

Clerk's Stamp:

COURT FILE NUMBER	2501-02606
COURT	COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF	CALGARY
MATTER	IN THE MATTER OF THE <i>COMPANIES' CREDITORS ARRANGEMENT ACT</i> , R.S.C. 1985, c. C-36, as amended
	AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF ROYAL HELIUM LTD., IMPERIAL HELIUM CORP., AND ROYAL HELIUM EXPLORATION LIMITED.
APPLICANTS:	ROYAL HELIUM LTD., IMPERIAL HELIUM CORP., AND ROYAL HELIUM EXPLORATION LIMITED.
DOCUMENT	<u>CCAA INITIAL ORDER</u>
CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:	Reconstruct LLP 80 Richmond Street West Suite 1700 Toronto, ON, CA M5H 2A4 Caitlin Fell / Sharon Kour Tel: 416.613.8282 / 416.613.8283 Fax: 416.613.8290 Email: cfell@reconllp.com / skour@reconllp.com File No: 00482
DATE ON WHICH ORDER WAS PRONOUNCED:	February 19, 2025
NAME OF JUDGE WHO MADE THIS ORDER:	Justice D.R. Mah
LOCATION OF HEARING:	Edmonton, Alberta

UPON the application of Royal Helium Ltd., Imperial Helium Corp. and Royal Helium Exploration Limited (collectively, the "**Applicants**"); **AND UPON** having read the Originating Application, the Affidavit of David Young sworn February 10, 2025 (the "**Young Affidavit**"); and the Affidavit of Service of Alina Stoica sworn February 10, 2025; and the Affidavit of David Young sworn February 14, 2025 (the "**Second Young Affidavit**"); and the Affidavit of Service of Alina Stoica sworn February 14, 2025; **AND UPON** reading the consent of Alvarez & Marsal Canada

Inc. (“**A&M**”) to act as monitor (the “**Monitor**”); **AND UPON** being advised that the Applicants had previously commenced proceedings under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the “**BIA**”) in the Ontario Superior Court of Justice (Commercial List), having Court File Number BK-25-3176135-0031 (the “**NOI Proceedings**”) and that Grant Thornton Limited was appointed as the proposal trustee in the NOI Proceedings (“**Proposal Trustee**”), with the current stay under the NOI Proceedings scheduled to expire on April 2, 2025; **AND UPON** noting that, pursuant to an order of the Ontario Superior Court of Justice (Commercial List) dated January 29, 2025 (the “**Consolidation Order**”): (i) an Administration Charge (as defined in the Consolidation Order) was granted; and (ii) a debtor in possession facility (“**Original DIP Facility**”) was approved up to the maximum principal amount of \$1,500,000 and a corresponding DIP Lender’s Charge (as defined in the Consolidation Order, and referred to herein as the “**Original DIP Lender’s Charge**”) was granted in favour of Energy & Specialty Gases DIP, LLC (“**Original DIP Lender**”) over the Property (as defined herein); **AND UPON** noting that the secured creditors have been provided notice of this application and consent to the within Order; **AND UPON** reading the pre-filing report the Monitor dated February 18, 2025 (the “**Pre-Filing Report**”); **AND UPON** hearing counsel for the Applicants, counsel for the proposed Monitor, counsel for Canadian Western Bank (“**CWB**”), counsel for the Business Development Bank of Canada (“**BDC**”) and counsel to all other parties present;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE AND INTERPRETATION

1. The time for service of the application materials for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.
2. Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Young Affidavit.

APPLICATION

3. The Applicants are companies to which the *Companies’ Creditors Arrangement Act* R.S.C. , 1985, c. C-36 (the “**CCAA**”) applies.
4. This Order serves as both the Initial Order and the Amended and Restated Initial Order.

5. The NOI Proceedings are hereby taken up and continued under the CCAA pursuant to section 11.6(a) of the CCAA and the provisions of Part III of the BIA shall have no further application to the Applicants. The NOI Proceedings shall have no further force and effect, and are hereby terminated, save that any and all acts, steps, agreements and procedures validly taken, done or entered into by the Applicants during the NOI Proceedings shall remain valid, binding and actionable within these proceedings. For certainty, this includes approval of the fees and disbursements and activities of Grant Thornton Limited in its capacity as Proposal Trustee and the fees and disbursements of the Proposal Trustee's counsel in the NOI Proceedings. The Applicants are hereby directed and authorized to file a copy of this Order in the NOI Proceedings.
6. The Charges (as defined in the Consolidation Order) are hereby taken up and continued in these CCAA proceedings, subject to the amendments to such Charges described herein.

PLAN OF ARRANGEMENT

7. 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 (the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

8. The Applicants shall:
 - (a) remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**");
 - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property;
 - (c) be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and

- (d) be entitled to continue to utilize the central cash management system and reconciliation systems currently in place as described in the Young Affidavit.
- 9. To the extent permitted by law, the Applicants shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:
 - (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
 - (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order.
- 10. Except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:
 - (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
 - (b) payment for goods or services actually supplied to the Applicants following the date of this Order.
- 11. The Applicants shall remit, in accordance with legal requirements, or pay:
 - (a) any amount that was due or becomes due to His Majesty after January 17, 2025 and could be subject to a demand under,
 - (i) subsection 224(1.2) of the *Income Tax Act*;
 - (ii) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, an employee's premium, or employer's premium, as defined in

the *Employment Insurance Act*, or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts; or

- (iii) any provision of provincial legislation that has a purpose similar to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, and the sum:

- A. has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*; or

- B. is of the same nature as a contribution under the *Canada Pension Plan* if the province is a province providing a comprehensive pension plan as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a provincial pension plan as defined in that subsection;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicants 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, 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 that are attributable to or in respect of the carrying on of the Business by the Applicants.

- 12. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the

lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the date of this Order ("**Rent**"), but shall not pay any rent in arrears.

13. Except as specifically permitted in this Order, the Applicants are 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 Applicants to any of their creditors as of the date of this Order other than the payments approved and made pursuant to the Consolidation Order;
 - (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and
 - (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

14. The Applicants 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 portion of their business or operations and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$250,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicants (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
 - (b) terminate the employment of such of their employees or temporarily lay off such of their employees as it deems appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan;
 - (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deems appropriate, in accordance with section 32 of the CCAA; and

- (d) pursue all avenues of refinancing of their 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 Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

15. The Applicants shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicants’ 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 Applicants, or by further order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicants 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 Applicant’s claim to the fixtures in dispute.
16. 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 Applicants 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 Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein

shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

17. Until and including April 2, 2025 or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

18. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
- (a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment.
19. Nothing in this Order shall prevent any party from taking an action against the Applicants where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such

party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

20. During the Stay Period, no person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

21. During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicants, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, consulting services, insurance, transportation, services, utility, or other services to the Business or the Applicants

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued services, provided in each case that the usual charges for all such goods and services received after the date of this Order are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

22. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person, other than

the DIP Lenders (as defined herein) where applicable, 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 Applicants.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

23. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 20 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

APPOINTMENT OF MONITOR

24. A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein. The Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
25. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately

report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;

- (c) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (d) assist the Applicants, to the extent required by the Applicants, in their dissemination to the DIP Lenders (as defined herein) and their respective counsel;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicants or to perform its duties arising under this Order;
- (h) 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;
- (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

26. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other

contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. 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 federal or provincial environmental legislation.

27. The Monitor shall provide any creditor of the Applicants, the Original DIP Lender (up to and until the repayment of all obligations, liabilities, and indebtedness under the Original DIP Facility), and the DIP Lenders (as defined herein) with information provided by the Applicants 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 Applicants 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 Applicants may agree.
28. 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.

AMENDED ADMINISTRATION CHARGE

29. The Monitor, the Monitor's counsel, and the Applicants' counsel shall be paid their reasonable fees and disbursements incurred both before and after the granting of the Consolidation Order in the NOI Proceedings (including any pre-filing fees and disbursements related to these CCAA proceedings) and both before and after the granting of this Order, in each case at their standard rates and charges, as part of the costs of these proceedings.
30. The Monitor and its legal counsel shall pass their accounts from time to time.
31. The Monitor, the Monitor's counsel, and the Applicants' counsel, as security for the professional fees and disbursements incurred at the normal rates and charges both before and after the granting of this Order, shall be entitled to the benefits of the Administration

Charge on the Property granted in the Consolidation Order, that has been taken up and continued as part of these CCAA proceedings, which charge is hereby amended to include security for the professional fees and disbursements incurred by the Monitor and its counsel, and which charge shall not exceed the aggregate amount of \$300,000 (the **"Amended Administration Charge"**).

32. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, and counsel for the Applicants as such accounts are rendered using the proceeds of the Original DIP Facility and the New DIP Facility (as defined herein). The Monitor and its counsel shall be authorized to immediately apply any such payments made by the Applicants to their fees and disbursements and such amounts shall constitute advances against remuneration and disbursements when and as approved by this Court.
33. The Amended Administration Charge shall have the priority set out in paragraph 40 herein.

INTERIM FINANCING

34. The Applicants are hereby authorized and empowered to obtain and borrow under a credit facility (the **"New DIP Facility"**) from CWB and BDC (collectively, in such capacity, the **"DIP Lenders"**) in order to refinance the Original DIP Facility and to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, on and subject to the terms and conditions of the Term Sheet (as defined herein) substantially in the form attached as Appendix "E" to the Pre-Filing Report of the Monitor dated February 18, 2025, provided that borrowings under such credit facility shall not exceed \$2.5 million unless permitted by further order of this Court.
35. Such credit facility shall be on the terms and subject to the conditions set forth in the DIP Facility Term Sheet between the Applicants and the DIP Lenders dated as of January 19, 2025 (the **"Term Sheet"**), filed.
36. The Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs, and security documents, guarantees and other definitive documents (collectively, the **"Definitive Documents"**), as are contemplated by the Term Sheet or as may be reasonably required by the DIP Lenders

pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities, and obligations to the DIP Lenders under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

37. The Original DIP Lender's Charge under the Consolidation Order is hereby taken up and continued in the CCAA Proceedings, provided that such Original DIP Lender's Charge shall be and is hereby amended and restated (as so amended and restated, the **"Amended DIP Lenders' Charge"**) as follows:

- (a) the Original DIP Lender shall continue to be entitled to the full benefit of the Original DIP Lender's Charge, on the terms set forth in the Consolidation Order, up to and until such time as the Original DIP Lender is repaid, in full, with respect to all indebtedness, liabilities, and obligations of the Applicants to the Original DIP Lender under the Original DIP Facility (the **"Original DIP Obligations"**), from the proceeds of the New DIP Facility. From and after such time, the Original DIP Lender's Charge shall terminate in relation to the Original DIP Lender and the Original DIP Facility and shall instead apply to the DIP Lenders and the New DIP Facility, *mutatis mutandis*, as amended hereby. The Applicants are hereby authorized and directed to utilize a portion of the initial advance to be made under the New DIP Facility to repay such Original DIP Obligations and, for greater certainty, the DIP Lenders are hereby authorized, but not directed, to pay such amounts directly to the Original DIP Lender, for and on behalf of the Applicants, and any payment so made by the DIP Lenders shall be deemed to be an advance under the New DIP Facility, the Term Sheet, and the Definitive Documents;
- (b) subject to paragraph 37(a), the DIP Lenders shall be entitled to the benefits of and are hereby granted the Amended DIP Lenders' Charge on the Property, to secure all obligations under the New DIP Facility, the Term Sheet, and Definitive Documents incurred on or after the date of this Order, which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Amended DIP Lenders' Charge shall not secure any obligation existing before this the date this Order is made (provided, for

greater certainty, that all amounts advanced by the DIP Lenders to refinance the Original DIP Obligations shall be secured by such Amended DIP Lenders' Charge). The Amended DIP Lenders' Charge shall have the priority set out in paragraphs 40 and 42 hereof and the DIP Lenders shall each rank equally with respect to the Amended DIP Lenders' Charge; and

- (c) from the time of the first advance under the New DIP Facility, up to and until the actual time of repayment of the Original DIP Obligations, the DIP Lenders shall rank *pari passu* with the Original DIP Lender in respect of any advances made under the New DIP Facility and the Original DIP Facility, respectively.

38. Notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the Amended DIP Lenders' Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Term Sheet, the Definitive Documents or the Amended DIP Lenders' Charge, the DIP Lenders, upon five (5) days notice to the Applicants and the Monitor, may exercise any and all of their rights and remedies against the Applicants or the Property under or pursuant to the Term Sheet, the Definitive Documents, and the Amended DIP Lenders' Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lenders under the Term Sheet and the Definitive Documents to the Applicants, against the obligations of the Applicants to the DIP Lenders under the Term Sheet, the Definitive Documents, or the Amended DIP Lenders' Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and
- (c) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of

the Applicants or the Property.

39. The DIP Lenders shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the BIA, with respect to any advances made under the Term Sheet, the Definitive Documents, and the New DIP Facility.

VALIDITY AND PRIORITY OF CHARGES

40. The Administration Charge and Original DIP Lender's Charge created by the Consolidation Order are hereby taken up and continued in the CCAA proceedings and are amended as set out herein in the form of the Amended Administration Charge and the Amended DIP Lenders' Charge. The priorities of the Charges (defined below), as among them, shall be as follows:

- (a) **first** – the **Amended Administration Charge** in favour of the Monitor, its legal counsel, and the Applicants' legal counsel in respect of their fees and disbursements, up to the maximum amount of \$300,000; and
- (b) **second** – the **Amended DIP Lender's Charge** in favour of the DIP Lenders up to the maximum principal amount of \$2,500,000; provided that, until the repayment of the Original DIP Obligations, the Original DIP Lender's Charge shall continue to apply in favour of the Original DIP Lender and shall continue to be limited to the maximum principal amount of \$1,500,000,

(collectively, the "**Charges**").

41. The filing, registration or perfection of the Charges shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.
42. Each of the Charges shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or

otherwise (collectively, "**Encumbrances**") in favour of any Person.

43. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, CWB, BDC, and the beneficiaries of the Charges, or further order of this Court.
44. The Charges, the Term Sheet, and the Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") thereunder shall not otherwise be limited or impaired in any way by:
 - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
 - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
 - (d) the provisions of any federal or provincial statutes; or
 - (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") that binds any of the Applicants, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Term Sheet or the Definitive Documents, shall create or be deemed to constitute a new breach by any Applicant of any Agreement to which it is a

party;

- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicants entering into the Term Sheet, or the execution, delivery or performance of the Definitive Documents; and
- (iii) the payments made by the Applicant pursuant to this Order, including the Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

RELIEF FROM REPORTING OBLIGATIONS

- 45. The decision by the Applicants to incur no further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (collectively, the “**Securities Filings**”) that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act (Ontario)*, R.S.O., c. S.5 and comparable statutes enacted by other provinces of Canada, the TSX Company Manual and other rules, regulations and policies of the Toronto Stock Exchange and (collectively, the “**Securities Provisions**”), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of the Applicants failing to make any Securities Filings required by the Securities Provisions.
- 46. None of the directors, officers, employees, and other representatives of the Applicants nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filings required by the Securities Provisions during the Stay Period, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants.

ALLOCATION

47. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Charges amongst the various assets comprising the Property.

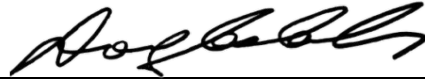
SERVICE AND NOTICE

48. The Monitor shall (i) without delay, publish in the Globe and Mail a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.
49. The Monitor shall establish or continue a case website in respect of the within proceedings (the “**Monitor’s Website**”).
50. The Applicants and the Monitor shall be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or e-mail to the Applicants’ creditors or other interested Persons at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery, facsimile transmission or e-mail shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.
51. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsel’s email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Monitor’s Website.

GENERAL

52. The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
53. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
54. 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 Applicants, the Business or the Property.
55. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.
56. Each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
57. Any interested party (including the Applicants 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.

58. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

A handwritten signature in black ink, appearing to be 'H. G. G.', written over a horizontal line.

Justice of the Court of King's Bench of Alberta