9) and 50.6; and

36. Such further and other acts and regulations as counsel for the Applicants may advise and this Honourable Court may permit.

Any Irregularity Complained of or Objection Relied On:

37. There are no irregularities complained of, or objections relied on.

How the Application is Proposed to be Heard or Considered:

38. The Applicants propose that the Application be heard in person with one, some, or all of the parties present.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicants.

SCHEDULE "A"

Please see attached.

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DOCUMENT APPROVAL AND VESTING ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McMILLAN LLP
1700, 421 – 7th Avenue SW
Calgary, AB T2P 4K9
Attention: Adam C. Maerov
Phone: 403.215.2752
Fax: 403.531.4720
Email: adam.maerov@mcmillan.ca
File: 258090

DATE ON WHICH ORDER WAS PRONOUNCED: _____

LOCATION WHERE ORDER WAS PRONOUNCED: _____

Calgary Courts Centre

NAME OF JUSTICE WHO MADE THIS ORDER: _____

UPON THE APPLICATION by Aspen Air Corporation and Aspen Air U.S. Corp. (collectively, the "Aspen Entities") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale dated November 9, 2018 (the "Sale Agreement") between Aspen Air U.S. Corp. (the "Vendor") and Aspen Air U.S., LLC (the "Purchaser"), a copy of which is attached as Exhibit "•" to the Affidavit of Onkar Dhaliwal, sworn November •, 2018 (the "Dhaliwal Affidavit"), and vesting in the Purchaser the Vendor's right, title and interest in and to the assets described in the Sale Agreement (the "Assets");

AND UPON HAVING READ the Dhaliwal Affidavit, the Reports filed by the proposal trustee, Deloitte Restructuring Inc. (the “**Proposal Trustee**”), the Affidavit of Service of ●, sworn ●, 2018 and all other material and evidence filed to date in the within proceedings; **AND UPON HEARING** the submissions of counsel for the Vendor, the Purchaser, the Proposal Trustee and other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE AND DEFINITIONS

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, and no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.
2. Unless otherwise defined in this Order, all capitalized terms used in this Order shall have the meanings given to them in the Sale Agreement.

APPROVAL OF TRANSACTION

3. The Transaction is hereby approved, and the execution of the Sale Agreement by the Vendor is hereby authorized and approved, with such minor amendments as the Vendor and the Purchaser may agree. The Transaction is in the best interests of the Vendor, its creditors and its other stakeholders, and therefore the Sale Agreement and the Transaction contemplated thereby is authorized, ratified, deemed commercially reasonable and approved.

CASH RESERVE

4. On the Closing Date, a cash reserve in the amount of \$● shall be established using funds from the Purchaser (the “**Cash Reserve**”), which Cash Reserve shall be held by the Proposal Trustee or any trustee in bankruptcy that may be appointed in respect of either or both of the Aspen Companies (a “**Cash Reserve Trustee**”) in a segregated account (“**Cash Reserve Account**”) in trust for the benefit of Persons entitled to be paid the Cash Reserve Costs, defined below, for the purpose of paying the Cash Reserve Costs in accordance with this Order.
5. The Cash Reserve Costs shall consist of the amounts outstanding on the Closing Date or, to the extent expressly provided below, arising thereafter, on account of the following things:

- (a) amounts secured by the Administration Charge (as defined in the the Order granted in these proceedings on June 26, 2018 (the "Initial Order")), the D&O Charge (as defined in the Initial Order and including, for greater certainty, claims for wages indirectly secured by the D&O Charge that accrue prior to the Closing Date); and
- (b) an amount sufficient to fund the costs of administration of any bankruptcy of either or both of the Aspen Companies

(collectively, the "**Cash Reserve Claims**");

but in each case, only to the extent that such Cash Reserve Claims are not paid by the Aspen Companies or to the extent Purchaser so elects to assume such liabilities on the Closing Date as permitted by the Sale Agreement.

6. The Cash Reserve Trustee shall, from time to time after the Closing Date, reduce the amount of the Cash Reserve as and to the extent that the Cash Reserve Trustee and Purchaser agree, or this Court determines, that it, or portions of it, are no longer required to satisfy Cash Reserve Costs by distributing to the Purchaser the amount of such reductions. All right, title and interest in any amounts in the Cash Reserve Account that are not used to pay Cash Reserve Costs in accordance with this Order shall vest absolutely in the Purchaser as at the Closing Date and shall be paid to the Purchaser in accordance with this paragraph.

VESTING OF PROPERTY

7. Upon the delivery of a Proposal Trustee's certificate to the Purchaser substantially in the form and substance set out in Schedule "A" hereto (the "**Proposal Trustee's Certificate**"), all of the Vendor's right, title and interest in and to the Assets described in the Sale Agreement shall vest absolutely in the name of the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, caveats, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, encumbrances, other financial or monetary claims, or interests, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise, and whether by payment, set off or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Order granted in these proceedings on June 26, 2018; and

- (b) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act (Alberta), the *Uniform Commercial Code* (United States) or any other personal property registry system,

(all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances as defined in the Sale Agreement). For greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Assets are hereby expunged and discharged as against the Assets.

8. The Purchaser is authorized to file, register or otherwise record a certified copy of this Order and the Proposal Trustee’s Certificate with the appropriate filing office, agency, clerk(s) and/or recorder(s), including without limitation in the location of the Assets within Canada and/or the United States, which, once filed, registered or otherwise recorded, shall constitute conclusive evidence of the sale of the Assets free and clear from any and all Claims, including the release of all liens, claims, encumbrances and interests in the Assets as of the Closing Date (as defined in the Sale Agreement) of any kind or nature whatsoever, and any registrar or other person in control or otherwise supervising any register or office of registration or recording is hereby authorized and directed to transfer, convey and assign the Assets to the Purchaser and delete any Claims or Encumbrances.

9. Under no circumstances shall the Purchaser be deemed a successor of or to the Vendor for any Claims of any kind or nature whatsoever against or in the Vendor or the Assets, other than as expressly agreed to by Purchaser in the Sale Agreement. Following the delivery of the Proposal Trustee’s Certificate, no person with a Claim shall interfere with the Purchaser’s title to or use and enjoyment of the Assets based on or related to such Claim or any actions that the Vendor may take in the within proceedings.

10. The Vendor and the Proposal Trustee are each authorized and directed to take all necessary steps and to execute and deliver all such conveyance documents, bills of sale, assignments, conveyances, transfers, deeds, representations, indicia of title, tax elections, documents and instruments of whatsoever nature or kind, to register or file any such documents or notices thereof with any office of registration or recording, and for the conveyance of the Assets to the Purchaser, as may be reasonably necessary or desirable to consummate the Transaction in accordance with the term of the Sale Agreement.

11. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Assets shall stand in the place and stead of the Assets, and from and after the delivery of the Proposal Trustee’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the

Assets with the same priority as they had with respect to the Assets immediately prior to the sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

12. The Purchaser shall, by virtue of the completion of the Transaction, have no liability of any kind whatsoever in respect of any Claims against the Vendor.

13. The Vendor and all persons who claim by, through or under the Vendor in respect of the Assets, save and except for the persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely barred and foreclosed from all estate, right, title, interest, royalty, rental and equity of redemption of the Assets and, to the extent that any such persons remains in possession or control of any of the Assets, they shall forthwith deliver possession thereof to the Purchaser.

14. The Purchaser shall be entitled to enter into and upon, hold and enjoy the Assets for its own use and benefit without any interference of or by the Vendor, or any person claiming by or through or against the Vendor.

15. The Purchaser shall be authorized, as of the Closing Date, to operate under any Governmental Authority (as defined in the Sale Agreement), license, permit, registration and authorization or approval of or given to the Vendor with respect to the Assets, and all such licenses, permits, registrations and authorizations and approvals shall be and shall be deemed to have been transferred to the Purchaser as of the Closing Date.

16. The Proposal Trustee is to file with the Court a copy of the Proposal Trustee's Certificate, forthwith after delivery thereof to the Purchaser.

17. Pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and section 20(e) of the *Alberta Personal Information Protection Act*, the Vendor is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information pertaining to its past and current employees, including personal information of those employees listed in the Sale Agreement, The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Vendor.

18. 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 an Aspen Entity and any bankruptcy order issued pursuant to any such applications;
- (c) any assignment in bankruptcy made in respect of an Aspen Entity; and
- (d) the provisions of any federal, provincial or state statute;

the vesting of the Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any Aspen Entity and shall not be void or voidable by creditors of any Aspen Entity, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

19. Provided that the Sale Agreement has not been terminated in accordance with its terms, any proposal or arrangement that may be filed by any Aspen Entity in these shall not derogate or otherwise affect any right or obligation of the Vendor or the Purchaser under the Sale Agreement unless otherwise agreed by the Vendor or the Purchaser. The Sale Agreement and any ancillary documents related thereto shall not be repudiated, disclaimed or otherwise compromised in these proceedings.

20. The Proposal Trustee, the Vendor, and the Purchaser shall be at liberty to apply for further advice, assistance and directions as maybe necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

MISCELLANEOUS MATTERS

21. 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 Vendor, the Proposal Trustee and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders as to provide such assistance to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable

to give effect to this Order or to assist the Vendor, the Proposal Trustee and their agents in carrying out the terms of this Order.

22. This Order must be served only upon those interested parties attending or represented at the within application and service may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following the transmission or delivery of such documents.

23. Service of this Order on any party not attending this application is hereby dispensed with.

J.C.C.Q.B.A.