



No. Court File No. VLC-S-S-233209  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF SLP HOLDINGS LTD, STRUCTURLAM MASS  
TIMBER CORPORATION, STRUCTURLAM MASS TIMBER U.S., INC.,  
NATURAL OUTCOMES, LLC

APPLICATION OF SLP HOLDINGS LTD. UNDER SECTION 46 OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

**PETITION TO THE COURT**

**This proceeding has been started by the Petitioner for the relief set out in Part 1 below.**

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the Petitioner
  - (i) 2 copies of the filed response to petition, and
  - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

**Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.**

**TIME FOR RESPONSE TO PETITION**

A response to petition must be filed and served on the Petitioner,

- (a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you,

- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you, or
- (d) if the time for response has been set by order of the court, within that time.

1.	The address of the registry is:  The Law Courts 800 Smithe Street Vancouver, BC V6Z 2E1
2.	The ADDRESS FOR SERVICE of the Petitioner is:  Jonathan B. Ross Gowling WLG (Canada) LLP Suite 2300, 550 Burrard Street Vancouver, BC V6C 2B5  Fax number for delivery: N/A  E-mail address for service of the Petitioner: <a href="mailto:jonathan.ross@gowlingwlg.com">jonathan.ross@gowlingwlg.com</a> <a href="mailto:stephen.kroeger@gowlingwlg.com">stephen.kroeger@gowlingwlg.com</a>
3.	The Name and Office Address of the Petitioner's solicitor is as set out in the address for service above.

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION  
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The Petitioner's claim the right to serve this Petition on any affected person outside British Columbia on the grounds provided for in the following paragraphs of section 10 of the *Court Jurisdiction and Proceedings Transfer Act*:

- (a) concerns contractual obligations, and
  - (i) the contractual obligations, to a substantial extent, were to be performed in British Columbia,
  - (ii) by its express terms, the contract is governed by the law of British Columbia, or

- (iii) the contract
  - (A) is for the purchase of property, services or both, for use other than in the course of the purchaser's trade or profession, and
  - (B) resulted from a solicitation of business in British Columbia by or on behalf of the seller,
- (b) concerns a business carried on in British Columbia,
- (c) is a claim for an injunction ordering a party to do or refrain from doing anything
  - (i) in British Columbia, or
  - (ii) in relation to property in British Columbia that is immovable or movable property.

### **CLAIM OF THE FOREIGN REPRESENTATIVE**

#### **Part 1: ORDERS SOUGHT**

1. On April 24, 2023, SLP Holdings Ltd. (“**SLP**”), Structurlam Mass Timber Corporation formerly SLP Operations Ltd. (“**SMTC**”), Structurlam Mass Timber U.S., Inc. (“**SMTU**”) and Natural Outcomes, LLC (“**NOLLC**” and together with SLP, SMTC and SMTU, the “**Company**” or the “**Debtors**”) each commenced proceedings pursuant to Chapter 11 of Title 11 of the United States Code (the “**Chapter 11 Proceedings**”) in the United States Bankruptcy Court for the District of Delaware (the “**US Bankruptcy Court**”)
2. As part of the relief sought in the US Bankruptcy Court, SLP made a motion to act as the foreign representative (in such capacity, the “**Foreign Representative**”) of the Debtors by the US Bankruptcy Court in order to, among other things, bring this application pursuant to Part IV of the *Companies’ Creditors Arrangement Act*, R.S.C., c. C.1985 (the “**CCAA**”), for the following relief from this Court:
  - (a) An order substantially in the form attached as Schedule “A” hereto (the “**Initial Recognition Order**”) and other subsequent and related relief, the Initial Recognition Order to include, among other things:

- (i) declaring that SLP is the “foreign representative” of the Debtors as defined in section 45 of the CCAA;
  - (ii) recognizing the Chapter 11 Proceedings commenced by SMTU and NOLLC in the US Bankruptcy Court as “foreign main proceedings” under Part IV of the CCAA;
  - (iii) recognizing the Chapter 11 Proceedings commenced by SLP and SMTC in the US Bankruptcy Court as “foreign non-main proceedings” under Part IV of the CCAA; and
  - (iv) granting a stay of proceedings in respect of the Debtors and ordering the mandatory relief set out in section 48(1) of the CCAA and discretionary relief set out in section 49(1);
  - (v) such further and other Orders as this Honourable Court may deem appropriate;
- (b) An order substantially in the form attached as Schedule “B” hereto (the **“Supplemental Recognition Order”**) and other subsequent and related relief, the Supplemental Recognition Order to include, among other things:
- (vi) granting additional stays and protections in respect of the Debtors;
  - (vii) recognizing and enforcing certain Orders of the US Bankruptcy Court (the **“First Day Orders”**) in Canada;
  - (viii) appointing Alvarez & Marsal Canada Inc. (**“A&M”**) as information officer in respect of these proceedings (in such capacity, the **“Information Officer”**);
  - (ix) granting the Administration Charge (as defined below);
  - (x) granting the DIP Charge (as defined below);

- (c) If deemed advisable by the Debtors, an order for an interim stay of proceedings prior to the granting of the Initial Recognition Order,
- (d) Orders recognizing and enforcing future orders of the US Bankruptcy Court made in the Chapter 11 Proceedings; and
- (e) Such further and other Orders as this Honourable Court may deem appropriate.

## **Part 2: FACTUAL BASIS**

### **CAPITALIZED TERMS AND CURRENCY REFERENCES**

1. Additional capitalized terms used but not otherwise defined in this Petition have the meanings given to them in Affidavit #1 of Shawn Turkington, made April 25, 2023 (the Turkington Affidavit).
2. All references to monetary amounts in this Petition are in Canadian dollars, unless otherwise stated.

### **OVERVIEW**

3. SLP and SMTC are companies incorporated pursuant to the laws of British Columbia with a registered and records office at Suite 2300, Bentall 5, 550 Burrard Street, Vancouver, British Columbia.
4. SMTU is a company incorporated pursuant to the laws of the State of Delaware with a registered office at 1209 Orange Street, Wilmington, Delaware. SMTU is registered to conduct business in the State of Arkansas.
5. NOLLC is a limited liability company incorporated pursuant to the laws of the State of Delaware with a registered office at 1209 Orange Street, Wilmington, Delaware.
6. SLP is a holding company and owns 100% of the shares in SMTC and SMTU (and indirectly through SMTU, controls 100 percent of the membership interest in NOLCC). SLP has no operations or employees.

7. The Debtors generally carry on business together as manufacturers of mass timber and ground protection solutions for construction and industrial uses out of facilities based in Penticton, Okanagan Falls and Oliver, British Columbia and Conway, Arkansas, in the United States of America (“U.S”). The Debtors are affiliated companies within the meaning of s. 3 of the CCAA.
8. The Debtors are privately owned, with the common shares of SLP (the “**Common Stock**”) being held among 13 individual holders. SLP currently has 1,364,350 shares of Common Stock issued and outstanding, with options for an additional 2,914,703 shares of Common Stock held by certain members of the Company’s management team who participate in the management incentive common equity options and shares program. In addition to the common stock, SLP has also issued six series of Class A Preferred stock, one series of Class B Preferred stock, and three series of Class C Preferred stock, (collectively, the “**Preferred Stock**”), which is held primarily by KF Arc Holding LP (approximately 57.1 percent) and Bentonville KF SLP Holdings LP (approximately 27.5 percent), with the remaining approximately 15.4 percent of Preferred Stock held among certain minority shareholders including BMO Capital Partners who hold approximately 1.7% of the Class C Preferred stock interest in SLP.

## **BUSINESS OPERATIONS**

9. The original business was founded in 1962 in Penticton, British Columbia, and it originally operated as a producer of highly distinctive architectural glue laminated beams (“**Glulam**”).
10. In 2012, the business expanded its construction offering by becoming the first North American manufacturer of construction cross laminated timber (“**CLT**”), which is a multi-layer, mass timber panel that can act as a replacement for concrete in any floor, wall, roof, or core, with the benefits of being significantly lighter. Also in 2012, the Company introduced CLT industrial matting to the market.

11. SMTC acquired the business in December 2017 by way of an asset purchase agreement and by 2019 the business was expanded to the U.S. through the incorporation of SMTU and the acquisition of their US Facility as further described below.
12. SMTC is now a leading producer of mass timber products and they focus on large scale construction in buildings up to 18 stories. SMTC was the first North American manufacturer of CLT focused on the construction market which provides them with a substantial track record and portfolio of successful projects. In addition, SMTC was the first producer of CLT industrial mats.
13. The Debtors have completed or assisted in numerous projects throughout North America including, among others:
  - (a) the University of British Columbia Brock Commons in Vancouver, BC. Built in 2016 and 2017, the Brock Commons building was then the tallest wood structure building in the world. SMTC used 1,302 Glulam columns and 464 CLT panels to erect Brock Commons in 66 days;
  - (b) the Microsoft Silicon Valley Campus in Mountain View, California in 2019 which, at that time was the largest mass timber structure built in the U.S. The Debtors provided 350,000 square feet of CLT and 400,000 board feet of architectural glulamPlus columns, an SMTC product; and
  - (c) the construction of several Google campuses with a collective supply of 180,000 square feet of product in 2020 and 300,000 square feet of product in 2022 together with the ongoing supply of 500,000 square feet of product estimated to be completed by 2024.
14. The Debtors operate manufacturing facilities as follows:

Location	Opened	Products Manufactured	Estimated Annual Production Capacity (ft <sup>3</sup> )
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Location	Opened	Products Manufactured	Estimated Annual Production Capacity (ft <sup>3</sup> )
Penticton, BC	1962	Glulam beam and beam column finishing	880,000 (combined among Penticton Facility and OK Falls facilities, as described below)
Maple Street, Okanagan Falls, BC	2012	CLT, Glulam and industrial mats manufacturing	880,000 (combined among Penticton Facility and OK Falls facilities, as described below)
Wallis Road, Okanagan Falls, BC	2012	CLT and industrial mats manufacturing	880,000 (combined among Penticton Facility and OK Falls facilities)
Oliver, BC	2018	Industrial mats manufacturing	1,250,000
Conway, AR (operated by SMTU)	2021	Custom CLT and Glulam, distributor Glulam and industrial mats manufacturing	1,350,000

15. On October 5, 2012, Structurlam Products Ltd., as tenant, entered into a lease agreement with 0867473 B.C. Ltd., as landlord for the properties civically known as 6036 and 6042 Station Street, Oliver, British Columbia (the “**Oliver Facility**”). SMTU is the current tenant and the current landlord is FFD Investments Devito Investments Ltd. The lease expires on December 31, 2023.

16. SMTC has leased lands and a production facility located at 1675 Maple Street Okanagan Falls, British Columbia since December 2017. SMTC has also leased lands and a production facility located at 716 Wallis Road, Okanagan Falls, BC since May 2018 (collectively, these are the “**OK Falls Facilities**”). The OK Falls Facilities function primarily as production facilities for CLT, Glulam and industrial mats manufacturing. The lease for the facility on Wallis Road expires on May 31, 2023.
17. Further, since June 2017 SMTC has leased a production facility and offices at 2176 Government Street, Penticton, BC (the “**Penticton Facility**”). The Penticton Facility is primarily used for the manufacture of Glulam finishing. The Penticton Facility was used by the business prior to its acquisition by SMTC and houses the main administrative office of the Debtors.

*US Facility and Walmart Relationship*

18. In or about December 2019 Walmart Inc. (“**Walmart**”) and SMTU entered into a strategic engagement to support the development of Walmart’s new home office campus in Conway, Arkansas (the “**Walmart Campus**”). As part of the strategic engagement Walmart formed NOLLC for the purpose of acquiring certain land and buildings to be used as a production facility operated by SMTU in Conway, Arkansas (collectively, the “**US Facility**”).
19. In order to fund the acquisition of the US Facility SLP received equity investments from investors and STMU obtained access to certain credit facilities (more fully described below) from Bank of Montreal (“**BMO**”). NOLLC in turn, used the funds to purchase a development bond from the City of Conway, Arkansas.
20. The City of Conway, Arkansas holds bare title to the lands and buildings for the US Facility; however, the deed to the lands and all beneficial interest in the same is held by SMTU and is used as security for the BMO Credit Facilities (as defined below).
21. Currently, SMTU has a lease agreement for the lands (the “**US Lease**”), buildings and equipment for the US Facility with the City of Conway, Arkansas as well as a trust indenture agreement (the “**Trust Agreement**”). Under the terms of the Trust Agreement

SMTU is the trustee and the terms of the same requires the City of Conway, Arkansas to assign all payments under the terms of the US Lease to SMTU.

22. By agreement dated December 3, 2019 SMTU, SLP and Walmart entered into a Walmart realty timber supplier agreement (the “**Supply Agreement**”) whereby SMTU agreed to supply certain goods and services for the Walmart Campus. The Supply Agreement was amended and restated pursuant to an amended and restated Walmart realty supplier agreement dated June 24, 2022 (the “**Amended Supply Agreement**”). The agreement with Walmart provided a baseline order for the US Facility which was estimated at approximately USD \$100 million.
23. The Supply Agreement provided, among other things, that SMTU was to supply up to 1.7 million cubic feet of mass timber to support the construction of the Walmart Campus (1.1 million cubic feet exclusive to SMTU under the Supply Agreement).
24. Pursuant to an agreement dated June 24, 2022 the Supply Agreement was amended and restated in order to confirm the delivery schedule and which agreement coincided with an amendment to SMTU’s credit agreement as a result of the investment of USD \$16,300,000 of additional equity capital by SMTU’s investors.

#### *Employees*

25. The Company currently employs approximately 210 total employees. Approximately 178 employees are located in Canada, consisting of 62 salaried employees, 3 contractors, and 116 hourly manufacturing employees.
26. Previously, SMTU employed approximately 175 employees at the US Facility, including a sales and management team, none of whom were subject to a Collective Agreement (as further described below). Due to the liquidity constraints facing the Company resulting from termination of the exclusive supply agreement, on January 18, 2023, SMTU made the difficult decision to terminate 144 of its employees, leaving only 32 full-time employees at the US Facility, consisting of 18 salaried employees, including a sales and management team, and 14 hourly manufacturing employees for the maintenance and care

of the US Facility and for certain production of orders for SMTU's other customers and to maintain readiness for re-starting operation as soon as feasible.

27. The majority of SMTU and SMTU's employees work on engineered mass timber production lines, with others providing the necessary support for production. The hourly manufacturing employees employed at the Pentticon Facility, the OK Falls Facilities and the Oliver Facility are unionized (collectively, the "**Unionized Employees**").
28. The employees employed at the US Facility are not unionized.

#### *Equipment Lease Obligations*

29. The Debtors currently lease equipment through various lessors (the "**Equipment Leases**"). The interest and maturity terms of these leases vary, but they all provide the lessor with a security interest in the vehicle or equipment that is subject to the lease. The total amount of all remaining payments under the Equipment Leases is approximately \$4.3 million as of the Petition Date. The Company's monthly equipment lease expense is approximately \$44,672.

#### *Land Lease Obligations*

30. The total amount of all remaining payments under the leases for the Oliver Facilities, the OK Facility, and the Pentticon Facility is approximately \$3.2 million as of the Petition Date. SMTU's monthly lease payment is approximately \$139,033.

### **CREDIT FACILITIES**

31. On or about December 21, 2017, SMTU, as borrower, and SLP, as guarantor, entered into a letter agreement with Bank of Montreal ("**BMO**"), as lender. This letter agreement was amended and restated and SMTU was added as a borrower, pursuant to an amended and restated letter agreement dated December 3, 2019, as amended by a waiver and first amendment agreement dated as of February 2, 2021, a waiver and second amendment agreement dated as of September 29, 2021, a waiver and third amendment agreement dated as of January 24, 2022, a fourth amendment agreement dated as of June 17, 2022, a

fifth amendment agreement dated as of June 27, 2022, a consent and sixth amendment dated as of February 7, 2023 (the “**Sixth Amending Agreement**”), a seventh amendment agreement dated as of March 3, 2023 (the “**Seventh Amending Agreement**”), and an eight amendment agreement dated as of April 21, 2023 (the “**Eighth Amending Agreement**”) (collectively, the “**ARCA**”). In addition to SLP, NOLLC has guaranteed the obligations of SMTU and SMTC under the ARCA.

32. At the date it was entered into, the ARCA established certain credit facilities, including:
  - (a) a committed revolving credit facility in the maximum principal amount of \$6,500,000;
  - (b) a non-revolving term credit facility in the maximum principal amount of \$21,333,317;
  - (c) a revolving letter of credit facility in the maximum principal amount of \$2,000,000; and
  - (d) a committed, reducing, non-revolving term credit facility in the maximum principal amount of USD \$40,500,000.
33. The facilities available under the ARCA were amended over time and, at present, includes the following facilities:
  - (a) a committed revolving credit facility in the maximum principal amount of \$3,000,000 (current balance approximately \$3,000,000);
  - (b) a non-revolving term credit facility in the original maximum principal amount of \$21,333,317 (current balance approximately \$16,203,834);
  - (c) a revolving letter of credit facility in the maximum principal amount of \$413,000 (current balance approximately \$413,000);

- (d) a committed, reducing, non-revolving term credit facility in the original maximum principal amount of USD \$35,529,007 (current balance approximately \$34,854,405);
- (e) A MasterCard Facility providing corporate credit card services in the maximum principal amount of USD \$20,000 and \$25,000; and
- (f) An uncommitted non-revolving demand facility in the maximum principal amount of \$900,000 (current balance \$900,000);

(collectively, the “**BMO Credit Facilities**”).

- 34. To secure SMTC and SMTU’s obligations under the ARCA, the Debtors granted a comprehensive security package in favour of BMO as more particularly described in the Turkington Affidavit.

#### **CIRCUMSTANCES LEADING TO CHAPTER 11 PROCEEDINGS**

- 35. On November 18, 2022 Walmart issued to SMTU a Notice of Defective Goods and Notice of Nonconforming Goods under the Amended Supply Agreement (the “**Notice**”).
- 36. The Debtors face significant operational and liquidity challenges. The primary issue driving the Debtors liquidity crisis is the termination of the exclusive supply agreement between Walmart and SMTU.
- 37. The Debtors’ operations in British Columbia and in the U.S. were previously funded by a combination of financing under the BMO Credit Facilities, cash flow from operations and periodic deposits from Walmart and other customers, as well as regular invoicing for shipped products.
- 38. Upon or shortly after Walmart issued the Notice, Walmart ceased making payments to SMTU. The Debtors identified a resolution with Walmart as the preferred solution and dedicated considerable efforts to reaching an agreement with Walmart to continue with the Amended Supply Agreement. During this time, in the hopes of reaching a resolution

with Walmart the Debtors continued to produce product intended for Walmart under the Amended Supply Agreement.

39. At or about the same time, the Debtors engaged A&M as financial advisor (the “**Financial Advisor**”). The purpose of this retention was for the Financial Advisor to assist the Debtors in identifying potential opportunities to add value to the organization with a goal to turning it around, including assisting the Company in its negotiations with Walmart and BMO, the Debtors’ senior secured lender, to advise the Company as to its strategic alternatives, and to assist the Company with understanding its liquidity position.
40. Despite SMTU’s significant efforts to resolve all issues with Walmart on an amicable basis, on or about January 11, 2023 Walmart issued to SMTU a notice of termination of the Amended Supply Agreement (the “**Termination**”).
41. As a result of the Termination, and the loss of any potential for short-term income from Walmart, the Debtors’ impending liquidity crunch became unavoidable. On January 17, 2023 the boards of both SMTC and SMTU ultimately determined that there was insufficient liquidity to continue to operate the US Facility. Accordingly, the US Facility was put on care and maintenance and 144 of SMTU’s employees were laid off.
42. The Debtors’ management team has made determined efforts to address the financial challenges, including, among other things, (i) engaging in extensive negotiations with Walmart to reach an agreement to continue to supply (ii) suspending operations at the US Facility as of January 18, 2023, (iii) laying off 144 employees at the US Facility in order to reduce costs; (vi) retaining the Financial Advisor; and (v) engaging with Canadian and U.S. counsel.
43. Through the period following termination of the Amended Supply Agreement and leading to these proceedings, the Debtors have been actively engaged in discussions with BMO. As part of those discussions, the Debtors identified to BMO their intention to engage an investment banker to pursue transactions, and requested access to USD \$1.7 million in funds held on deposit in a debt service reserve account with BMO to meet the Debtors’ near-term cash needs. Through the period following termination of the Walmart

contract, the Debtors actively engaged in discussions with BMO and on February 7, 2023, the Debtors executed the Sixth Amending Agreement which, among other things, allowed the Debtors access to the USD \$1.7 million debt service reserve account. The Sixth Amending Agreement was conditional on the Debtors hiring an investment banker, acceptable to BMO, to conduct a marketing process.

44. On March 3, 2023, the Debtors executed the Seventh Amending Agreement which, among other things, allowed the Debtors to make Drawdowns under the Revolving Facility (as each is defined in the ARCA) by way of weekly drawdowns acceptable to BMO in its sole discretion.
45. On April 21, 2023 the Debtors and BMO entered into the Eighth Amending Agreement which permitted access to an approximately \$900,000 availability under a new uncommitted non-revolving demand facility, notwithstanding the existence of certain events of default.

## DEFAULT

46. As a result of the termination by Walmart on January 11, 2023 of the Supply Agreement the Debtors are in default under the ARCA and, on January 18, 2023, the Debtors delivered a notice to BMO acknowledging the same.

## THE DEBTORS' RESTRUCTURING PLAN

47. To address the Debtors' current financial difficulties and liquidity challenges, the Debtors, in conjunction with A&M, developed a restructuring plan to market and advance a sales process for the going concern sale of the Debtors and their property.

### *Marketing Efforts*

48. On February 10, 2023, SMTC engaged Stifel, Nicolaus & Company, Incorporated and Miller Buckfire & Co., LLC (together, the "**Sale Advisor**") to assist with advancing a marketing process for the sale of the Debtors' assets (the "**Marketing Process**"). The purpose of the Marketing Process is to maximize the value of the Debtors' property, for the benefit of all of its stakeholders.

49. The Sales Advisor launched the Marketing Process on February 10, 2023 beginning by identifying a broad group of potential strategic and financial sponsor parties to contact. Seventy-four prospective buyers were solicited of which thirty seven executed non-disclosure agreements and eighteen prospective investors were solicited of which seven executed non-disclosure agreements. The parties that executed non-disclosure agreements received access to the Company's virtual data room and were offered management meetings and site visits. At that stage, four parties conducted site visits and additional four parties conducted meetings with Company management.
50. Five parties provided non-binding indications of interest by the milestone date of March 8, 2023. Of these five parties, four were selected to continue to the second round of the process and provided with access to additional diligence in the data room, continued access to Company management and site visits, and a draft asset purchase agreement. The Sales Advisor requested binding bids from these four parties by March 24, 2023. On March, 24, 2023, the Sales Advisor received two bids and provided them to the Company.
51. On March 24, 2023 the Sales Advisor received and provided to the Company two unexecuted bids for some or all of the assets of the Company. Due to scheduling difficulties a third potential purchaser was unable to conduct a site visit until Saturday March 25, 2023. That party submitted a non-binding bid on March 27, 2023.
52. The Marketing Process contains certain milestones, which have been revised from time to time and are described below:

<b>Milestone</b>	<b>Date</b>
Petition Date	April 21, 2023
Bidding Procedures Hearing	May 1, 2023
Launch Marketing Process for Overbid	May 1, 2023

Milestone	Date
Qualified Bid Deadline	May 18, 2023
Auction	May 19, 2023
Sale Hearing	May 26, 2023
Sale Close	June 5, 2023

53. The Marketing Process was developed with input from A&M and the Sale Advisor.
54. While the Debtors are currently in a challenging financial position, the Debtors' management teams believe that the Chapter 11 Proceedings and recognition of the Chapter 11 Proceedings in Canada under Part IV of the CCAA will provide the Debtors the opportunity to complete the Marketing Process and sale arising therefrom or restructure their business in an efficient manner which in turn will maximize the long-term value available to the various stakeholders.

*Stalking Horse APA*

55. In this section all terms capitalized but not defined are as defined in the Stalking Horse APA (as defined below).
56. On April 21, 2023 SLP, SMTC and SMTU, as Sellers and Mercer International Inc. ("**Mercer**") as Buyer entered into an Asset Purchase Agreement (the "**Stalking Horse APA**"). The Stalking Horse APA is structured as a purchase of the assets of SLP, SMTC and SMTU by way of transfer of assets.
57. Pursuant to the terms of the Stalking Horse APA, the Sellers, subject to certain exceptions described in the Stalking Horse APA, are obligated to Transfer to Buyer, and Buyer is obligated to purchase and acquire from Sellers, the entirety of Sellers' rights, title and interest in and to all of the Sellers' assets, properties and rights of every kind and

nature, whether real, personal or mixed, tangible or intangible (including goodwill), wherever located, in the physical possession of Sellers or another Person.

58. The purchase price under the Stalking Horse APA is USD \$60,000,000 inclusive of the Purchase Price Deposit. Mercer has also agreed to assume certain Assumed Liabilities, as more particularly described at Section 1.3 of the Stalking Horse APA.
59. In consideration for Mercer (i) expending time and money negotiating the Stalking Horse APA; (ii) undertaking the necessary due diligence to negotiate the Stalking Horse APA; and (iii) agreeing to act as the stalking horse bidder in the Marketing Process, the Stalking Horse APA contemplates that, subject to approval of the US Bankruptcy Court and the Supreme Court of British Columbia, Mercer shall be entitled to a Break-Up Fee in the amount of USD \$1,800,000 (the “**Break-Up Fee**”).
60. The Stalking Horse APA contemplates that, in the event that Mercer’s stalking horse bid is not the successful bid in these proceedings, in addition to the Break-Up Fee, Mercer shall be entitled to the repayment of professional fees (to a maximum of USD \$600,000) (the “**Expense Reimbursement Amount**”).
61. The Stalking Horse APA provides for minimal conditions to close. The only substantive conditions are that the US Bankruptcy Court and the Supreme Court of British Columbia respectively issue the U.S. Sale Order and the Canadian Sale Order and the bond issued in respect of the US Facility be redeemed or cancelled as contemplated by Section 6.3(b) of the Stalking Horse APA.

#### **STATUS OF CHAPTER 11 PROCEEDINGS AND COMI**

62. On April 24, 2023 the Debtors commenced the Chapter 11 Proceedings by filing voluntary petitions for relief in the US Bankruptcy Court, resulting in an automatic stay of proceedings.
63. As an organization the Debtors operate in both Canada and the U.S. The Debtors’ key asset, the US Facility is located in the U.S. and the majority of the directors of the SLP and SMTC are resident in the U.S. Additionally, a number of key employees and the

interim Chief Executive Officer (the “CEO”) are resident in the U.S. A majority of the workforce employed by the Debtors’, as applicable are resident in Canada but the majority of the value of the Debtors’ assets are located in the U.S.

64. The centre of main interests (“COMI”) for SLP and SMTC is Canada as, among other things:

- (a) SLP and SMTC have their registered office in Vancouver, British Columbia;
- (b) SLP and SMTC’s cash management and bank accounts are located in Canada;
- (c) SMTC employs approximately 182 employees in British Columbia;
- (d) Primary administrative functions for SLP and SMTC are conducted in Canada;
- (e) SMTC’s principal operations are in British Columbia; and

65. The COMI for SMTU and NOLLC is the U.S. as, among other things:

- (a) SMTU and NOLLC have their registered office in Delaware, U.S.;
- (b) SMTU’s employees are located in the U.S.
- (c) SMTU does not carry on its operating business in Canada;
- (d) SMTU’s sole customer was Walmart, a U.S. entity;
- (e) NOLLC has no operations or assets outside of the U.S.; and
- (f) the US Facility, the primary asset of SMTU and the Debtors as a whole, is located in the State of Arkansas.

### **Part 3: LEGAL BASIS**

1. The Foreign Representative relies on:
  - (a) the *Companies' Creditors Arrangement Act*, R.S.C. 1995, c. C-36, as amended;
  - (b) the Rules 2-1(2), 4-4, 4-5(1), 8-1, 8-2, 16-1, 22-1 and 22-4 of the *Supreme Court Civil Rules*;
  - (c) the inherent jurisdiction of this Honourable Court; and
  - (d) such further and other legal basis as counsel may advise and this Honourable Court may allow.
2. Part IV of the CCAA establishes the applicable process for addressing the administration of cross-border insolvencies to promote cooperation and coordination with foreign courts.

#### CCAA, Part IV

3. The foundational principles are comity and cooperation between courts of various jurisdictions; Canadian courts will respect “the overall thrust of foreign bankruptcy and insolvency legislation in any analysis, unless in substance generally it is so different from the bankruptcy and insolvency law of Canada or perhaps because the legal process that generates the foreign order diverges radically from the process here in Canada.”

*Babcock & Wilcox Canada Ltd., Re*, 2000 CanLII 22482 (ON SC) at para 21

4. Cooperation between courts under Part IV promotes the “fair and efficient administration of cross-border insolvencies” and the “protection and maximization of the value of the debtors’ property.”

*MtGox Co., Ltd (Re)*, 2014 ONSC 5811 at paras 10-12

***The Chapter 11 Proceedings is a Foreign Proceeding***

5. Pursuant to Section 46(1) of the CCAA, a foreign representative may apply to the court for recognition of a foreign proceeding, in respect of which that person is a foreign representative.

CCAA, s. 46(1)

6. Section 47 of the CCAA provides that the Court shall make an order recognizing a foreign insolvency proceeding if the following two requirements are met:

- (a) The application for recognition of a foreign proceeding relates to a “foreign proceeding” within the meaning of the CCAA; and
- (b) The applicant is a “foreign representative” within the meaning of the CCAA in respect of that foreign proceeding.

CCAA, s.47

7. Section 45(1) of the CCAA defines a “foreign proceeding” as any judicial proceeding in a jurisdiction outside of Canada dealing with creditors’ collective interests generally under any law relating to bankruptcy or insolvency in which a debtor company’s business and financial affairs are subject to control or supervision by a foreign court for the purpose of reorganization. Canadian courts have generally considered it self-evident that Chapter 11 Proceedings under the supervision of a US Bankruptcy Court, satisfy these criteria. Canadian courts have consistently recognized such proceedings to be “foreign proceedings” for the purposes of the CCAA.

Hollander Sleep Products, LLC et al., Re, 2019 ONSC 3238 at para 27; Payless Holdings LLC (Re), 2017 ONSC 2242 at para 22; Zochem Inc. (Re), 2016 ONSC 958 at para 20

8. Further, the SLP and SMTC are debtor companies within the meaning of the CCAA. The definition of a debtor company in the CCAA includes any “company” that is “insolvent.” Under the CCAA, a “company” includes any incorporated company having assets in Canada.

CCAA, s.2(1) definition of “company” and “debtor company”

***SLP is a Foreign Representative***

9. The second requirement under section 47 of the CCAA is that the applicant is a “foreign representative” in respect of the foreign proceeding.
10. The CCAA defines a “foreign representative” as:

a person or body, including one appointed on an interim basis, who is authorized in a foreign proceeding in respect of a debtor company, to (a) monitor the debtor’s business and financial affairs for the purpose of a reorganization, or (b) act as a representative in respect of the foreign proceeding.<sup>28</sup>

CCAA s. 45

11. A foreign representative includes an entity that is authorized to act as such in the foreign proceeding; here the US Bankruptcy Court entered an order declaring SLP as the foreign representative for purposes of the Chapter 11 Proceedings.

***SMTU and NOLLC’s Chapter 11 Proceedings are Foreign Main Proceedings***

12. SMTU and NOLLC’s Chapter 11 Proceedings are foreign main proceedings because the centre of main interests (“COMI”) of SMTU and NOLLC is in the U.S.
13. In a recognition proceeding, the Court must determine whether the foreign proceeding is a “foreign main proceeding” or a “foreign non-main proceeding.” Section 45(1) of the CCAA defines “foreign main proceeding” as a foreign proceeding in a jurisdiction where the debtor company has its COMI. A “foreign non-main proceeding” is a foreign proceeding other than a foreign main proceeding.

CCAA s 45(1)

14. The CCAA does not define what constitutes COMI, only providing a rebuttable presumption under s. 45(2) that, absent evidence to the contrary, a debtor’s COMI is

presumed to be the location of its registered office. However, the presumption is rebuttable; COMI is a substantive, not technical, determination.

*CHC Group Ltd. (Re)*, 2016 BCSC 2623 at para 9; *Lightsquared LP (Re)*, 2012 ONSC 2994 at para 26

15. A determination of a debtor's COMI will necessarily depend upon the particular facts and circumstances of each case. Canadian courts have accepted the following test for determining whether the statutory presumption of a debtor company's COMI has been rebutted:

In circumstances where it is necessary to go beyond the s. 45(2) registered office presumption [...] the following principal factors, considered as a whole, will tend to indicate whether the location in which the proceeding has been filed is the debtor's centre of main interest. The factors are:

- (i) the location is readily ascertainable by creditors;
- (ii) the location is one in which the debtor's principal assets or operations are found; and
- (iii) the location is where the management of the debtor takes place.

*Lightsquared LP (Re)*, 2012 ONSC 2994 at para 25; *Zochem Inc. (Re)*, 2016 ONSC 958 at para 22

16. In addition to the above “principal” factors, Canadian courts have made reference to the following factors in conducting the COMI analysis:

- (a) The location where corporate decisions are made;
- (b) The location of employee administrations, including human resource functions;
- (c) The location of the company's marketing and communication functions;
- (d) Whether the enterprise is managed on a consolidated basis;

- (e) The extent of integration of an enterprise's international operations;
- (f) The center of an enterprise's corporate, banking, strategic and management functions;
- (g) The existence of shared management within entities and in an organization;
- (h) The location where cash management and accounting functions are overseen;
- (i) The location where pricing decisions and new business development initiatives are created; and
- (j) The seat of an enterprise's treasury management functions, including management of accounts receivable and accounts payable.

Massachusetts Elephant & Castle Group, Inc. (Re), 2011 ONSC 4201 at paras 26-31; Angiotech Pharmaceuticals Ltd. (Re), 2011 BCSC 115 at para 7.

17. SMTU and NOLLC's COMI is in the U.S. As a starting point in the analysis, the registered office for each entity is in Delaware. Accordingly, SMTU and NOLLC's COMI is presumed to be in the U.S. absent evidence to rebut this presumption.
18. The center of SMTU's corporate, banking, strategic and management functions is in Delaware and Arkansas. Similarly, oversight of cash management and accounting functions, the seat of treasury management functions, and decision-making around pricing decisions and new business development initiatives all happen in the U.S.
19. In addition, pursuant to the factors set out above, the COMI for SLP and SMTC is Canada as, among other things:
  - (a) SLP and SMTC have their registered office in Vancouver, British Columbia;

- (b) SLP and SMTC's cash management and bank accounts are located in Canada;
- (c) SMTC employs approximately 182 employees in British Columbia;
- (d) Primary administrative functions for SLP and SMTC are conducted in Canada;
- (e) SMTC's principal operations are in British Columbia; and

the COMI for SMTU and NOLLC is the U.S. as, among other things:

- (a) SMTU and NOLLC have their registered office in Delaware, U.S.;
- (b) SMTU's interim CEO and other key personnel are located in the U.S.;
- (c) SMTU's employees are located in the U.S.
- (d) SMTU does not carry on its operating business in Canada;
- (e) SMTU's sole customer was Walmart, a U.S. entity;
- (f) NOLLC has no operations or assets outside of the U.S.; and
- (g) the US Facility, the primary asset of SMTU and the Debtors as a whole, is located in the State of Arkansas.

***SLP and SMTC's Chapter 11 Proceedings Foreign Non-Main Proceedings***

20. A foreign non-main proceeding is defined as a foreign proceeding "other than a foreign main proceeding."

CCAA, section 45

21. SLP and SMTC commenced the Chapter 11 Proceedings in the US Bankruptcy Court, but their COMI is in Canada as, among other reasons, their registered offices are in Vancouver, British Columbia.

22. This creates the presumption that their COMI is also Canada, and there is no evidence to rebut this presumption. Because its COMI is not in the U.S., by definition, SLP and SMTC's Chapter 11 Proceedings are foreign non-main proceedings.

**The Initial Recognition Order should be granted**

23. Section 48(1) of the CCAA provides that on the making of an order recognizing a foreign proceeding that is specified by the Court to be a "foreign main proceeding", the Court shall make an order (subject to any terms and conditions it considers appropriate):

- (a) Staying, until otherwise ordered by the Court, for any period that the Court considers necessary, all proceedings taken or that might be taken against the debtor company under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act*;
- (b) Restraining, until otherwise ordered by the Court, further proceedings in any action, suit or proceeding against the debtor company;
- (c) Prohibiting, until otherwise ordered by the Court, the commencement of any action, suit or proceeding against the debtor company; and
- (d) Prohibiting the debtor company from selling or otherwise disposing of, outside the ordinary course of its business, any of the debtor company's property in Canada that relates to the business and prohibiting the debtor company from selling or otherwise disposing of any of its other property in Canada.

CCAA, s. 48(1)

24. Additionally, where a proceeding is specified by the Court to be a "foreign non-main proceeding," section 49(1) of the CCAA provides the Court with discretion to make an order referred to in section 48(1) if it is satisfied that the order is necessary for the protection of the debtor company's property or the interests of creditors.

CCAA, s. 49(1)

25. The Canadian courts have jurisdiction to consider a recognition order, even in the event where the U.S. bankruptcy proceedings were not a foreign main proceeding, and pursuant to section 49(1)(a) of the CCAA, the Canadian court can essentially order the same relief in appropriate circumstances.

Probe Resources Ltd. (Re), 2011 BCSC 552 at para 31, 32.

26. Furthermore, section 52(1) of the CCAA requires that if an order recognizing a foreign proceeding is made, the Court “shall cooperate, to the maximum extent possible, with the foreign representative and the foreign court involved in the foreign proceeding.”

CCAA, s.52(1)

27. By operation of the Chapter 11 Proceedings, the Debtors obtained the benefit of a stay of proceedings upon filing the voluntary petitions with the US Bankruptcy Court. A stay of proceedings in Canada is essential to protect the efforts of the Debtors to proceed with the Chapter 11 Proceedings and emerge from the reorganization process.
28. The Initial Recognition Order sought by the Foreign Representative is based on the Court's Model CCAA Initial Recognition Order (Foreign Main Proceeding) and provides for all of the relief required by section 48 and which may be granted under s. 49(1) of the CCAA. In light of the requirements of the CCAA and the exigencies of the circumstances facing the Debtors, they require a stay of proceedings and other relief identified in the Initial Recognition Order in order to proceed with the Chapter 11 Proceedings.

***The Supplemental Recognition Order should be granted***

29. In addition to the mandatory relief provided for in section 48, section 49 of the CCAA grants this Court broad discretion to make any order that it considers appropriate, if it is satisfied that the order is necessary for the protection of the debtor's property or the interests of creditors. The Court may make such orders on any terms and conditions that the Court considers appropriate in the circumstances.

30. The Supplemental Recognition Order includes the broader stay of proceedings typically granted in Part IV and other CCAA proceedings. The stay of proceedings is appropriate in order to preserve the *status quo* while the Debtors attempt to find a global resolution for the benefit of the Debtors, their stakeholders and the public-at-large.

***Recognition of the First Day Orders is appropriate***

31. As set out above, in addition to the mandatory relief provided for in section 48, section 49 of the CCAA grants this Court broad discretion to make any order necessary for the protection of the debtor company's property or the interests of a creditor or creditors.

CCAA, s. 49; *Purdue Pharma L.P., Re*, 2019 ONSC 7042 at para 22

32. Section 50 of the CCAA further provides that an order made under Part IV of the CCAA, including pursuant to section 49, may be made on any terms and conditions that the Court considers appropriate.

CCAA, s. 50

33. The Foreign Representative seeks recognition orders in respect of the following First Day Orders as they were entered by the Bankruptcy Court:
- (a) Order dated April 26, 2023 (i) authorizing the debtors to (a) continue to operate their cash management system, (b) honor certain prepetition obligations related thereto, (c) maintain existing business forms and (d) continue to perform intercompany transactions, (ii) granting administrative expense status to prepetition intercompany balances, and (iii) granting related relief;
  - (b) Order dated April 26, 2023 (i) authorizing the debtors to (a) pay their obligations under insurance policies entered into prepetition and (b) renew, supplement, modify, or purchase insurance coverage and (ii) granting related relief;

- (c) Order dated April 26, 2023 (i) determining adequate assurance for future utility services, (ii) prohibiting utility providers from altering, refusing, or discontinuing utility services, (iii) establishing procedures for determining adequate assurance of payment, and (iv) granting related relief;
- (d) Order dated April 26, 2023 (i) authorizing SLP Holdings Ltd. to act as foreign representative and (ii) granting related relief;
- (e) Order dated April 26, 2023 (i) authorizing redaction of certain personal identifying information within the consolidated list of creditors and (iii) granting related relief;
- (f) Order dated April 26, 2023 (i) authorizing the Debtors to employ and retain Kurtzman Carson Consultant LLC as the claims and noticing agent effective as of the petition date;
- (g) Order dated April 26, 2023 (i) directing joint administration of related chapter 11 cases and (ii) granting related relief;
- (h) Order dated April 26, 2023 (i) authorizing the payment of certain prepetition taxes and fees (ii) granting related relief;
- (i) Order dated April 26, 2023 (i) authorizing, but not directing, the Debtors to pay certain prepetition claims of critical vendors, shippers, and 503(B)(9) claimants and granting related relief;
- (j) Order dated April 26, 2023 (i) authorizing the debtors to (a) pay prepetition wages, salaries, other compensation, and reimbursable expenses and (b) continue certain employee benefits programs and (ii) granting related relief; and
- (k) Order dated April 26, 2023 (i) authorizing debtors to (a) obtain postpetition financing and (b) utilize cash collateral, (ii) granting liens

and superpriority administrative expense claims, (iii) modifying automatic stay, and (iv) granting related relief.

34. The central principle governing Part IV of the CCAA is comity, which mandates that Canadian courts should recognize and enforce the judicial acts of other jurisdictions, provided that those other jurisdictions have assumed jurisdiction on a basis consistent with principles of order, predictability and fairness.

Hollander Sleep Products, LLC et al., Re, 2019 ONSC 3238 at para 41

35. In furtherance of the principle of comity, Canadian courts should allow a foreign court to exercise principal control over the insolvency process if that other jurisdiction has the closest connection to the proceeding. As noted above, the CCAA requires the Court to cooperate to the maximum extent possible with the foreign proceeding.
36. The granting of an order recognizing and giving effect to the First Day Orders is appropriate for the following reasons:
- (a) The US Bankruptcy Court has appropriately taken jurisdiction over the Chapter 11 Proceedings and comity will be furthered by this Court's recognition of and support for the Chapter 11 Proceedings already under way in the U.S.;
  - (b) Coordination of proceedings in the two jurisdictions will allow the courts to ensure equal and fair treatment of all stakeholders irrespective of where they are located;
  - (c) Given the close connection between the U.S. and SLP and SMTC's businesses and the fact that the primary asset is in the U.S., it is reasonable and sensible for the US Bankruptcy Court to have principal control over the insolvency process; and
  - (d) The First Day Orders were obtained by the Debtors to minimize the adverse effects of the Chapter 11 Proceedings on their business in order

to preserve value of the Debtors' assets for the benefit of their stakeholders.

37. Recognition of the First Day Orders, which orders are similar to the relief that would be granted by an initial order under Part I of the CCAA, is important to ensure the equal treatment of Canadian stakeholders, that the proceedings are coordinated with the Chapter 11 Proceedings and that Canadian trade creditors and suppliers (if any) receive the benefit of the First Day Orders.

***A&M should be appointed Information Officer***

38. It has become common in proceedings under Part IV of the CCAA for the Court to appoint an information officer, pursuant to the court's broad discretion under section 49. The British Columbia Model Supplemental Order includes for the appointment of the information officer. An information officer helps effect cooperation between the Canadian proceeding, the foreign representative and foreign court, as required by section 52(1) of the CCAA.

CCAA, s. 52

39. The Foreign Representative seeks to appoint A&M as the Information Officer in this proceeding on terms consistent with the Model Order and the terms on which information officers have been appointed in recent Part IV proceedings. The proposed role of A&M as Information Officer is based on the Model Order and is consistent with the terms of appointment of information officers in other recent recognition proceedings under the CCAA in British Columbia.
40. A&M has consented to act as Information Officer.

**The Administration Charge is Appropriate**

41. The Debtors seek an Administration Charge of \$150,000 to secure the collective fees and disbursements incurred both before and after the commencement of these proceedings of legal counsel for the Debtors, the proposed Information Officer, and legal counsel to the proposed Information Officer.

42. Section 11.52 of the CCAA expressly provides this Court with the power to grant a charge in respect of professional fees and disbursements.
43. In determining whether to grant an administration charge, Canadian courts have considered, among other things, the following factors:
- (a) the size and the complexity of the business being restructured;
  - (b) the proposed role of the beneficiaries of the charge;
  - (c) whether there is an unwarranted duplication of roles;
  - (d) whether the quantum of the proposed charge appears to be fair and reasonable;
  - (e) the position of any secured creditors likely to be affected by the charge; and
  - (f) the position of the Monitor.

*Mountain Equipment Co-Operative (Re)*, 2020 BCSC 2037 at para 58

44. The Information Officer, counsel for the Information Officer, and the Debtors' counsel will be essential to the Debtors' restructuring efforts.
45. The proposed Information Officer is of the view that the proposed quantum of the Administration Charge sought is reasonable and appropriate in the circumstances.

#### **Interim Financing Should be Approved**

46. As set out above, the US Bankruptcy Court granted an order authorizing the Debtors to, among other things, obtain postpetition financing.
47. Section 11.2 of the CCAA vests the Court with the jurisdiction to grant an interim financing charge over the assets of the debtor in priority to the claim of any secured creditor of the debtor, on notice to the secured creditors who are likely to be affected by such security or charge. In deciding whether to make an order, the court, is to consider, among other things:

- (a) The period during which the company is expected to be subject to proceedings under this Act;
  - (b) How the company's business and financial affairs are to be managed during the proceedings;
  - (c) Whether the company's management has the confidence of its major creditors;
  - (d) Whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company;
  - (e) The nature and value of the company's property;
  - (f) Whether any creditor would be materially prejudiced as a result of the security charge; and
  - (g) The report of the proposed Information Officer.
48. The Court has discretion to grant interim financing only to an amount that is reasonably necessary during the stay period.
49. BMO, as interim lender (the "**Interim Lender**") has agreed to provide a debtor-in-possession credit facility to SMTC and SMTU (each a "**Borrower**" and together the "**Borrowers**") pursuant to the terms of a senior secured super priority DIP financing credit agreement dated as of April 21, 2023 (the "**Credit Facility**").
50. The key terms of the Credit Facility are:
- (a) Under the Credit Facility, a Borrower may make Drawdowns of Cdn. \$ Loans and may make Drawdowns of U.S. \$ Loans, in the maximum principal amount of (1) Cdn. \$4,000,000 to be made available by the Interim Lender to the Borrowers under the Credit Facility and the Interim U.S. DIP Order, and (2) Cdn. \$3,500,000 to be made available by the Lender to the Borrowers under the Credit Facility and the Final U.S. DIP

Order, at a rate per annum equal to the Applicable Pricing Margin to BMO's Account for Payment (as each is defined in the Credit Facility);

- (b) The Credit Facility shall be secured by: (i) a super-priority administrative claim, authorized by the U.S. Court pursuant to the Interim U.S. DIP Order or the Final U.S. DIP Order, as applicable, and (ii) a charge granted by the Canadian Court pursuant to the Initial Order over all present and future assets and property of the Obligors, real and personal, tangible or intangible, and whether now owned or which are hereafter acquired or otherwise become the property of an Obligor in favour of the Lender (together the "**Lender Charge**");
- (c) The Credit Facility shall be used, among other things, to finance operating expenses and restructuring costs in these proceedings, and to pay professional fees; and
- (d) The term of the Credit Facility shall terminate upon the occurrence of a default or an event of default according to section 10.1 of the interim financing facility.

51. The Interim Financing and the Interim Financing charge are necessary to facilitate the restructuring activities of the Debtors in these proceedings. Accordingly, the Debtors believe that the Credit Facility, the proposed Lender Charge and the related grant of security interests are fair and reasonable in the circumstances, are necessary, and are in the best interests of all of the Debtors' stakeholders.

*Miniso International Hong Kong Limited v. Migu Investments Inc.* 2019 BCSC  
1234 at paras 46, 57

52. Section 11.2(1) of the CCAA provides that a DIP charge "may not secure an obligation that exists before the order is made." However, Canadian Courts have consistently found that s.11.2 allows for, "creeping roll up" which is where a debtor pays off its pre-filing debt (or a portion thereof) with the proceeds that it generates from its continued operations during the CCAA proceedings, which are made possible by the DIP facility.

Medipure Pharmaceuticals Inc. (Re), 2022 BCSC 1771, paras 53-54; Performance Sports Group Ltd. (Re), 2016 ONSC 6800 at para 22

53. Section 1.5(a) of the Interim Credit Facility provides the following, among other things:

Cash Collateral and proceeds of Collateral in excess of the aggregate receipts forecast in the initial DIP Budget attached hereto as Exhibit 2 shall be applied, first, to repayment of the Pre-Petition Obligations up to the amount of Cdn. \$3,900,000, and, second, to the DIP Indebtedness until paid in full, in accordance with the Payment Protocol as defined in the DIP Credit Agreement...

54. When determining whether to approve of a creeping roll-up, Courts have considered the following factors, among others:

- (a) Is there support from interested parties, including the monitor?;
- (b) Will any secured creditor be materially prejudiced?;
- (c) Will the creeping roll-up alter the pre-filing status quo?;
- (d) Is the charge used to improve the security of the pre-filing lender or fill gaps in its security?;
- (e) Does the DIP term sheet and initial order expressly provide that no advances under the DIP facility will be used to pay pre-filing obligations and that the secured charge granted to the DIP lender only secures the DIP financing?;
- (f) There is no alternative DIP financing available;

Medipure Pharmaceuticals Inc. (Re), 2022 BCSC 1171 at paras 51-52 & 54

55. Repayment of the BMO Credit Facilities comes from operational receipts and is not paid by advances under the Interim Credit Agreement, and is therefore permissible under section 11.2 of the CCAA. In addition, the Credit Facility is critical to the ongoing operations of the Debtors. Without the Credit Facility the Debtors will be forced to cease

operations and as a result it is submitted that the creeping roll-up Credit Facility accomplishes the purpose of the CCAA.

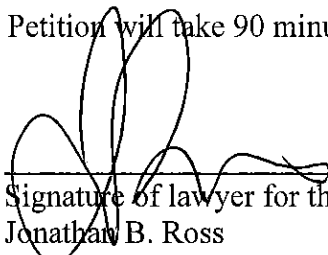
**Part 4: MATERIAL TO BE RELIED ON**

1. Affidavit of Shawn Turkington #1, sworn on April 26, 2023;
2. Affidavit of Michèle Hay #1, sworn on April 26, 2023;
3. the materials filed in the Chapter 11 Proceedings; and
4. such further materials as counsel may advise and this Honourable Court may permit.

The Debtors estimate that the hearing of the Petition will take 90 minutes.

Date:

April 26, 2023

  
\_\_\_\_\_  
Signature of lawyer for the Debtors  
Jonathan B. Ross  
Gowling WLG (Canada) LLP

To be completed by the court only:

Order made

- ☐ in the terms requested in paragraphs \_\_\_\_ of Part 1 of this petition
- ☐ with the following variations and additional terms:

Date: \_\_\_\_\_

Signature of ☐ Judge ☐ Master

# Schedule "A"

No. \_\_\_\_\_  
Vancouver Registry

## IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF SLP HOLDINGS LTD., STRUCTURLAM MASS  
TIMBER CORPORATION, STRUCTURLAM MASS TIMBER U.S., INC.  
NATURAL OUTCOMES, LLC,

APPLICATION OF SLP HOLDINGS LTD. UNDER SECTION 46 OF THE COMPANIES'  
CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

### ORDER MADE AFTER APPLICATION

(FOREIGN PROCEEDING - INITIAL RECOGNITION)

BEFORE THE HONOURABLE  
JUSTICE FITZPATRICK

)  
)  
)

27/04/2023

THE PETITION of SLP Holdings Ltd., in its capacity as the foreign representative (the "**Foreign Representative**") in respect of the proceedings (the "**Foreign Proceedings**") of SLP Holdings Ltd, Structurlam Mass Timber Corporation, Structurlam Mass Timber U.S., Inc. and Natural Outcomes, LLC (collectively, the "**Debtors**") commenced in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**") under docket numbers 23-10500-CTG, 23-10499-CTG, 23-10498-CTG, and 23-10497-CTG respectively, pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), coming on for hearing at Vancouver, British Columbia, on the 19<sup>th</sup> day of April, 2023, AND UPON HEARING Jonathan B. Ross and Stephen Kroeger, counsel for the Foreign Representative and the Debtors and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the affidavit of Shawn Turkington sworn April 26,

2023, the preliminary report of Alvarez & Marsal Canada Inc., in its capacity as proposed information officer (the "**Proposed Information Officer**"), dated April 26, 2023, each filed, and upon being provided with copies of the documents required by s. 46 of the CCAA;

AND UPON BEING ADVISED by counsel for the Foreign Representative that in addition to this Initial Recognition Order, a Supplemental Order is being sought;

AND UPON BEING ADVISED that no other persons were served with the Petition;

THIS COURT ORDERS AND DECLARES that:

#### **SERVICE**

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

#### **FOREIGN REPRESENTATIVE**

2. The Foreign Representative is the "foreign representative" of the Debtors, as defined in subsection 45(1) of the CCAA, in respect of the Foreign Proceedings.

#### **RECOGNITION OF FOREIGN PROCEEDING**

3. The Foreign Proceedings are each a "foreign proceeding" as defined in section 45(1) of the CCAA.
4. The centre of main interest for each of SLP Holdings Ltd. and Structurlam Mass Timber Corporation (the "**Canadian Debtors**") is Canada and the Foreign Proceedings in respect of the Canadian Debtors are recognized as "foreign non-main proceedings" as defined in section 45 of the CCAA. The centre of main interest for each of Structurlam Mass Timber U.S., Inc. and Natural Outcomes, LLC (the "**U.S. Debtors**") is the United States of America and the Foreign Proceedings in respect of the U.S. Debtors are "foreign main proceedings" as defined in section 45 of the CCAA.

## STAY OF PROCEEDINGS

5. Until otherwise ordered by this Court:

- a. all proceedings taken or that might be taken against any of the Debtors under the *Bankruptcy and Insolvency Act* or the *Winding-up and Restructuring Act* are hereby stayed;
- b. further proceedings in any action, suit or proceeding against any of the Debtors are hereby restrained; and
- c. the commencement of any action, suit or proceeding against any of the Debtors is hereby prohibited.

## NO SALE OF PROPERTY

6. Except with leave of this Court, each of the Debtors is hereby prohibited from selling or otherwise disposing of:
- a. outside the ordinary course of its business, any of its property in Canada that relates to the business; and
  - b. any of its other property in Canada.

## GENERAL

7. As soon as practicable, the Foreign Representative shall cause a notice substantially in the form attached to this Order as **Schedule "B"** to be published once a week for two consecutive weeks in the Vancouver Sun.
8. Any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Debtors, the Foreign Representative, the Information Officer and their respective counsel, and 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.
9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, to give effect to this Order and to assist the Debtors and the Foreign Representative and their respective counsel and agents in carrying out the terms of this Order.

10. This Order and all of its provisions shall be effective as of 12:01 a.m. local Vancouver time on the date of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of Counsel for the Petitioner,  
SLP Holdings Ltd., Foreign Representative  
Jonathan B. Ross

---

Signature of Counsel for Bank of Montreal  
(Pre-Petition Secured Creditor and DIP Lender),  
Kelly Bourassa

---

Signature of Counsel for Alvarez & Marsal  
Canada, the Proposed Information Officer  
Colin D. Brousson

BY THE COURT

REGISTRAR

**SCHEDULE "A"**  
**COUNSEL**

<b><u>Name</u></b>	<b><u>Acting for</u></b>
<b>Colin Brousson</b>	<b>Alvarez &amp; Marsal (Proposed Information Officer)</b>
<b>Kelly J. Bourassa and Christopher Keliher</b>	<b>Bank of Montreal (Pre-Petition Secured Creditor and DIP Lender)</b>

**SCHEDULE "B"**

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

**AND  
IN THE MATTER OF  
SLP HOLDINGS LTD.  
STRUCTURLAM MASS TIMBER CORPORATION  
STRUCTURLAM MASS TIMBER U.S., INC.  
NATURAL OUTCOMES, LLC**

**NOTICE OF INITIAL RECOGNITION ORDER**

PLEASE BE ADVISED that this Notice is being published pursuant to an order of the Supreme Court of British Columbia (the "**Canadian Court**"), granted on April 27, 2023 (the "**Initial Recognition Order**").

TAKE NOTICE that on April 21, 2023, SLP Holdings Ltd. ("**SLP**"), Structurlam Mass Timber Corporation, Structurlam Mass Timber U.S., Inc. and Natural Outcomes, LLC (together, the "**Debtors**") filed voluntary petitions for relief under Chapter 11, title 11 of the United States Code (the "**Chapter 11 Proceeding**") in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**"). In connection with the Chapter 11 Proceeding, SLP has been appointed as the foreign representative of the estates of the Debtors (the "**Foreign Representative**"). The Foreign Representative's address is care of Gowling WLG (Canada) LLP Suite 2300, 550 Burrard Street, Vancouver, BC V6C 2B5.

AND TAKE NOTICE that the Initial Recognition Order and the supplemental order granted by the Canadian Court on April 27, 2023 (together with the Initial Recognition Order, the "**Recognition Orders**"), which were both issued by the Canadian Court under Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "**CCAA Recognition Proceeding**"), among other things:

- (i) ordered that the Chapter 11 Proceeding is recognized as a foreign proceeding;
- (ii) granted a stay of proceedings against the Debtors and their former, current and future directors and officers;
- (iii) recognized certain orders granted by the U.S. Bankruptcy Court in the Chapter 11 Proceeding; and
- (iv) appointed Alvarez & Marsal Canada Inc. as the information officer (in such capacity, the "**Information Officer**") with respect to the CCAA Recognition Proceeding.

AND TAKE NOTICE that motions, orders and notices filed with the U.S. Bankruptcy Court in the Chapter 11 Proceeding are available at [www.kccllc.net/structurlam](http://www.kccllc.net/structurlam) and that the Recognition Orders and any other orders that may be granted by the Canadian Court in the CCAA Recognition Proceeding are available at [www.alvarezandmarsal.com/structurlam](http://www.alvarezandmarsal.com/structurlam).

AND TAKE NOTICE that counsel for the Foreign Representative is:

**Gowling WLG (Canada) LLP**

550 Burrard Street, Suite 2300, Bentall 5, Vancouver, BC V6C 2B5

Attention: Jonathan Ross / Cyndi Laval

Email: [jonathan.ross@ca.gowlingwlg.com](mailto:jonathan.ross@ca.gowlingwlg.com)

FINALLY TAKE NOTICE that if you wish to receive copies of the Recognition Orders or obtain further information in respect of the matters set forth in this Notice, you may contact the Information Officer:

**Alvarez & Marsal Canada Inc.**

925 W Georgia St, Suite 902, Vancouver, BC V6C 3L2

Attention: Anthony Tillman / Pinky Law

Email: [atillman@alvarezandmarsal.com](mailto:atillman@alvarezandmarsal.com) / [pinky.law@alvarezandmarsal.com](mailto:pinky.law@alvarezandmarsal.com)

DATED AT VANCOUVER, BRITISH COLUMBIA this [•]th day of April, 2023.

**SLP HOLDINGS LTD.**

No. \_\_\_\_\_  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

IN THE MATTER OF SLP HOLDINGS LTD., STRUCTURLAM  
MASS TIMBER CORPORATION, STRUCTURLAM MASS  
TIMBER U.S., INC, NATURAL OUTCOMES, LLC,

APPLICATION OF SLP HOLDINGS LTD. UNDER SECTION 46  
OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

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**INITIAL RECOGNITION ORDER**

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**GOWLING WLG (CANADA) LLP**

Barristers & Solicitors  
Bentall 5, Suite 2300,  
550 Burrard Street  
Vancouver, BC V6C 2B5

Tel: 604.683.6498      Fax: 604.683.3558

File No. v56946      JBR/msh

Schedule "B"

No. \_\_\_\_\_  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND  
IN THE MATTER OF  
SLP HOLDINGS LTD.  
STRUCTURLAM MASS TIMBER CORPORATION  
STRUCTURLAM MASS TIMBER U.S., INC.  
NATURAL OUTCOMES, LLC

APPLICATION OF SLP HOLDINGS LTD. UNDER SECTION 46 OF THE  
*COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED

ORDER MADE AFTER APPLICATION

(SUPPLEMENTAL RECOGNITION ORDER IN FOREIGN PROCEEDING)

BEFORE THE HONOURABLE



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 27/04/2023

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THE APPLICATION of SLP Holdings Ltd., in its capacity as the foreign representative (the "**Foreign Representative**") of the SLP Holdings Ltd., Structurlam Mass Timber Corporation, Structurlam Mass Timber U.S., Inc. and Natural Outcomes, LLC (collectively, the "**Debtors**") in respect of the proceedings (the "**Foreign Proceedings**") commenced in the United States Bankruptcy Court for the District of Delaware (the "**U.S. Bankruptcy Court**") under docket numbers 23-10500-CTG, 23-10499-CTG, 23-10498-CTG, and 23-10497-CTG respectively, for an Order pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), coming on for hearing at Vancouver, British Columbia, on the 19<sup>th</sup> day of April, 2023; AND UPON hearing Jonathan B. Ross and Stephen Kroeger, counsel for the Foreign Representative and the Debtors, and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the affidavit of Shawn Turkington sworn April 26, 2023, the preliminary report of Alvarez & Marsal Canada Inc., in its capacity as proposed information officer (the "**Proposed Information Officer**"), dated April 26, 2023, and the consent of the Proposed Information Officer to act as the information officer, each filed;

THIS COURT ORDERS AND DECLARES that:

#### **SERVICE**

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

#### **INITIAL RECOGNITION ORDER**

2. Any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Order Made After Application (Foreign Proceeding – Initial Recognition) dated April 27, 2023 (the "**Recognition Order**").
3. The provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the Recognition Order shall govern.

#### **RECOGNITION OF FOREIGN ORDERS**

4. The following orders (collectively, the "**Foreign Orders**") of the U.S. Bankruptcy Court made in the Foreign Proceedings, are hereby recognized and given full force and effect in all provinces and territories of Canada pursuant to section 49 of the CCAA, provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada
  - a. order dated April 26, 2023 directing joint administration of related chapter 11 cases, a copy of which is attached hereto as **Schedule "B"**;
  - b. order dated April 26, 2023 authorizing SLP Holdings Ltd. to act as foreign representative, a copy of which is attached hereto as **Schedule "C"**;
  - c. order dated April 26, 2023 authorizing redaction of certain personal identifying information within the consolidated list of creditors, a copy of which is attached hereto as **Schedule "D"**;
  - d. interim order dated April 26, 2023 authorizing the Debtors to, among other things, obtain postpetition financing, a copy of which is attached hereto as **Schedule "E"** (the "**DIP Financing Order**");

- e. interim order dated April 26, 2023 for cash management, a copy of which is attached hereto as **Schedule “F”**;
- f. interim order dated April 26, 2023 for interim wages and benefits, a copy of which is attached hereto as **Schedule “G”**;
- g. interim order dated April 26, 2023 for interim taxes, a copy of which is attached hereto as **Schedule “H”**;
- h. order dated April 26, 2023 for interim utilities, a copy of which is attached hereto as **Schedule “I”**;
- i. interim order dated April 26, 2023 for interim insurance, a copy of which is attached hereto as **Schedule “J”**;
- j. interim order dated April 26, 2023 authorizing payment to critical vendors, a copy of which is attached hereto as **Schedule “K”**; and
- k. interim order dated April 26, 2023 for claims and noticing agent retention, a copy of which is attached hereto as **Schedule “L”**;

#### **NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

5. Until May 31, 2023 (the **“Stay Period”**), no action, suit or proceeding in any court or tribunal in Canada (each, a **“Proceeding”**) against or in respect of any of the Debtors, or affecting the Debtors’ business (the **“Business”**) or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the **“Property”**), shall be commenced or continued except with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.
6. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being **“Persons”** and each being a **“Person”**) against or in respect of the Debtors, or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court.
7. Nothing in this Order, including paragraphs 5 and 6, shall: (i) prevent the assertion or the exercise of rights and remedies outside of Canada; (ii) empower any of the Debtors to carry on any business which

that Debtor is not lawfully entitled to carry on; (iii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iv) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest; or (v) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the applicable Debtor(s).

#### **NO INTERFERENCE WITH RIGHTS**

8. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Debtors and affecting the Business in Canada, except with leave of this Court.

#### **CONTINUATION OF SERVICES**

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

#### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

10. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors 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. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a former, current or future director or officer of any of the

Debtors that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

#### **APPOINTMENT OF INFORMATION OFFICER**

11. Alvarez & Marsal Canada Inc. (the "**Information Officer**") is hereby appointed as an officer of this Court with the powers and duties set out herein.
12. The Information Officer:
  - a. is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
  - b. shall report to this Court at least once every 2 months with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business or other matters relevant to the within proceedings and any stakeholders in Canada;
  - c. in addition to the periodic reports referred to in paragraph 12(b), above, may report to this Court at such other times and intervals and with respect to such matters as the Information Officer, in its discretion, deems appropriate;
  - d. shall 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 Debtors, to the extent necessary to enable the Information Officer to perform its duties arising under this Order; and
  - e. shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its duties under this Order.
13. The Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in the Foreign Proceedings and in these proceedings, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its duties, and (iii) provide the Information Officer with such assistance as is necessary to enable the Information Officer to adequately carry out its duties.

14. The Information Officer 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 maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Information Officer being an employer or a successor employer within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.
15. The Information Officer (i) shall post on its website at [www.alvarezandmarsal.com/structurlam](http://www.alvarezandmarsal.com/structurlam) (the “**Information Officer’s Website**”) all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate, including Foreign Orders, materials filed by any party in the Foreign Proceedings or information regarding accessing information posted in the Foreign Proceedings.
16. The Information Officer shall provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer 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 Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless directed to do so by this Court or on such terms as the Information Officer, the Foreign Representative and the Debtors may agree.
17. The Debtors shall pay the Information Officer and counsel to the Information Officer, if any, their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges as part of the costs of these proceedings, subject to further Order of this Court. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer on a periodic basis during these proceedings as agreed among the Debtors and the Information Officer, and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, retainers in the amounts of \$35,000 and \$25,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
18. The Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of

the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court. The accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceedings.

19. Counsel to the Foreign Representative, the Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property in Canada, which charge shall not exceed an aggregate amount of \$150,000, as security for their respective fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order and which are related to these proceedings. The Administration Charge shall have the priority set out in paragraphs 22 and 24 hereof.
20. No Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a monitor under the CCAA, and 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.

#### **INTERIM FINANCING**

21. Bank of Montreal (the "**DIP Lender**") shall be entitled to the benefit of and is hereby granted a charge (the "**Lender Charge**") on the Property in Canada, which Lender Charge shall be consistent with the liens and charges created by the DIP Financing Order, provided that the Lender Charge (i) shall not secure an obligation that exists before this Order is made, and (ii) with respect to the Property in Canada, shall have the priority set out in paragraphs 22 and 24 hereof. Notwithstanding the foregoing, the DIP Lender is authorized to apply receipts and deposits made into the Debtor's bank accounts against the pre-filing indebtedness of Debtors to the DIP Lender in accordance with the senior secured superpriority DIP financing credit agreement dated as of April 21, 2023 (the "**DIP Credit Agreement**") and the DIP Financing Order. The Lender Charge shall not be enforced except with leave of this Court.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

22. The priorities of the Administration Charge and the Lender Charge, as among them, shall be as follows:
  - a. First – Administration Charge (to the maximum amount of \$150,000); and
  - b. Second – Lender Charge.

23. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge and the Lender Charge (together, the “**Charges**”) shall not be required, and the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.
24. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person.
25. Except as otherwise expressly provided herein, or as may be approved by this Court, the Debtors shall not grant or suffer to exist any Encumbrance over any Property in Canada that ranks in priority to, or *pari passu* with, the Charges, unless the Debtors obtain the prior written consent of the Information Officer and the DIP Lender.
26. The Administration Charge and the Lender Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (the “**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, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any of the Debtors; and notwithstanding any provision to the contrary in any Agreement:
- a. the creation of the Charges shall not create or be deemed to constitute a breach by the Debtors of any Agreement to which any of them is a party;
  - b. none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
  - c. the payments made by the Debtors to any of the Chargees pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at

undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

27. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Debtor's interest in such real property leases.

## **SERVICE AND NOTICE**

28. The Debtors, the Foreign Representative and the Information Officer are each at liberty to serve this Order, any other materials and orders filed or made in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.
29. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Information Officer by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Information Officer. The Information Officer shall post and maintain an up to date copy of the Service List on the Monitor's Website.
30. 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 counsels' email addresses as recorded on the Service List from time to time, and the Information Officer shall post a copy of all prescribed materials on the Information Officer's Website.
31. Notwithstanding paragraphs 29 and 30 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown:

## **GENERAL**

32. The Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

33. Nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property or as a financial advisor to any Debtor in the Foreign Proceeding.
34. 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 of America, to give effect to this Order and to assist the Debtors, the Foreign Representative, the Information Officer, 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 Debtors, the Foreign Representative, and the Information Officer, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant the Information Officer status in any foreign proceeding, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.
35. Each of the Debtors, the Foreign Representative and the Information Officer 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.
36. Any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days' notice to the Debtors, the Foreign Representative, the Information Officer and their respective counsel, and 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.

This Order and all of its provisions shall be effective as of 12:01 a.m. local Vancouver time on the date of this Order.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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Signature of Lawyer for the Foreign Representative

Lawyer: Jonathan B. Ross

BY THE COURT

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REGISTRAR

**SCHEDULE "A"**

**COUNSEL**

<u>Name</u>	<u>Acting for</u>
<b>Colin Brousson</b>	<b>Alvarez &amp; Marsal (Proposed Information Officer)</b>
<b>Kelly J. Bourassa and Christopher Keliher</b>	<b>Bank of Montreal (Pre-Petition Secured Creditor and DIP Lender)</b>

In re:	)	Chapter 11
STRUCTURLAM MASS TIMBER U.S., INC.,	)	
Debtor.	)	Case No. 23-10497 (CTG)
Tax I.D. No. 84-2896287	)	
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In re:	)	Chapter 11
NATURAL OUTCOMES, LLC,	)	
Debtor.	)	Case No. 23-10498 (CTG)
Tax I.D. No. N/A	)	
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In re:	)	Chapter 11
STRUCTURLAM MASS TIMBER CORPORATION,	)	
Debtor.	)	Case No. 23-10499 (CTG)
Tax I.D. No. 98-1445050	)	
<hr/>		
In re:	)	Chapter 11
SLP HOLDINGS LTD.,	)	
Debtor.	)	Case No. 23-10500 (CTG)
Business No: 781693114 (Canada)	)	

**ORDER (I) DIRECTING JOINT ADMINISTRATION OF  
RELATED CHAPTER 11 CASES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>1</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) directing joint administration of these cases for procedural purposes only, and granting related relief, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of these cases and this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard any statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted as set forth herein.

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

2. Each of the above-captioned Chapter 11 Cases is consolidated for procedural purposes only and shall be jointly administered by the Court under Case No. 23-10497 (CTG).

3. The caption of the jointly administered cases shall read as follows:

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

In re:

STRUCTURLAM MASS TIMBER U.S., INC., *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 23-10497 (CTG)

(Jointly Administered)

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number are: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors' headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

4. The foregoing caption shall satisfy the requirements set forth in the first sentence of section 342(c)(1) of the Bankruptcy Code.

5. The Clerk of the Court shall make a docket entry in each Debtor's chapter 11 case (except that of Structurlam Mass Timber U.S., Inc.) substantially as follows:

An order has been entered in accordance with Rule 1015(b) of the Federal Rules of Bankruptcy Procedure and Rule 1015-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of Delaware directing joint administration for procedural purposes only of the chapter 11 cases of: Structurlam Mass Timber U.S., Inc., Case No. 23-10497 (CTG); Natural Outcomes, LLC, Case No. 23-10498 (CTG); Structurlam Mass Timber Corporation, 23-10499 (CTG); and SLP Holdings Ltd., Case No. 23-10500 (CTG). **All further pleadings and other papers shall be filed in and all further docket entries shall be made in Case No. 23-10497 (CTG).**

6. The Debtors shall maintain, and the Clerk of the Court shall keep, one consolidated docket, one file, and one consolidated service list for these Chapter 11 Cases under Structurllam Mass Timber U.S., Inc., Case No. 23-10497 (CTG).

7. Nothing in the Motion or this Order shall be deemed or construed as directing or otherwise effecting a substantive consolidation of these Chapter 11 Cases and this Order shall be without prejudice to the rights of the Debtors to seek entry of an Order substantively consolidating their respective cases.

8. The Debtors are authorized and empowered to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

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



Dated: April 26th, 2023  
Wilmington, Delaware

CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

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

In re:

STRUCTURLAM MASS TIMBER U.S., INC., *et al.*,<sup>1</sup>

Debtors.

)  
) Chapter 11  
)  
) Case No. 23-10497 (CTG)  
)  
) (Jointly Administered)  
)  
) **Re: Docket No. 12**

**ORDER (I) AUTHORIZING SLP HOLDINGS LTD.  
TO ACT AS FOREIGN REPRESENTATIVE AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”): (a) authorizing SLP Holdings Ltd. (“SLP”) to act as foreign representative on behalf of the Debtors’ estates (the “Foreign Representative”) in the Canadian Proceeding; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and that this Court having the power to enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having

<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors’ headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Motion.



reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted.
2. Debtor SLP is hereby authorized to: (a) act as the Foreign Representative of the Debtors; (b) seek recognition of these Chapter 11 Cases in the Canadian Proceeding; (c) request that the Canadian Court lend assistance to this Court in protecting the property of the estates; and (d) seek any other appropriate relief from the Canadian Court that SLP deems just and proper in the furtherance of the protection of the Debtors' estates.
3. This Court requests the aid and assistance of the Canadian Court to recognize these Chapter 11 Cases as a "foreign main proceeding" or "foreign non-main proceeding," as applicable, and SLP as a "foreign representative" pursuant to the CCAA, and to recognize and give full force and effect in all provinces and territories of Canada to this Order.
4. The Debtors are authorized to pay the costs of the Information Officer and its counsel, consistent with any orders of the Canadian Court.
5. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Motion.

6. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

A handwritten signature in black ink, appearing to read "Craig Goldblatt", is positioned above the printed name of the judge.

Dated: April 26th, 2023  
Wilmington, Delaware

CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

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

<p>In re:</p> <p>STRUCTURLAM MASS TIMBER U.S., INC., <i>et al.</i>,<sup>1</sup></p> <p style="text-align: center;">Debtors.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>Chapter 11</p> <p>Case No. 23-10497 (CTG)</p> <p>(Jointly Administered)</p> <p><b>Re: Docket No. 4</b></p>
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**ORDER (I) AUTHORIZING REDACTION OF CERTAIN  
PERSONAL IDENTIFYING INFORMATION WITHIN THE  
CONSOLIDATED LIST OF CREDITORS AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) for authority to redact certain personal identifying information within the Consolidated List of Creditors and granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors’ headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application.



Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted, as set forth herein.
2. All objections to the entry of this Order, to the extent not withdrawn or settled, are overruled.
3. The Debtors are authorized to redact the email addresses and home addresses of the Debtors' employees, equity holders, customers, board members, and creditors who are individual persons from the Consolidated Creditor Matrix, the Debtors' Schedules, affidavits of service, or any other document filed with this Court in these Chapter 11 Cases; *provided, that* the Debtors shall file unredacted versions of all such documents under seal with the Court, within five business days of the later of (a) the date of this Order and (b) the date of filing of the relevant document, and shall provide an unredacted version of the Consolidated Creditor Matrix, Schedules (to the extent the Debtors are required to prepare and file the Schedules), and (if requested) affidavits of service to the U.S. Trustee, any official committee of unsecured creditors appointed in these Chapter 11 Cases, the Debtors' court-appointed claims and noticing agent, any subsequently appointed trustee, and any party in interest upon the execution of an appropriate confidentiality agreement reasonably acceptable to the Debtors, or alternatively entry of an order granting a written motion to the Court that indicates the reason such information is needed (e.g., to serve the

employees with notice).

4. When serving any notice in these Chapter 11 Cases on the Debtors' employees, equity holders, customers, board members, and creditors who are individual persons, the Debtors' claims and noticing agent, and, where applicable, the Clerk of the Court, shall use the address the Debtors have on file for such individual, which shall not be the Debtors' general mailing addresses.

5. Nothing in this Order shall waive or otherwise limit the service of any document upon or the provision of any notice to any individual solely because such individual's personally identifiable information is sealed or redacted pursuant to this Order. Service of all documents and notices upon individuals whose personally identifiable information is sealed or redacted pursuant to this Order shall be confirmed in the corresponding certificate of service. The Debtors shall provide the personally identifiable information to any party in interest upon the execution of an appropriate confidentiality agreement reasonably acceptable to the Debtors, or alternatively entry of an order granting a written motion to the Court that indicates the reason such information is needed (e.g., to serve the employees with notice). Alternatively, the Debtors are authorized to facilitate service of process through the Debtors' claims and noticing agent for any party in interest required to serve a creditor whose information has been redacted pursuant to this Order and arrange, subject to Local Rule 2002-1(f)(i), for reimbursement of expenses on account of such service with said party in interest.

6. Nothing in this Order authorizes the redaction of any information required to be provided on the Consolidated Top 30 Creditors List.

7. The Debtors are hereby authorized to take such actions and to execute such documents as may be necessary to implement the relief granted by this Order.

8. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: April 26th, 2023  
Wilmington, Delaware



CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

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

In re: )  
 ) Chapter 11  
 )  
STRUCTURLAM MASS TIMBER U.S., INC., *et al.*,<sup>1</sup> ) Case No. 23-10497 (CTG)  
 )  
 ) (Jointly Administered)  
Debtors. )  
 )  
 ) **Re: Docket Nos. 5, 6 and 30**

**INTERIM ORDER (I) AUTHORIZING DEBTORS AND DEBTORS IN POSSESSION TO (A) OBTAIN POSTPETITION FINANCING, (B) USE CASH COLLATERAL, (C) GRANT LIENS AND SUPER-PRIORITY CLAIMS, AND (D) GRANT ADEQUATE PROTECTION; (II) MODIFYING THE AUTOMATIC STAY; (III) SCHEDULING A FINAL HEARING; AND (IV) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) pursuant to §§ 105, 361, 362, 363, 364(c)(1), 364(c)(2) and 364(c)(3), 364(d), 503, 506, 507 and 552 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 4001, 9013 and 9014 of the Federal Rules of Bankruptcy Procedure (as amended, the “Bankruptcy Rules”), and Rules 2002-1, 4001-1, 4001-2 and 9013-1 of the Local Rules of Bankruptcy Practice and Procedure for the United States Bankruptcy Court for the District of Delaware (the “Local Rules”), *inter alia* seeking, among other things:

(1) authorization (a) for Structurlam Mass Timber U.S., Inc., a Delaware corporation, as debtor and debtor in possession and Structurlam Mass Timber Corporation, a corporation

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors' headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not defined in this Interim Order shall have the same meanings ascribed to such terms in the DIP Credit Agreement.



governed by the laws of the Province of British Columbia, as debtor and debtor in possession (each individually, a “Borrower” and collectively, “Borrowers”), to obtain, and (b) for each Borrower, SLP Holdings Ltd., a corporation governed by the laws of the Province of British Columbia (“SLP”) and Natural Outcomes, LLC, a Delaware limited liability company (“Natural” and together with SLP, each a “Guarantor” and collectively the “Guarantors” and together with the Borrowers, each a “Loan Party” and collectively the “Loan Parties”) to guarantee, unconditionally, on a joint and several basis, post-petition financing in the form of a revolving credit facility in accordance with the terms and conditions set forth in the Senior Secured Super-Priority Debtor-in-Possession Financing Credit Agreement, substantially in the form attached hereto as **Exhibit 1** (as amended, supplemented or otherwise modified from time to time in accordance with the terms and conditions set forth herein, the “DIP Credit Agreement”), by and among the Borrowers, the Guarantors, and Bank of Montreal (the “DIP Lender”), and the other Documents (as defined in the DIP Credit Agreement and referred to herein as the “DIP Loan Documents”), and in accordance with this order (this “Interim Order”), secured by perfected senior priority security interests in and liens on the Collateral (as defined herein) pursuant to §§ 364(c)(2) and 364(c)(3), and 364(d) of the Bankruptcy Code (subject only to the Carve-Out and the Permitted Liens (each as defined herein));

(2) authorization for the Loan Parties to apply all collections, asset proceeds and payments in accordance with the Agreed Budget and DIP Credit Agreement (i) first to the Pre-Petition Lender for application or deemed application to up to Cdn. \$3,900,000 of Pre-Petition Obligations (as defined herein) until such obligations are fully repaid in accordance with the Pre-Petition Credit Agreement (as defined herein) and other Pre-Petition Loan Documents (as defined herein) and (ii) to the DIP Lender for application and repayment of all Post-Petition Obligations

(as defined herein) in accordance with the DIP Credit Agreement and the other DIP Loan Documents;

(3) authorization for the Debtors to grant superpriority administrative claim status, pursuant to § 364(c)(1) of the Bankruptcy Code, to the DIP Lender in respect of all Post-Petition Obligations (subject to the Carve-Out (as defined herein));

(4) as set forth below, approval of certain stipulations by the Debtors as set forth in this Interim Order in connection with the Pre-Petition Credit Agreement and Pre-Petition Loan Documents;

(5) as set forth below, authorization to provide adequate protection to Pre-Petition Lender;

(6) authorization to use the Cash Collateral (as defined in Section 363 of the Bankruptcy Code) subject to the terms of this Interim Order;

(7) effective only upon entry of a Final Order (as defined herein), the waiver of the Debtors' right to assert claims to surcharge against the Collateral (as defined herein) or the Pre-Petition Collateral (as defined herein) pursuant to § 506(c) of the Bankruptcy Code;

(8) the modification of the automatic stay imposed by Section 362 of the Bankruptcy Code to the extent necessary to implement and effectuate the terms and provisions of this Interim Order to the extent hereinafter set forth;

(9) the scheduling of a final hearing on the Motion ("Final Hearing") to consider entry of a final order (the "Final Order") authorizing, among other things, the borrowing under the DIP Loan Documents on a final basis, as set forth in the Motion and the DIP Credit Agreement filed with the Court; and

(10) related relief.

The initial hearing on the Motion having been held by this Court on April 26, 2023 (the “Interim Hearing”), and upon the record made by the Debtors at the Interim Hearing, including the Motion, the *Declaration of Matthew Karmel, Interim Chief Executive Officer of the Debtors, in Support of Debtors’ Chapter 11 Petitions and First Day Motions* (the “First Day Declaration”), the *Declaration of Kevin Haggard in Support of Debtors’ Motion for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Utilize Cash Collateral, (II) Granting Liens and Superpriority Administrative Expense Claims, (III) Modifying Automatic Stay, and (IV) Granting Related Relief* (the “DIP Declaration” and together with the First Day Declaration, collectively, the “Declarations”), and the filings and pleadings in the above-captioned chapter 11 cases (the “Chapter 11 Cases”), the Court having found that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and appropriate notice of the Motion, the relief requested therein, and the Interim Hearing (the “Notice”) having been provided; and the Notice having been served by the Debtors in accordance with Bankruptcy Rule 4001 on (i) counsel to the DIP Lender and Pre-Petition Lender; (ii) the office of the United States Trustee (the “U.S. Trustee”), (iii) the holders of the 30 largest unsecured claims, on a consolidated basis, against the Debtors’ estates (the “30 Largest Unsecured Creditors”), (iv) the Internal Revenue Service and applicable state taxing authorities, (v) the United States Attorney’s Office for the District of Delaware; (vi) any party that has asserted or may assert a lien in the Debtors’ assets; and (vii) all parties entitled to notice pursuant to Local Rules 2002-1(b) and 9013-1(m) (collectively, the “Noticed Parties”) and the opportunity for a hearing on the Motion was appropriate and no other notice need be provided; and after due deliberation sufficient cause appearing therefor;

BASED UPON THE RECORD ESTABLISHED AT THE INTERIM HEARING BY THE DEBTORS, INCLUDING THE SUBMISSIONS OF THE DECLARATIONS, THE FACTS IN THE MOTION AND THE REPRESENTATIONS OF COUNSEL, THE COURT HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:<sup>3</sup>

A. Petition. On April 21, 2023 (the “Petition Date”), each Debtor filed a voluntary petition (each, a “Petition”) under chapter 11 of the Bankruptcy Code. The Debtors continue to operate their businesses and manage their properties as debtors-in-possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code.

B. Disposition. The Motion is hereby granted in accordance with and to the extent set forth in this Interim Order. Any objections to the Motion with respect to the entry of the Interim Order that have not been withdrawn, waived, resolved, or settled are hereby denied and overruled.

C. Jurisdiction and Venue. The Court has jurisdiction of this proceeding and the parties and property affected hereby pursuant to 28 U.S.C. §§ 157(b) and 1334, as well as the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012. The Motion is a “core” proceeding as defined in 28 U.S.C. §§ 157(b)(2)(A), (D) and (M). This Court may enter a final order consistent with Article III of the United States Constitution. Venue of the Chapter 11 Cases and the Motion in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief sought herein are Sections 105, 361, 362, 363, 364, 503, 506, 507 and 552 of the Bankruptcy Code and Bankruptcy Rules 2002, 4001, 9013 and 9014 and the applicable provisions of the Local Rules.

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<sup>3</sup> The findings and conclusions set forth herein constitute the Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052. To the extent any findings of fact constitute conclusions of law, they are adopted as such. To the extent any conclusions of law constitute findings of fact, they are adopted as such.

D. Committee Formation. As of the date hereof, the U.S. Trustee has not yet appointed an official committee of unsecured creditors in these Chapter 11 Cases pursuant to Section 1102 of the Bankruptcy Code (a "Committee").

E. Notice. Notice of the Motion has been provided in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice of the Motion with respect to the relief requested at the Interim Hearing or the entry of this Interim Order shall be required.

F. Acknowledgments and Agreements of Debtors. After consultation with their attorneys and financial advisors, and without prejudice to the rights of any Committee appointed in these Chapter 11 Cases or other parties-in-interest as and to the extent set forth in Section 4.1 of this Interim Order, the Debtors, on their behalf and on behalf of their estates, admit, stipulate, acknowledge and agree that (collectively, the "Stipulations"):

(i) Pre-Petition Loan Documents. Prior to the commencement of the Chapter 11 Cases, the Pre-Petition Lender (as defined herein) made loans, advances and provided other financial accommodations to the Loan Parties pursuant to the terms and conditions set forth in (1) that certain Amended and Restated Letter Agreement dated December 3, 2019 among the Borrowers as borrowers, SLP and Natural as guarantors, and Bank of Montreal, as lender (the "Pre-Petition Lender") as amended by a waiver and first amendment agreement dated as of February 2, 2021, a waiver and second amendment agreement dated as of September 29, 2021, a waiver and third amendment agreement dated as of January 24, 2022, a fourth amendment agreement dated as of June 17, 2022, a fifth amendment agreement dated as of June 27, 2022, a consent and sixth amending agreement dated as of February 7, 2023, a seventh amending agreement dated as of March 3, 2023, and an eighth amending agreement dated as of April 21,

2023 (collectively, the “Pre-Petition Credit Agreement”); and (2) all other agreements, documents and instruments executed and/or delivered with, to, or in favor of the Pre-Petition Lender in connection with the Pre-Petition Credit Agreement, including, without limitation, all security agreements, notes, guarantees, mortgages, Uniform Commercial Code financing statements, PPSA financing statements, and all other related agreements, documents and instruments executed and/or delivered in connection therewith or related thereto (all of the foregoing, together with the Pre-Petition Credit Agreement, as all of the same have heretofore been amended, supplemented, modified, extended, renewed, restated and/or replaced at any time prior to the Petition Date, collectively, the “Pre-Petition Loan Documents”). Copies of the operative Pre-Petition Loan Documents are in the possession of counsel to the Debtors and available upon reasonable request.

(ii) Pre-Petition Loan Obligations. As of the Petition Date, the Loan Parties were indebted to the Pre-Petition Lender under the Pre-Petition Loan Documents in respect of (a) a committed revolving credit facility in the maximum principal amount of Cdn. \$3,000,000, (b) a non-revolving term credit facility in the original maximum principal amount of Cdn. \$21,333,317, (c) a revolving letter of credit facility in the maximum principal amount of Cdn. \$413,000, (d) a committed, reducing, non-revolving term credit facility in the original maximum principal amount of US \$35,529,007, (e) a MasterCard Facility providing corporate credit card services in the maximum principal amount of US \$50,000 and Cdn. \$100,000 and (f) an uncommitted non-revolving demand facility in the maximum principal amount of Cdn. \$900,000 (each as described and defined in the Pre-Petition Credit Agreement) in an aggregate outstanding principal amount of not less than US \$50,065,515.23<sup>4</sup>, plus interest accrued and accruing thereon,

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<sup>4</sup> Reflects conversion of Canadian dollar amounts to US dollar amounts calculated as of April 20, 2023.

together with all costs, fees, expenses (including attorneys' fees and legal expenses) and other charges accrued, accruing or chargeable with respect thereto, each in accordance with the terms of the Pre-Petition Credit Agreement (collectively, the "Pre-Petition Obligations", as such term is further defined in the DIP Credit Agreement). The Pre-Petition Obligations constitute allowed, legal, valid, binding, enforceable and non-avoidable obligations of the Loan Parties, and are not subject to any offset, defense, counterclaim, avoidance, recharacterization or subordination pursuant to the Bankruptcy Code or any other applicable law; the Loan Parties do not possess, shall not assert, hereby forever release, and are forever barred from bringing any claim, counterclaim, setoff or defense of any kind, nature or description, in any such case, arising out of, connected with, or relating to any and all acts, omissions or events occurring prior to the entry of this Interim Order, which would in any way affect the validity, enforceability and non-avoidability of any of the Pre-Petition Obligations or liens and security interest securing the same described in clause (E)(iii) below.

(iii) Pre-Petition Collateral. As of the Petition Date, the Pre-Petition Obligations were fully secured pursuant to the Pre-Petition Loan Documents by valid, perfected, enforceable and non-avoidable first-priority security interests and liens granted by the Loan Parties to Pre-Petition Lender under the Pre-Petition Loan Documents, upon all of the Pre-Petition Collateral (as defined in the DIP Credit Agreement and hereinafter referred to as the "Pre-Petition Collateral"), subject only to the liens specifically permitted under Section 9.2(b) of the Pre-Petition Credit Agreement to the extent that such security interests, liens or encumbrances are (1) valid, perfected, and unavoidable senior priority liens and security interests existing as of the Petition Date securing valid, binding and unavoidable debt permitted under the Pre-Petition Loan Documents, and (2) senior to and have not been and are not subject to being subordinated to Pre-

Petition Lender's liens on and security interests in the Pre-Petition Collateral under the Pre-Petition Loan Documents or otherwise avoided, and, in each instance, only for so long as and to the extent that such encumbrances are and remain senior and outstanding (hereinafter referred to as the "Permitted Liens"). None of the Loan Parties possess or will assert any claim, counterclaim, setoff or defense of any kind, nature or description which would in any way affect the validity, enforceability and non-avoidability of any of Pre-Petition Lender's liens, claims or security interests in the Pre-Petition Collateral.

(iv) Subject to Section 363(k) of the Bankruptcy Code, Section 4.1 of this Interim Order, and the rights of the DIP Lender, the Pre-Petition Lender has the right to "credit bid" the amount of its claims that are Pre-Petition Obligations arising under the terms of the Pre-Petition Loan Documents, during any sale of all or substantially all of the Debtors' assets, including without limitation, sales occurring pursuant to Section 363 of the Bankruptcy Code or included as part of any restructuring plan subject to confirmation under Section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code.

(v) Proof of Claim. The acknowledgment by the Loan Parties of the Pre-Petition Obligations and the liens, rights, priorities and protections granted to or in favor of Pre-Petition Lender in respect of the Pre-Petition Collateral as set forth herein and in the Pre-Petition Loan Documents shall be deemed a timely filed proof of claim on behalf of Pre-Petition Lender in each of these Chapter 11 Cases.

G. Findings Regarding the Post-Petition Financing.

(i) Post-Petition Financing. The Loan Parties have requested from the DIP Lender, and the DIP Lender is willing to extend, certain loans, advances and other financial accommodations on the terms and conditions set forth in this Interim Order, the DIP

Credit Agreement and the other DIP Loan Documents, in a principal amount of up to Cdn. \$4,000,000 during the Interim Financing Period and up to Cdn. \$7,500,000 following entry of the Final Order in form and substance acceptable to the DIP Lender.

(ii) Need for Post-Petition Financing. The Debtors do not have sufficient available sources of working capital, including Cash Collateral, to operate their businesses in the ordinary course of business and fund these Chapter 11 Cases without access to the financing provided under the DIP Credit Agreement as requested in the Motion and the authority to use Cash Collateral pursuant to the terms of this Interim Order. The Debtors' ability to maintain business relationships with their vendors, suppliers and customers, to pay their employees, and to otherwise fund their operations and these Chapter 11 Cases is essential to the Debtors' continued viability as the Debtors seek to maximize the value of the assets of the Estates (as defined herein) for the benefit of all creditors of the Debtors. The ability of the Debtors to obtain sufficient working capital and liquidity through the proposed post-petition financing arrangements with the DIP Lender as set forth in this Interim Order, the DIP Credit Agreement, and other DIP Loan Documents, as applicable, is vital to the preservation and maintenance of the going concern value of each Debtor. Accordingly, the Debtors have an immediate need to obtain the post-petition financing in order to, among other things, permit the orderly continuation of the operation of their businesses, minimize the disruption of their business operations, and preserve and maximize the value of the assets of the Debtors' bankruptcy estates (as defined under § 541 of the Bankruptcy Code, the "Estates").

(iii) No Credit Available on More Favorable Terms. The Debtors are unable to procure financing in the form of unsecured credit allowable as an administrative expense under §§ 364(a), 364(b), or 503(b)(1) of the Bankruptcy Code or in exchange for the grant

of a superpriority administrative expense, junior liens on encumbered property of the Estates, or liens on property of the Estates not subject to a lien pursuant to § 364(c)(1), 364(c)(2) or 364(c)(3) of the Bankruptcy Code, without granting to the DIP Lender, the DIP Liens and the DIP Loan Superpriority Claim (each as defined herein) and incurring the Adequate Protection Obligations (as defined herein), in each case as provided for herein subject to the Carve-Out to the extent set forth herein, under the terms and conditions set forth in this Interim Order and in the DIP Loan Documents. The Debtors have been unable to procure the necessary financing on terms more favorable, taken as a whole, than the financing offered by the DIP Lender pursuant to the DIP Loan Documents.

(iv) DIP Budget. The Loan Parties have prepared and delivered to the DIP Lender an initial 13-week budget (the “DIP Budget”), a summary of which is attached to this Interim Order as **Exhibit 2**. Such DIP Budget has been thoroughly reviewed by the Loan Parties and their management and sets forth, among other things, the projected cash receipts and disbursements of the Loan Parties for the periods covered thereby. The DIP Lender is relying upon the Loan Parties’ compliance with the DIP Budget (subject to the variances permitted under the DIP Credit Agreement including Sections 8.1(p), 8.1(s), 8.2(r) of the DIP Credit Agreement and the definition of “Agreed Budget” therein (the “Permitted Variances”)) and related covenants in accordance with the DIP Credit Agreement including Sections 8.1 and 8.2 of the DIP Credit Agreement, the other DIP Loan Documents, and this Interim Order in determining to enter into the post-petition financing arrangements provided for herein.

(v) Business Judgment and Good Faith Pursuant to § 364(e). The extensions of credit under the DIP Credit Agreement and the other DIP Loan Documents and this Interim Order are fair, just and reasonable under the circumstances, are ordinary and

appropriate for secured financing to debtors-in-possession, reflect the Debtors' exercise of their prudent business judgment consistent with their fiduciary duties, and are supported by reasonably equivalent value and fair consideration. The terms and conditions of the DIP Credit Agreement and the other DIP Loan Documents and this Interim Order have been negotiated in good faith and at arms' length by and among the Loan Parties, the DIP Lender with all parties being represented by counsel. Any credit extended under the terms of this Interim Order shall be deemed to have been extended in good faith by the DIP Lender, as that term is used in § 364(e) of the Bankruptcy Code.

(vi) Good Cause. The relief requested in the Motion is necessary, essential and appropriate, and is in the best interest of and will benefit the Debtors, their creditors and their Estates, as its implementation will, among other things, provide the Debtors with the necessary liquidity to (1) minimize disruption to the Debtors' businesses and operations, (2) preserve and maximize the value of the Debtors' Estates for the benefit of all the Debtors' creditors, and (3) avoid immediate and irreparable harm to the Debtors, their creditors, their businesses, their employees, and their assets.

(vii) Immediate Entry. Sufficient cause exists for immediate entry of this Interim Order pursuant to Bankruptcy Rule 4001(c)(2). No party appearing in the Chapter 11 Cases has filed or made an objection to the relief sought in the Motion or the entry of this Interim Order, or any objections that were made (to the extent such objections have not been withdrawn, waived, resolved, or settled) are hereby overruled.

Based upon the foregoing, and after due consideration and good cause appearing therefor;

IT IS HEREBY ORDERED THAT:

Section 1. Authorization and Conditions to Financing.

1.1 Motion Granted. The Motion is granted in accordance with Bankruptcy Rule 4001(c)(2) to the extent provided in this Interim Order. Except as otherwise expressly provided in this Interim Order, any objection to the entry of this Interim Order that has not been withdrawn, waived, resolved or settled, is hereby denied and overruled on the merits.

1.2 Authorization to Borrow, Guaranty, and Use Loan Proceeds. Borrowers are hereby authorized and empowered to immediately borrow and obtain Loans and to incur indebtedness and other obligations (collectively, the “Post-Petition Obligations”), and each Loan Party is hereby authorized to guaranty such Post-Petition Obligations in an amount of (i) up to Cdn. \$4,000,000 in principal amount, plus (ii) all interest, costs, and fees, accrued or accruing under the DIP Credit Agreement and other DIP Loan Documents, all pursuant to the terms and conditions of this Interim Order, the DIP Credit Agreement, the other DIP Loan Documents, during the period commencing on the date of this Interim Order through and including the date of the Final Hearing (the “Interim Financing Period”). Subject to the terms and conditions contained in this Interim Order and the DIP Loan Documents, Borrowers shall use the proceeds of the Loans and other credit and financial accommodations provided by the DIP Lender under the DIP Credit Agreement and the other DIP Loan Documents solely for payment of expenses set forth in the DIP Budget and amounts owing to the DIP Lender in accordance with the terms and conditions of the DIP Loan Documents and this Interim Order.

1.3 Financing Documents

(a) Authorization. The Loan Parties are hereby authorized to enter into, execute, deliver, perform, and comply with all of the terms, conditions and covenants of the DIP Credit Agreement and the other DIP Loan Documents. Upon execution and delivery of the DIP Credit Agreement and the other DIP Loan Documents, such agreements and documents shall

constitute valid and binding obligations of the Loan Parties, enforceable against each Loan Party in accordance with the terms of such agreements, documents and this Interim Order. No obligation, payment, transfer or grant of security under the DIP Credit Agreement, the other DIP Loan Documents or this Interim Order shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable state, federal or foreign law (including, without limitation, under chapter 5 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or foreign law) or be subject to any defense, reduction, setoff, counterclaim, recoupment, offset, recharacterization, subordination (whether equitable, contractual or otherwise), cross-claims or any other challenge under the Bankruptcy Code or any applicable law, rule or regulation by any person or entity, other than a Challenge (as defined below) to the Roll-Up (as defined below) pursuant to Section 4.1 of this Interim Order.

(b) Approval; Evidence of Borrowing Arrangements. Subject to entry of the Final Order, all terms, conditions and covenants set forth in the DIP Loan Documents (including, without limitation, the DIP Credit Agreement) are approved on an interim basis. All such terms, conditions and covenants shall be sufficient and conclusive evidence of (a) the borrowing arrangements by and among the Loan Parties and the DIP Lender, and (b) each Loan Party's agreement to all of the terms, conditions, and covenants of the DIP Credit Agreement and the other DIP Loan Documents for all purposes, including, without limitation, to the extent applicable, the payment of all Post-Petition Obligations arising thereunder, including, without limitation, all principal, interest, fees and other expenses, including, without limitation, all of the DIP Lender's consultant fees, professional fees, attorney fees and legal expenses, whether incurred pre-petition or post-petition, as more fully set forth in the DIP Loan Documents.

(c) Amendment. Subject to the terms and conditions of the DIP Credit Agreement and the other DIP Loan Documents, the Loan Parties and the DIP Lender may amend, modify, supplement or waive any provision of the DIP Loan Documents (a “DIP Loan Amendment”) without further approval or order of the Court, so long as (a) such DIP Loan Amendment is not material (for purposes hereof, a “material” DIP Loan Amendment shall mean any DIP Loan Amendment that operates to increase the interest rate other than as currently provided in the DIP Loan Documents, increase the maximum credit available pursuant to the DIP Credit Agreement, increase or add an additional early termination fee, prepayment or repayment premium, add specific new events of default or enlarge the nature and extent of default remedies available to the DIP Lender following an event of default) and is undertaken in good faith by the DIP Lender and the Loan Parties; (b) the Debtors provide prior written notice of the DIP Loan Amendment (the “DIP Loan Amendment Notice”) to (i) the U.S. Trustee, and (ii) counsel to any Committee, or in the event no such Committee is appointed at the time of such DIP Loan Amendment, the 30 Largest Unsecured Creditors; (c) the Debtors file the DIP Loan Amendment Notice with the Court; and (d) no objection to the DIP Loan Amendment is filed with the Court within five (5) business days from the date the DIP Loan Amendment Notice is filed with the Court in accordance with this Paragraph. Any material DIP Loan Amendment to the DIP Loan Documents must be approved by the Court to be effective.

1.4 Payment of Pre-Petition Debt. The Debtors are authorized to pay all Pre-Petition Obligations in accordance with the Pre-Petition Credit Agreement (subject to Paragraph 4.1(b) of this Interim Order), the DIP Credit Agreement, the other DIP Loan Documents to the extent authorized by this Interim Order, including, without limitation, Paragraph 1.5 of this Interim

Order, *provided* that the Roll-Up (as defined below) shall be subject to the Challenge Period (as defined below).

1.5 Application of Payments and Collateral Proceeds; Roll-Up.

(a) Cash Collateral and proceeds of Collateral in excess of the aggregate receipts forecast in the initial DIP Budget attached hereto as **Exhibit 2** shall be applied, first, to repayment of the Pre-Petition Obligations up to the amount of Cdn. \$3,900,000, (the "Roll-Up") (subject to the Challenge Period (as defined below) described in Section 4.1 of this Interim Order), and, second, to the DIP Indebtedness until paid in full, in accordance with the Payment Protocol as defined in the DIP Credit Agreement. Except to the extent permitted otherwise pursuant to the preceding sentence, all proceeds of Pre-Petition Collateral shall be applied to the Pre-Petition Indebtedness (in accordance with the Pre-Petition Loan Documents) until paid in full. The Debtors shall not have the right to direct the manner of application of any payments to the Pre-Petition Lender or the DIP Lender or any other receipts by the Pre-Petition Lender or the DIP Lender of proceeds of any of the Pre-Petition Collateral or Collateral other than in the manner set forth in this ordering paragraph, the Pre-Petition Credit Agreement and the DIP Credit Agreement. The Debtors are authorized to make all payments and transfers of Estate property to the DIP Lender as provided for, permitted and/or required under the DIP Credit Agreement and the other DIP Loan Documents, and any such payments and transfers (other than the Roll-Up (as defined below) shall not be avoidable or recoverable from the DIP Lender under §§ 547, 548, 550, 553 or any other section of the Bankruptcy Code, or by reason of any other claim, charge, assessment, or other liability, whether by application of the Bankruptcy Code, other law or otherwise.

(b) Without limiting the generality of Paragraph 1.5(a), the Debtors are authorized without further order of this Court to pay or reimburse the DIP Lender for all costs and

expenses, including, without limitation, all professional fees, consultant fees and legal fees and expenses paid or incurred by the DIP Lender in connection with the financing transactions as provided in this Interim Order and the DIP Loan Documents, whether incurred pre-petition or post-petition, all of which shall be and are included as part of the principal amount of the Post-Petition Obligations and secured by the Collateral (as defined herein); provided that any such legal fees shall be paid only in accordance with the procedures set forth in Paragraph 5.12 of this Interim Order.

1.6 Continuation of Pre-Petition Procedures. Except to the extent expressly set forth in the DIP Loan Documents or any cash management order entered in these Chapter 11 Cases, all pre-petition practices and procedures for the payment and collection of proceeds of the Collateral, the turnover of cash, including any deposit account control agreement (a “Control Agreement”) and any other similar lockbox or blocked depository bank account arrangements, are hereby approved, ratified and shall continue without interruption after the commencement of the Chapter 11 Cases and are further approved and deemed applicable for the payment and collection of proceeds of the Collateral, the turnover of cash, and the delivery of property to the DIP Lender in accordance with the terms of the DIP Loan Documents.

## Section 2. Post-Petition Lien; Superpriority Administrative Claim Status.

2.1 Post-Petition Liens. To secure the prompt payment and performance of any and all Post-Petition Obligations of the Loan Parties to the DIP Lender of whatever kind, nature or description, absolute or contingent, now existing or hereafter arising, the following valid, binding, continuing, enforceable and non-avoidable security interests and liens (all security interests and liens granted to the DIP Lender, pursuant to this Interim Order and the DIP Loan Documents, the “DIP Liens”) are hereby granted to the DIP Lender (all property identified in

clauses (a) through (f) below being collectively referred to as the “Collateral” but for the avoidance of doubt, the Collateral shall not include, prior to the entry of the Final Order, any property recovered as a result of transfers or obligations avoided or actions maintained or taken pursuant to Sections 542, 544, 545, 547, 548, 549, 550, 551, 553(b) or 724(a) of the Bankruptcy Code (“Avoidance Actions” and the proceeds thereof, the “Avoidance Proceeds”) (collectively the “Excluded Collateral”)):

(a) Priming Liens on Encumbered Property. Pursuant to Section 364(d)(1) of the Bankruptcy Code, valid and perfected first priority security interests and liens, superior to all other liens, claims or security interests that any creditor of any of the Debtors’ Estates may have (the “Pre-Petition Liens”) (but subject to the Carve-Out (as defined herein) and the Permitted Liens), in and upon all tangible and intangible pre- and post-petition property of the Debtors that is subject to a security interest or lien as of the Petition Date, including the Pre-Petition Collateral;

(b) Liens on Unencumbered Property. Pursuant to section 364(c)(2) of the Bankruptcy Code, a valid, binding, continuing, enforceable, fully-perfected first priority senior security interest in and lien upon all tangible and intangible pre- and post-petition property of the Debtors, whether existing on the Petition Date or thereafter acquired, that, on, after or as of the Petition Date, is not subject to a valid, perfected and non-avoidable lien (collectively, the “Unencumbered Property”), including any and all unencumbered cash of the Debtors and any investment of such cash, inventory, accounts receivable, other rights to payment whether arising before or after the Petition Date, claims, causes of action, commercial tort claims, contracts, properties, plants, fixtures, machinery, equipment, general intangibles, documents, instruments, securities, chattel paper, interests in leaseholds, real properties, deposit accounts, patents,

intellectual property, copyrights, trademarks, trade names, rights under license agreements and other intellectual property, capital stock of subsidiaries, and including the Debtors' rights in any deposit or escrowed funds delivered by any proposed buyer of assets of any of the Debtors, whether delivered prior to or after the Petition Date, and including any Funded Reserve Account (as defined below) or any similar account and the contents thereof, in each case wherever located and whenever arising, and the proceeds, products, rents and profits of the foregoing, whether arising under section 552(b) of the Bankruptcy Code or otherwise, of all the foregoing, in each case other than, prior to the entry of the Final Order, the Excluded Collateral, but including, upon entry of the Final Order, the Avoidance Proceeds;

(c) Lien Priority in Collateral. The liens and security interests of the DIP Lender granted under the DIP Loan Documents and this Interim Order in the Collateral securing all Post-Petition Obligations shall be first and senior in priority to all other interests and liens of every kind, nature and description, whether created consensually, by an order of the Court or otherwise, including, without limitation, liens or interests granted in favor of third parties in conjunction with §§ 363, 364 or any other section of the Bankruptcy Code or other applicable law; provided, however, that the DIP Lender's liens on and security interests in the Collateral shall be subject only to (a) the Permitted Liens and (b) the Carve-Out (as defined herein).

(d) Right of Repayment. The right to repayment of the DIP Lender granted under the DIP Loan Documents and this Interim Order from the sale or other disposition of the Collateral or any proceeds thereof shall be first and senior in priority to all other rights of repayment of every kind, nature and description, subject in each case to the Permitted Liens.

(e) Post-Petition Lien Perfection. This Interim Order shall be sufficient and conclusive evidence of the priority, perfection and validity of the post-petition liens and

security interests granted herein, effective as of the Petition Date (and, in the case of the Roll-Up, subject to the Challenge Period (as defined below) described in Section 4.1 of this Interim Order), without any further act and without regard to any other federal, state or local requirements or law requiring notice, filing, registration, recording or possession of the Collateral, or other act to validate or perfect such security interest or lien, including without limitation, control agreements with any financial institution(s) party to a Control Agreement with respect to any deposit account or securities account held by such financial institution(s) or other depository account consisting of Collateral (a "Perfection Act"). Notwithstanding the foregoing, if the DIP Lender, shall, in its sole discretion, elect for any reason to file, record or otherwise effectuate any Perfection Act, then the DIP Lender is authorized to perform such act, and the Debtors are authorized to perform such act to the extent necessary or required by the DIP Lender, which act or acts shall be deemed to have been accomplished as of the date and time of entry of this Interim Order notwithstanding the date and time actually accomplished, and in such event, the subject filing or recording office is authorized to accept, file or record any document in regard to such act in accordance with applicable law. The DIP Lender may choose to file, record or present a certified copy of this Interim Order in the same manner as a Perfection Act, which shall be tantamount to a Perfection Act, and, in such event, the subject filing or recording office is authorized to accept, file or record such certified copy of this Interim Order in accordance with applicable law. Should the DIP Lender so choose and attempt to file, record or perform a Perfection Act, no defect or failure in connection with such attempt shall in any way limit, waive or alter the validity, enforceability, attachment, or perfection of the post-petition liens and security interests granted herein by virtue of the entry of this Interim Order.

(f) Nullifying Pre-Petition Restrictions to Post-Petition Financing.

Notwithstanding anything to the contrary contained in any pre-petition agreement, contract, lease, document, note or instrument to which any Debtor is a party or under which any Debtor is obligated, except as otherwise permitted under the DIP Loan Documents, any provision that restricts, limits or impairs in any way any Debtor from granting the DIP Lender security interests in or liens upon any of the Debtors' assets or properties (including, among other things, any anti-lien granting or anti-assignment clauses in any leases or other contractual arrangements to which any Debtor is a party) under the DIP Loan Documents or this Interim Order, as applicable, or otherwise entering into and complying with all of the terms, conditions and provisions hereof or of the DIP Loan Documents, shall not (a) be effective and/or enforceable against any such Debtor(s), or the DIP Lender, as applicable, or (b) adversely affect the validity, priority or enforceability of the liens, security interests, claims, rights, priorities and/or protections granted to the DIP Lender pursuant to this Interim Order or the DIP Loan Documents, in each case, to the maximum extent permitted under the Bankruptcy Code and other applicable law that would not render any unexpired lease or executory contract non-assumable or non-assignable pursuant to Section 365 of the Bankruptcy Code.

2.2 Superpriority Administrative Expenses.

(a) DIP Loans. For all Post-Petition Obligations now existing or hereafter arising pursuant to this Interim Order, the DIP Loan Documents or otherwise, the DIP Lender is granted an allowed superpriority administrative claim pursuant to § 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities and indebtedness of Debtors (other than the Carve-Out), whether now in existence or hereafter incurred by Debtors, and over any and all administrative expenses or priority claims of the kind

specified in, or ordered pursuant to, inter alia, §§ 105, 326, 328, 330, 331, 364(c)(1), 503(b), 506(c) (subject to entry of the Final Order), 507(a), 507(b), 546(c), 726, 1113 or 1114 of the Bankruptcy Code, whether or not such expenses or claims may become secured by a judgment lien or other non-consensual lien, levy or attachment, which allowed superpriority administrative claim shall be payable from all pre-petition and post-petition property of the Debtors and all proceeds thereof (the “DIP Loan Superpriority Claim”). Notwithstanding the foregoing, any superpriority administrative claim granted to the DIP Lender on account of the Roll-Up shall remain subject to the Challenge Period (as defined below).

### 2.3 Carve-Out.

(a) As used in this Interim Order, the “Carve-Out” means the sum of (i) all fees required to be paid to the Clerk of the Court and to the Office of the United States Trustee under 28 U.S.C. § 1930(a) plus interest at the statutory rate through the Carve-Out Termination Date (defined below) (collectively, the “Statutory Fees”); (ii) all reasonable fees and expenses up to \$25,000 incurred by a trustee under section 726(b) of the Bankruptcy Code; (iii) to the extent allowed at any time, whether by interim order, procedural order, or other order of this Court, all unpaid fees and expenses (the “Allowed Professional Fees”) incurred by persons or firms retained by the Debtors pursuant to sections 327, 328, or 363 of the Bankruptcy Code (the “Debtor Professionals”), including any Debtor Professionals appointed to act on behalf of the Debtors before the Supreme Court of British Columbia and retained by the Debtors in such capacity under the foregoing provisions of the Bankruptcy Code, and the Committee pursuant to sections 328 or 1103 of the Bankruptcy Code (the “Committee Professionals” and, together with the Debtor Professionals, the “Professional Persons”) at any time before or on the last day of the week in which an Enforcement Notice is served, less the amount of any remaining and unapplied fee

retainers held by any such Professional Person pursuant to Sections 327, 328 or 1103 of the Bankruptcy Code, provided, that the Allowed Professional Fees of the Committee Professionals shall not at any time exceed the aggregate amount of the fees and expenses identified in the DIP Budget for each such Committee Professional covering the period of time commencing on the Petition Date through the earlier of (A) the date of determination, and (B) the last day of the week in which an Enforcement Notice is served; and (iv) Allowed Professional Fees of Professional Persons in an aggregate amount not to exceed \$500,000 incurred after the first business day following delivery by the DIP Lender of the Enforcement Notice, to the extent allowed at any time, whether by interim order, procedural order, or other order of this Court (the amounts set forth in this clause (iv) being the “Post-Notice Carve-Out Cap”).

For the avoidance of doubt, (i) so long as an Enforcement Notice has not been issued, the Debtors shall be permitted to pay Allowed Professional Fees as the same may be due and payable to the extent set forth in the DIP Budget and in accordance with the DIP Credit Agreement and this Interim Order; and (ii) nothing herein shall be construed to impair the ability of any party to object to the fees, expenses, reimbursement or compensation described herein.

(b) Funded Reserve Account. The Debtors shall establish and fund a segregated account (the “Funded Reserve Account”) for purpose of funding the Carve-Out and for holding funds for the Professional Persons for payment of such Professional Persons’ Allowed Professional Fees. The Funded Reserve Account will remain DIP Collateral and will be funded first, from identifiable proceeds of any DIP Collateral, and, solely to the extent that the amount of the identifiable proceeds of any DIP Collateral is insufficient to fund the Funded Reserve Account, the proceeds of the DIP Loans.

(i) Subject to entry of this Interim Order, commencing on May 1, 2023 (or the first business day thereafter), the Debtors shall deposit into the Funded Reserve Account an amount equal to 115% of the aggregate amount of budgeted professional fees as provided on the DIP Budget for the period from the Petition Date through April 30, 2023 (such period, the “Initial Period” and such amount, the “Initial Funded Reserve Amount”). Commencing on June 1, 2023 (or the first business day thereafter), and continuing on the first business day of each month thereafter, the Debtors shall deposit in the Funded Reserve Account an amount equal to 115% of the aggregate amount of budgeted professional fees and expenses as provided on the DIP Budget for the prior month (the “Monthly Funded Reserve Amount”). By no later than the 15th of each month, starting in May 2023 (or such other date that may be established in any order authorizing professional compensation procedures), each Professional Person shall deliver to the Debtors a notice of the cumulative total amount of actual fees and expenses incurred in the preceding month (“Actual Accrued Prior Month’s Fees and Expenses”) (each such statement, a “Fee Statement”) for which such Professional Person has or will seek payment as Allowed Professional Fees. For any Professional Person, to the extent budgeted fees and expenses, are greater than Allowed Professional Fees, or the Monthly Funded Reserve Amount exceeds the Actual Accrued Prior Month’s Fees and Expenses, such Professional Person’s Monthly Funded Reserve Amount for the following month shall be reduced accordingly.

(ii) The Funded Reserve Account shall be maintained, and the funds therein (the “Funded Reserve Amount”) shall constitute Carve-Out funds and be held solely to pay Professional Persons until all Allowed Professional Fees are paid in full. Until all Allowed Professional Fees are paid in full, any and all amounts in the Funded Reserve Account shall not be subject to any cash sweep and/or foreclosure provisions in the documents governing the Prepetition

Credit Facilities or the DIP Loan Documents, and the DIP Lender shall not be entitled to sweep or foreclose on such amounts notwithstanding any provision to the contrary in the documents governing the Prepetition Credit Facilities or the DIP Loan Documents. Notwithstanding the foregoing, any and all payments to Professional Persons shall be paid first from the Funded Reserve Account. For the avoidance of doubt, all Professionals seeking payment of Allowed Professional Fees from the Funded Reserve Account must first submit and obtain approval from the Court of a fee application for such Allowed Professional Fees.

(c) Carve-Out Reserves. On the day on which an Enforcement Notice is given by the DIP Lender to the Debtors with a copy to counsel to the Committee (the "Termination Declaration Date"), the Enforcement Notice shall constitute a demand to the Debtors to utilize all cash on hand as of such date, including cash in the Funded Reserve Account, and any available cash thereafter held by any Debtor to fund a reserve in an amount equal to the then-unpaid amounts of the Allowed Professional Fees. The Debtors shall deposit and hold such amounts in a segregated account at the DIP Lender in trust to pay such then unpaid Allowed Professional Fees (the "Pre-Notice Carve-Out Reserve") prior to any and all other claims. On the Termination Declaration Date, the Enforcement Notice shall also constitute a demand to the Debtors to utilize all cash on hand as of such date and any available cash thereafter held by any Debtor, after funding the Pre-Notice Carve-Out Reserve, to fund a reserve in an amount equal to the Post-Notice Carve-Out Cap. The Debtors shall deposit and hold such amounts in a segregated account at the DIP Lender in trust to pay such Allowed Professional Fees benefiting from the Post-Notice Carve-Out Cap (the "Post-Notice Carve-Out Reserve" and, together with the Pre-Notice Carve-Out Reserve, the "Carve-Out Reserves") prior to any and all other claims. All funds in the Pre-Notice Carve-Out Reserve shall be used first to pay the obligations set forth in clauses (i)

through (iii) of the definition of Carve-Out set forth above (the “Pre-Notice Carve Out Amounts”), but not, for the avoidance of doubt, the Post-Notice Carve-Out Cap, until paid in full, and then, to the extent the Pre-Notice Carve-Out Reserve has not been reduced to zero, to the DIP Lender for application to the Post-Petition Obligations, unless the Post-Petition Obligations have been indefeasibly paid in full, in cash, and all commitments under the DIP Loan Documents have been terminated, in which case any such excess shall be paid to the Pre-Petition Lender in accordance with its rights and priorities hereunder. All funds in the Post-Notice Carve-Out Reserve shall be used first to pay the obligations set forth in clause (iv) of the definition of Carve-Out set forth above (the “Post-Notice Carve-Out Amounts”), and then, to the extent the Post-Notice Carve-Out Reserve has not been reduced to zero, to the DIP Lender for application to the Post-Petition Obligations, unless the Post-Petition Obligations have been indefeasibly paid in full, in cash, and all commitments under the DIP Loan Documents have been terminated, in which case any such excess shall be paid to the Pre-Petition Lender in accordance with its rights and priorities hereunder. Notwithstanding anything to the contrary in the DIP Loan Documents, or this Interim Order, if either of the Carve-Out Reserves is not funded in full in the amounts set forth in this paragraph 2.3, then, any excess funds in one of the Carve-Out Reserves following the payment of the Pre-Notice Carve-Out Amounts and Post-Notice Carve-Out Amounts, respectively, shall be used to fund the other Carve-Out Reserve, up to the applicable amount set forth in this paragraph 2.3, prior to making any payments to the DIP Lender, as applicable. Notwithstanding anything to the contrary in the DIP Loan Documents or this Interim Order, following delivery of an Enforcement Notice, the DIP Lender and the Pre-Petition Lender shall not sweep or foreclose on cash (including cash received as a result of the sale or other disposition of any assets) of the Debtors until the Carve-Out Reserves have been fully funded, but shall have a security interest in any

residual interest in the Carve-Out Reserves, with any excess paid to the DIP Lender for application in accordance with the DIP Loan Documents and the Pre-Petition Lender in accordance with the Pre-Petition Loan Documents pursuant to their relative rights and priorities as set forth herein. Further, notwithstanding anything to the contrary in this Interim Order, (i) disbursements by the Debtors from the Carve-Out Reserves shall not constitute Loans (as defined in the DIP Credit Agreement) or increase or reduce the Post-Petition Obligations, (ii) the failure of the Carve-Out Reserves to satisfy in full the Allowed Professional Fees shall not affect the priority of the Carve-Out, (iii) in no way shall the DIP Budget, Carve-Out, Post-Notice Carve-Out Cap, Carve-Out Reserves, or any of the foregoing be construed as a cap or limitation on the amount of the Allowed Professional Fees or Statutory Fees due and payable by the Debtors and (iv) the DIP Lender shall have no obligation to advance any loans or other amounts after the Termination Declaration Date. For the avoidance of doubt and notwithstanding anything to the contrary in this Interim Order, the DIP Loan Documents, or in any Prepetition Loan Documents, the Carve-Out shall be senior to all liens and claims securing the Post-Petition Obligations and the Superpriority Claim, and any and all other forms of adequate protection, liens, or claims securing the Post-Petition Obligations or the Pre-Petition Obligations.

(d) Excluded Professional Fees. Notwithstanding anything to the contrary in this Interim Order, neither the Carve-Out nor the proceeds of Collateral or any Loans or any other credit or financial accommodations provided under or in connection with the DIP Loan Documents shall be used to pay any Allowed Professional Fees or any other fees or expenses incurred by any Professional Person in connection with any of the following:

(i) an assertion or joinder in any claim, counter-claim, action, proceeding, application, motion, objection, defense or other contested matter seeking any order,

judgment, determination or similar relief: (A) challenging the legality, validity, priority, perfection, or enforceability of (1) the Pre-Petition Obligations or Pre-Petition Lender's liens on and security interests in the Pre-Petition Collateral or (2) the Post-Petition Obligations or the DIP Lender's liens on and security interests in the Collateral; (B) invalidating, setting aside, avoiding or subordinating, in whole or in part, (1) the Pre-Petition Obligations or Pre-Petition Lender's liens on and security interests in the Pre-Petition Collateral, or (2) the Post-Petition Obligations or the DIP Lender's liens on and security interests in the Collateral; or (C) preventing, hindering or delaying the DIP Lender's assertion or enforcement of any lien, claim, right or security interest or realization upon any Collateral in accordance with the terms and conditions of the DIP Credit Agreement, the DIP Loan Documents, and this Interim Order;

(ii) a request, without the prior written consent of the DIP Lender, to use Cash Collateral (as such term is defined in section 363 of the Bankruptcy Code) in any manner that is not in accordance with the terms and conditions of this Interim Order and the DIP Loan Documents;

(iii) a request, without the prior written consent of the DIP Lender, for authorization to obtain debtor in possession financing or other financial accommodations pursuant to Section 364(c) or (d) of the Bankruptcy Code that does not provide for the Payment in Full of all the Post-Petition Obligations on terms and conditions on the date any such financing or financial accommodation is approved by this Court;<sup>5</sup>

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<sup>5</sup> All references to "payment in full" or "Payment in Full" or "paid in full" or "Paid in Full" with respect to the Pre-Petition Obligations or Post-Petition Obligations, as the case may be, means the indefeasible repayment in full in cash of all such obligations (including principal, interest, fees, expenses, and indemnities), except that for contingent obligations it shall include arrangements and amounts reasonably satisfactory to the applicable lender, whether in the form of cash collateral or a backstop letter of credit, and including in any event in addition to such arrangements as to letters of credit and similar instruments, treasury and cash management obligations, hedging

(Footnote Continued)

(iv) the commencement or prosecution of any action or proceeding of any claims, causes of action or defenses against the DIP Lender or any of its respective officers, directors, employees, agents, attorneys, affiliates, predecessors, successors or assigns, including, without limitation, any attempt to recover or avoid any claim or interest from the DIP Lender under chapter 5 of the Bankruptcy Code;

(v) the cost of investigation into any claims against Pre-Petition Lender arising under or in connection with the Pre-Petition Loan Documents in an aggregate amount that exceeds \$25,000;

(vi) seeking relief under the Bankruptcy Code, including, without limitation, in each case under Section 105 of the Bankruptcy Code, to the extent such relief would restrict or impair the rights and remedies of the DIP Lender as set forth herein, the other DIP Loan Documents or any order of the Bankruptcy Court; or

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obligations and other bank product obligations, the pledge of cash collateral in such amounts as the applicable lender or issuing bank may reasonably require to secure any reimbursement, indemnification or similar continuing obligations of the Debtors in favor of the applicable lender, in each case, in accordance with the terms of the applicable Pre-Petition Loan Document or DIP Loan Document (it being understood that the reference to cash collateral herein under the Pre-Petition Credit Agreement or the DIP Credit Agreement means the pledge and deposit with and delivery to the lender, as the case may be, as collateral for the obligations specified above in such amounts as Pre-Petition Lender or the DIP Lender, as the case may be, determines pursuant to documentation in form and substance reasonably satisfactory to such lender and that the Pre-Petition Lender, or the DIP Lender, as the case may be, shall receive a release from each Debtor and any Committee of and from all demands, actions, causes of action, suits, covenants, contracts, controversies, agreements, promises, sums of money, accounts, bills, reckonings, damages and any and all other claims, counterclaims, defenses, rights of set-off, demands and liabilities (including, without limitation any obligations or liabilities of any kind related to the Carve-Out upon payment in full of the Pre-Petition Obligations or Post-Petition Obligations) in form and substance acceptable to Pre-Petition Lender or the DIP Lender, as applicable or in the case of the Committee, instead of such release, (A) if the Challenge Period (as defined in this Interim Order) has not elapsed, a written notice or other confirmation that no Challenge or any other claims of any kind (including with respect to the Carve-Out upon payment in full of the Pre-Petition Obligations or Post-Petition Obligations) will be asserted or (B) if the Challenge Period has elapsed, then no Challenge or any other claim has been asserted or any Challenge or other claim asserted has been dismissed pursuant to a final, non-appealable order of a court of competent jurisdiction and a written notice or other confirmation that no claim of any kind with respect to the Carve-Out will be asserted against the Pre-Petition Lender or the DIP Lender.

(vii) any act which has or could directly, materially and adversely modify or compromise the rights and remedies of the DIP Lender under this Interim Order, or which directly results in the occurrence of an Event of Default under any DIP Loan Documents or this Interim Order.

2.4 Payment of Allowed Professional Fees Prior to the Termination Declaration Date. Any payment or reimbursement made prior to the occurrence of the Termination Declaration Date in respect of any Statutory Fees or Allowed Professional Fees shall not reduce the Carve Out.

2.5 Payment of Carve-Out On or After the Termination Declaration Date.

(a) Any payment or reimbursement made on or after the occurrence of the Termination Declaration Date in respect of any Allowed Professional Fees shall permanently reduce the Carve-Out on a dollar-for-dollar basis. Any funding of the Carve-Out, if any, shall be added to, and made a part of, the Post-Petition Obligations secured by the DIP Collateral and shall be otherwise entitled to the protections granted under this Interim Order, the DIP Loan Documents, the Bankruptcy Code, and applicable law.

(b) Payment from the Carve-Out, whether by or on behalf of the DIP Lender or Pre-Petition Lender shall not and shall not be deemed to reduce the Pre-Petition Obligations or Post-Petition Obligations, and shall not and shall not be deemed to subordinate any liens and security interests of the DIP Lender or the Pre-Petition Lender in the Pre-Petition Collateral or Collateral, the Superpriority Claim (as defined herein), or the DIP Loan Superpriority Claim (as defined herein) to any junior pre- or post-petition lien, interest or claim in favor of any other party. The DIP Lender and the Pre-Petition Lender shall not, under any circumstance, be responsible for the direct payment or reimbursement of any fees or disbursements of any Professionals incurred in connection with the Chapter 11 Cases under any chapter of the

Bankruptcy Code, and nothing in this Interim Order or otherwise shall be construed to obligate the DIP Lenders or the Pre-Petition Lender in any way, to directly pay compensation to or to reimburse expenses of any Professional, or to ensure that the Debtors have sufficient funds to pay such compensation or reimbursement.

2.6 Limited Use of Cash Collateral; Adequate Protection.

(a) Authorization to Use Cash Collateral. Subject to the terms and conditions of this Interim Order, the DIP Credit Agreement, the DIP Loan Documents, and in accordance with the DIP Budget (subject to the Permitted Variances), Borrowers shall be and are hereby authorized to use the Cash Collateral (as defined in Section 363 of the Bankruptcy Code) for the period commencing on the date of this Interim Order and terminating upon the earlier of (i) the date that is the final day of the Interim Financing Period; and (ii) the date on which the DIP Lender delivers an Enforcement Notice (as defined herein) to counsel for the Loan Parties, counsel for the Committee (if appointed), and the U.S. Trustee, subject to the liens and security interests granted to the DIP Lender. Nothing in this Interim Order shall authorize the disposition of any assets of the Debtors or their Estates outside the ordinary course of business, or any Borrower's use of Cash Collateral or other proceeds resulting therefrom, except as expressly permitted in this Interim Order, the DIP Loan Documents and in accordance with the DIP Budget.

(b) Replacement Liens.

(i) Replacement Lien. As adequate protection for any diminution in value of their interests in the Pre-Petition Collateral (including Cash Collateral) on account of the Debtors' use of such Collateral (including Cash Collateral), the imposition of the automatic stay and the subordination to the DIP Liens and the Carve-Out on a dollar-for-dollar basis (collectively, the "Diminution in Value"), the Pre-Petition Lender is hereby granted pursuant

to §§ 361 and 363 of the Bankruptcy Code, and solely to the extent of the Diminution in Value, valid, binding, enforceable and perfected replacement liens upon and security interests in all Collateral (the “Replacement Lien”), which shall be subject to the Challenge Period (as defined below). The Replacement Lien shall be junior and subordinate only to (A) the Carve-Out (B) the Permitted Liens, and (C) DIP Liens, and shall otherwise be senior to all other security interests in, liens on, or claims against any of the Collateral.

(c) Additional Adequate Protection.

(i) Superpriority Claim. As adequate protection for the Diminution in Value, the Pre-Petition Lender is hereby granted as and to the extent provided by Section 507(b) of the Bankruptcy Code, and to the extent of the Diminution in Value, an allowed superpriority administrative expense claim in each of the Chapter 11 Cases and any successor bankruptcy cases (the “Superpriority Claim”), which shall be subject to the Challenge Period (as defined below). The Superpriority Claim shall be junior only to (A) the Carve-Out and (B) the DIP Loan Superpriority Claim, and shall otherwise have priority over all administrative expense claims, including administrative expenses of the kinds specified in or ordered pursuant to Sections 503(b) and 507(b) of the Bankruptcy Code, and unsecured claims against Debtors and their Estates now existing or hereafter arising, of any kind or nature whatsoever.

(ii) Payment of Professional Fees. As further adequate protection, the Debtors are authorized to pay, in accordance with the terms of Paragraph 5.12 of this Interim Order, all reasonable and documented fees and expenses of the Pre-Petition Lender, whether incurred pre-petition or post-petition (the “Pre-Petition Lender Professional Fees”), which shall be subject to the Challenge Period (as defined below).

(iii) Cash Interest. As further adequate protection, the Debtors will pay the Pre-Petition Lender cash interest at the non-default rate on the Pre-Petition Obligations as and when due under the Pre-Petition Credit Agreement (the “Adequate Protection Interest Payments,” together with the Replacement Lien, Superpriority Claim and Pre-Petition Lender Professional Fees, the “Adequate Protection Obligations”), which shall be subject to the Challenge Period (as defined below). For the avoidance of doubt, (A) in the event it is subsequently determined that the Pre-Petition Lender is undersecured and the Pre-Petition Lender is not entitled to the accrual of any post-petition interest, any post-petition interest paid to the Pre-Petition Lender shall be re-allocated to payment of principal amount of the Pre-Petition Obligations and (B) interest on the Pre-Petition Obligations shall accrue at the default rate at all times following the Petition Date.

Section 3. Default; Rights and Remedies; Relief from Stay.

3.1 Events of Default. The occurrence of any of the following events shall constitute an “Event of Default” under this Interim Order: (a) any Debtor’s failure to perform, in any respect, any of its obligations under this Interim Order; or (b) an “Event of Default” under the DIP Credit Agreement or any of the other DIP Loan Documents, including but not limited to any failure to comply with the Milestones.

3.2 Rights and Remedies upon Event of Default. Upon the occurrence of and during the continuance of an Event of Default, (a) the Debtors shall be bound by all restrictions, prohibitions and other terms as provided in this Interim Order, the DIP Credit Agreement and the other DIP Loan Documents, and (b) the DIP Lender shall be entitled to take any act or exercise any right or remedy (subject to Paragraph 3.4 below) as provided in this Interim Order or any DIP Loan Document, as applicable, including, without limitation, declaring all Post-Petition Obligations immediately due and payable, accelerating the Post-Petition Obligations, ceasing to

extend Loans, setting off any Post-Petition Obligations with Collateral or proceeds in the DIP Lender's possession, and enforcing any and all rights with respect to the Collateral. Except as expressly set forth in Paragraph 2.4, the DIP Lender shall have no obligation to lend or advance any additional funds to or on behalf of Debtors, or provide any other financial accommodations to Debtors, immediately upon or after the occurrence of an Event of Default or upon the occurrence of any act, event, or condition that, with the giving of notice or the passage of time, or both, would constitute an Event of Default.

3.3 Expiration of Loan Commitment. Upon the earlier of (a) expiration of Borrowers' authority to borrow and obtain other credit accommodations from the DIP Lender pursuant to the terms of this Interim Order and the DIP Loan Documents (except if such authority shall be extended with the prior written consent of the DIP Lender, which consent shall not be implied or construed from any action, inaction or acquiescence by the DIP Lender), and (b) the delivery by the DIP Lender of written notice pursuant to Section 13.4 of the DIP Credit Agreement upon the occurrence of an Event of Default, above, all of the Post-Petition Obligations shall immediately become due and payable and the DIP Lender shall have no obligation whatsoever to make or extend any loans, advances, provide any financial or credit accommodations to Debtors or permit the use of Cash Collateral.

3.4 Modification of Automatic Stay. The automatic stay provisions of Section 362 of the Bankruptcy Code and any other restriction imposed by an order of the Court or applicable law are hereby modified without further notice, application or order of the Court to the extent necessary to permit the DIP Lender and the Borrowers to perform, immediately upon entry of this Interim Order and at any time thereafter, any act authorized or permitted under or by virtue of this Interim Order or the DIP Loan Documents, as applicable, including, without limitation, (a)

to implement the post-petition financing arrangements authorized by this Interim Order and pursuant to the terms of the DIP Loan Documents, (b) to take any act to create, validate, evidence, attach or perfect any lien, security interest, right or claim in the Collateral, and (c) to assess, charge, collect, advance, deduct and receive payments with respect to the Pre-Petition Obligations or the Post-Petition Obligations, as applicable, including, without limitation, all interests, fees, costs and expenses permitted under the DIP Loan Documents (subject to Paragraph 5.12 of this Interim Order) and apply such payments to the Pre-Petition Obligations or Post-Petition Obligations pursuant to the DIP Loan Documents and this Interim Order, as applicable. Without limiting the foregoing, upon the occurrence of an Event of Default and the DIP Lender providing four (4) business days (the “Default Notice Period”) prior written notice, which period may be extended by written agreement (including e-mail) of the Borrowers and the DIP Lender, (the “Enforcement Notice”) to (i) counsel for the Loan Parties, (ii) counsel for the Committee (if appointed), and (iii) the U.S. Trustee, the DIP Lender shall be entitled without further notice, application or order of the Court to take any action and exercise all other rights and remedies provided to it by this Interim Order, the DIP Loan Documents or applicable law that the DIP Lender may deem appropriate in its sole discretion to proceed against and realize upon the Collateral or any other assets or properties of Debtors’ Estates upon which the DIP Lender has been or may hereafter be granted liens or security interests to obtain the indefeasible repayment in full of all Post-Petition Obligations. Notwithstanding anything to the contrary, any action that the DIP Lender is otherwise permitted to take pursuant to this Interim Order to (i) terminate the commitments under the DIP Loan Documents, (ii) accelerate the Loans, (iii) send blocking notices or activation notices pursuant to the terms of any Blocked Account Agreement, (iv) repay any amounts owing in respect of the Post-Petition Obligations (including, without limitation, fees, indemnities and expense

reimbursements) and (v) cash collateralize letters of credit and bank products issued pursuant to the DIP Loan Documents, in each case, shall not require any advance notice to the Debtors. During the Default Notice Period, the Debtors and the Committee (if appointed) shall be entitled to seek an emergency hearing, and the DIP Lender shall consent to such emergency hearing within the Default Notice Period.

Section 4. Representations; Covenants; and Waivers.

4.1 Effect of Stipulations on Third Parties.

(a) Subject to Paragraph 4.1(b) hereof, each stipulation, admission, and agreement contained in this Interim Order including, without limitation, the Stipulations, shall be binding upon the Debtors, their Estates and any successor thereto (including, without limitation, any chapter 7 or chapter 11 trustee appointed or elected for any of the Debtors) under all circumstances and for all purposes, and the Debtors are deemed to have irrevocably waived and relinquished all Challenges (as defined herein) as of the date of the Petition Date.

(b) Nothing in this Interim Order shall prejudice the rights of any Committee or any other party in interest, if granted standing by the Court, to seek, solely in accordance with the provisions of this Paragraph 4.1, to assert claims against the Pre-Petition Lender on behalf of the Debtors or the Debtors' creditors or to otherwise challenge the Stipulations, findings, waivers, releases, affirmations, and other stipulations, including, but not limited to those in relation to (i) the validity, extent, priority, or perfection of the security interests, and liens of the Pre-Petition Lender, (ii) the validity, allowance, priority, or amount of the Pre-Petition Obligations, or (iii) any liability of the Pre-Petition Lender with respect to anything arising from the Pre-Petition Loan Documents. Notwithstanding the immediately preceding sentence, any Committee or any other party in interest must, after obtaining standing approved by the Court, commence a contested matter or adversary proceeding raising such claim, objection, or challenge, including, without

limitation, any claim or cause of action against the Pre-Petition Lender, (each, a “Challenge”) no later than (i) with respect to any Committee, the date that is sixty (60) days after the Committee’s formation, (ii) if no Committee is appointed, then with respect to other parties in interest, no later than the date that is seventy-five (75) days after the entry of this Interim Order, or (iii) with respect to any chapter 11 trustee appointed in the Chapter 11 Cases, or any chapter 7 trustee appointed in case of conversion of the Chapter 11 Cases (a “Successor Case”), prior to the expiration of the periods set forth in subsections (i) and (ii) above, no later than the date that is the later of (A) fourteen (14) days after the appointment of such trustee or (B) the expiration of the time periods set forth in the foregoing subsections (i) and (ii) above (collectively, the “Challenge Period”). The Challenge Period may only be extended with the written consent of the Pre-Petition Lender prior to the expiration of the Challenge Period, and for the avoidance of doubt, any such extension shall only apply to the Pre-Petition Lender providing such written consent, as applicable. Unless otherwise ordered by the Court, only those parties in interest who commence a Challenge within the Challenge Period may prosecute such Challenge. As to (x) any parties in interest, including any Committee, who fail to file a Challenge within the Challenge Period, or if any such Challenge is filed and overruled or otherwise finally resolved or adjudicated in favor of the Pre-Petition Lender or (y) any and all matters that are not expressly the subject of a timely Challenge: (1) any and all such Challenges by any such party (including, without limitation, any Committee, any chapter 11 trustee, any examiner or any other estate representative appointed in the Debtors’ Chapter 11 Cases, or any chapter 7 trustee, appointed in any Successor Case), shall be deemed to be forever waived and barred, (2) all of the findings, Stipulations, waivers, releases, affirmations, and other stipulations shall be of full force and effect and forever binding upon the Debtors’ bankruptcy estates and all such creditors, interest holders, and other parties in interest in the

Chapter 11 Cases and any Successor Cases, and (3) any and all claims or causes of action against the Pre-Petition Lender related in any way to the Debtors, these Chapter 11 Cases, the Pre-Petition Obligations or the Pre-Petition Loan Documents shall be released by the Debtors' estates, all creditors, interest holders, and other parties in interest in the Chapter 11 Cases and any Successor Cases.

(c) Nothing in this Interim Order vests or confers on any person (as defined in the Bankruptcy Code), including any Committee, standing or authority to pursue any cause of action belonging to the Debtors or their Estates, including, without limitation, any Challenge with respect to the Post-Petition Obligations or the Pre-Petition Obligations.

(d) Notwithstanding anything to the contrary set forth herein, in any pleading, or filing, any DIP Loan Document or otherwise, prior to the expiration of the Challenge Period no act or omission by or on behalf of Pre-Petition Lender or the DIP Lender shall be construed as a waiver of any rights or remedies with respect any Loan Party or any of their respective, successors and assigns, present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives.

4.2 Debtors' Waivers. At all times during the Chapter 11 Cases, and whether or not an Event of Default has occurred, the Debtors irrevocably waive any right that they may have to seek further authority (a) to use Cash Collateral of the DIP Lender or the Pre-Petition Lender under Section 363 of the Bankruptcy Code, other than as provided in the Interim Order or as may be otherwise expressly permitted pursuant to the DIP Loan Documents or other agreement with or consent of the DIP Lender or the Pre-Petition Lender, as applicable, (b) to obtain post-petition loans or other financial accommodations pursuant to Section 364(c) or 364(d) of the Bankruptcy Code that does not provide for the indefeasible repayment in full of all Pre-Petition

Obligations and Post-Petition Obligations in cash at the time any such post-petition loans or financial accommodations are provided, extended or otherwise made available to Debtors, (c) to challenge, contest or otherwise seek to impair or object to the validity, extent, enforceability or priority of the DIP Lender's post-petition liens and claims, (d) to challenge the application of any payments authorized by this Interim Order as pursuant to Section 506(b) of the Bankruptcy Code, or to assert that the value of the Pre-Petition Collateral is less than the Pre-Petition Obligations, (e) to propose, support or have a plan of reorganization or liquidation that does not provide for the indefeasible payment in cash in full and satisfaction of all Post-Petition Obligations (other than unmatured indemnity obligations for which claims (i) have not been asserted and (ii) are not reasonably expected to be asserted at any time in the future) on the effective date of such plan in accordance with the terms and conditions set forth in the DIP Credit Agreement, (f) subject to entry of the Final Order, to surcharge the Collateral or the Pre-Petition Collateral pursuant to 506(c) of the Bankruptcy Code or (g) to seek relief under the Bankruptcy Code, including without limitation, under Section 105 of the Bankruptcy Code, to the extent any such relief would in any way restrict or impair the rights and remedies of the DIP Lender as provided in this Interim Order and the DIP Loan Documents or the DIP Lender's exercise of such rights or remedies (other than to object to the exercise of the rights and remedies within the Default Notice Period on the grounds set forth in Section 3.4 of this Interim Order); provided, however, that the DIP Lender may otherwise consent in writing, but no such consent shall be implied from any other action, inaction, or acquiescence by the DIP Lender; provided further, however, that nothing herein shall prohibit the Debtors from obtaining post-petition loans or other financial accommodations pursuant to Section 364(c) or 364(d) of the Bankruptcy Code if the proceeds of such financing are used to indefeasibly pay (i) all Pre-Petition Obligations and the Pre-Petition Obligations are satisfied in

full in accordance with the terms of the Pre-Petition Credit Agreement and the other Pre-Petition Loan Documents, and (ii) all Post-Petition Obligations are satisfied in full in accordance with the terms of the DIP Credit Agreement and the other DIP Loan Documents.

4.3 Section 506(c) Claims. Subject to entry of the Final Order granting such relief, no costs or expenses of administration which have or may be incurred in the Chapter 11 Cases shall be charged against the DIP Lender, the Pre-Petition Lender, or their respective claims or the Collateral or the Pre-Petition Collateral pursuant to § 506(c) of the Bankruptcy Code without the prior written consent of such agent or lender, and no such consent shall be implied from any other action, inaction or acquiescence by the DIP Lender, or the Pre-Petition Lender.

4.4 Collateral Rights. Until all Post-Petition Obligations shall have been indefeasibly paid and satisfied in full in accordance with the terms of the DIP Credit Agreement and the other DIP Loan Documents:

- (a) no party other than the DIP Lender shall foreclose or otherwise seek to enforce any junior lien or claim in Collateral; and
- (b) upon and after the declaration of the occurrence of an Event of Default, and subject to the expiration of the Default Notice Period, in connection with a liquidation of any of the Collateral or the DIP Lender's exercise of remedies in respect of the Collateral, the DIP Lender (or any of its employees, agents, consultants, contractors or other professionals) shall have the right, at the sole cost and expense of the Loan Parties, to: (i) enter upon, occupy and use any real or personal property, fixtures, equipment, leasehold interests or warehouse arrangements owned or leased by Debtors and (ii) use any and all trademarks, trade names, copyrights, licenses, patents or any other similar assets of Debtors, which are owned by or subject to a lien of any third party and which are used by Debtors in their businesses. The DIP Lender will be responsible for

the payment of any applicable fees, rentals, royalties or other amounts due such lessor, licensor or owner of such property for the period of time that the DIP Lender actually uses the equipment or the intellectual property (but in no event for any accrued and unpaid fees, rentals or other amounts due for any period prior to the date that the DIP Lender actually occupies or uses such assets or properties or for any fees, rentals or other amounts that may become due following the end of the DIP Lender's occupation or use).

4.5 Releases. Subject to Section 4.1 above, each Debtor, on behalf of itself and its successors and assigns (collectively, the "Releasors"), hereby forever releases, discharges and acquits the Pre-Petition Lender, and its successors and assigns, present and former shareholders, affiliates, subsidiaries, divisions, predecessors, directors, officers, attorneys, employees and other representatives in their respective capacities as such (collectively, the "Pre-Petition Releasees") of and from any and all claims, demands, liabilities, responsibilities, disputes, remedies, causes of action, indebtedness and obligations, of every kind, nature and description, including, without limitation, any so-called "lender liability" claims or defenses, that Releasors had, have or hereafter can or may have against Pre-Petition Releasees, or any of them, as of the date hereof, in respect of events that occurred on or prior to the date hereof with respect to the Debtors, the Pre-Petition Obligations, the Pre-Petition Loan Documents and any Loans, Credit Facilities, the L/C Facility, the Mastercard Facility and other Obligations (as such terms are defined in the Pre-Petition Credit Agreement) or other financial accommodations made by any Pre-Petition Releasee to any Debtor. In addition, notwithstanding anything to the contrary set forth herein, upon the repayment of all Post-Petition Obligations owed to the DIP Lender by Debtors and termination of the rights and obligations arising under the DIP Loan Documents (which payment and termination shall be on terms and conditions acceptable to the DIP Lender), the DIP Lender shall be released from any

and all obligations, liabilities, actions, duties, responsibilities and causes of action arising or occurring, on or prior to the date of such repayment and termination, in connection with or related to the Debtors, DIP Loan Documents, this Interim Order or the Final Order (including without limitation any obligation or responsibility whether direct or indirect, absolute or contingent, due or not due, primary or secondary, liquidated or unliquidated to pay or otherwise fund the Carve-Out and/or the Professional Fee Carve-Out).

Section 5. Other Rights and Post-Petition Obligations.

5.1 No Modification or Stay of This Interim Order. Notwithstanding (a) any stay, modification, amendment, supplement, vacating, revocation or reversal of this Interim Order, the DIP Loan Documents or any term hereunder or thereunder, (b) the failure to obtain a Final Order pursuant to Bankruptcy Rule 4001(c)(2), or (c) the dismissal or conversion of one or more of the Chapter 11 Cases (each, a “Subject Event”), (x) the acts taken by the DIP Lender in accordance with this Interim Order, and (y) the Post-Petition Obligations incurred or arising prior to the DIP Lender’s actual receipt of written notice from Debtors expressly describing the occurrence of such Subject Event shall, in each instance, be governed in all respects by the original provisions of this Interim Order, and the acts taken by the DIP Lender in accordance with this Interim Order, and the liens granted to the DIP Lender in the Collateral, and all other rights, remedies, privileges, and benefits in favor of the DIP Lender pursuant to this Interim Order and the DIP Loan Documents shall remain valid and in full force and effect to the extent provided in to Section 364(e) of the Bankruptcy Code. For purposes of this Interim Order, the term “appeal”, as used in Section 364(e) of the Bankruptcy Code, shall be construed to mean any proceeding for reconsideration, amending, rehearing, or re-evaluating this Interim Order by this Court or any other tribunal.

5.2 Power to Waive Rights; Duties to Third Parties. The DIP Lender shall have the right to waive any of the terms, rights and remedies provided or acknowledged in this Interim Order that are in favor of the DIP Lender (the “DIP Lender Rights”) and shall have no obligation or duty to any other party with respect to the exercise or enforcement, or failure to exercise or enforce, any DIP Lender Right(s). Any waiver by the DIP Lender of any DIP Lender Rights shall not be or constitute a continuing waiver unless expressly specified in writing by the DIP Lender. Any delay in or failure to exercise or enforce any DIP Lender Right shall neither constitute a waiver of such DIP Lender Right, subject the DIP Lender to any liability to any other party, nor cause or enable any party other than the Debtors to rely upon or in any way seek to assert as a defense to any obligation owed by the Debtors to the DIP Lender.

5.3 Disposition of Collateral. The Debtors shall not sell, transfer, lease, encumber or otherwise dispose of any portion of the Collateral, other than pursuant to the terms of the DIP Loan Documents, without the prior written consent of the DIP Lender (and no such consent shall be implied, from any other action, inaction or acquiescence by the DIP Lender).

5.4 Inventory. The Debtors shall not, without the consent of the DIP Lender, (a) enter into any agreement to return any inventory to any of their creditors for application against any pre-petition indebtedness under any applicable provision of Section 546 of the Bankruptcy Code, or (b) consent to any creditor taking any setoff against any of its pre-petition indebtedness based upon any such return pursuant to Section 553(b)(1) of the Bankruptcy Code or otherwise.

5.5 Reservation of Rights. The terms, conditions and provisions of this Interim Order are in addition to and without prejudice to the rights of the DIP Lender to pursue any and all rights and remedies under the Bankruptcy Code, the DIP Loan Documents or any other applicable agreement or law, including, without limitation, rights to seek adequate protection

and/or additional or different adequate protection, to seek relief from the automatic stay, to seek an injunction, to oppose any request for use of cash collateral or granting of any interest in the Collateral, as applicable, or priority in favor of any other party, to object to any sale of assets, and to object to applications for allowance and/or payment of compensation of Professional Persons or other parties seeking compensation or reimbursement from the Estates.

5.6 Binding Effect.

(a) The provisions of this Interim Order and the DIP Loan Documents, the Post-Petition Obligations, the DIP Loan Superpriority Claim, the Superpriority Claim and any and all rights, remedies, privileges and benefits in favor of the DIP Lender provided or acknowledged in this Interim Order, and any actions taken pursuant thereto, shall be effective immediately upon entry of this Interim Order notwithstanding Bankruptcy Rules 4001(a)(3), 6004(h) and 7062, shall continue in full force and effect, and shall survive entry of any such other order, including without limitation any order which may be entered confirming any plan of reorganization, converting one or more of the Chapter 11 Cases to any other chapter under the Bankruptcy Code, or dismissing one or more of the Chapter 11 Cases.

(b) Any order dismissing one or more of the Chapter 11 Cases under Section 1112 or otherwise shall be deemed to provide (in accordance with §§ 105 and 349 of the Bankruptcy Code) that (a) the DIP Loan Superpriority Claim and the DIP Lender's liens on and security interests in the Collateral and all other claims, liens, adequate protections and other rights granted pursuant to the terms of this Interim Order shall continue in full force and effect notwithstanding such dismissal until the Post-Petition Obligations are indefeasibly paid and satisfied in full, and (b) this Court shall retain jurisdiction, notwithstanding such dismissal, for the purposes of enforcing all such claims, liens, protections and rights.

(c) In the event this Court modifies any of the provisions of this Interim Order or the DIP Loan Documents following a Final Hearing, such modifications shall not affect the rights or priorities of the DIP Lender or its interests in the Collateral authorized by or otherwise set forth in this Interim Order with respect to the Collateral or any portion of the Post-Petition Obligations arising or incurred by the Loan Parties prior to such modification, and this Interim Order shall otherwise remain in full force and effect to such extent.

(d) This Interim Order shall be binding upon the Debtors, all parties in interest in the Chapter 11 Cases and their respective successors and assigns, including any trustee or other fiduciary appointed in the Chapter 11 Cases or any subsequently converted bankruptcy case(s) of any Debtor. This Interim Order shall also inure to the benefit of Debtors, the DIP Lender, and each of their respective successors and assigns.

5.7 Restrictions on Cash Collateral Use, Additional Financing, Plan Treatment.

(a) All post-petition advances and other financial accommodations under the DIP Credit Agreement and the other DIP Loan Documents are made in reliance on this Interim Order and there shall not at any time be entered in the Chapter 11 Cases, or in any subsequently converted case under chapter 7 of the Bankruptcy Code, any order (other than the Final Order) which (i) authorizes the use of cash collateral of Debtors in which the DIP Lender has an interest, or the sale, lease, or other disposition of property of any Debtor's Estate in which the DIP Lender has a lien or security interest, except as expressly permitted hereunder or in the DIP Loan Documents, or (ii) authorizes under Section 364 of the Bankruptcy Code the obtaining of credit or the incurring of indebtedness secured by a lien or security interest which is equal or senior to a lien or security interest in property in which the DIP Lender holds a lien or security interest, or which is entitled to priority administrative claim status which is equal or superior to

that granted to the DIP Lender herein; unless, in each instance (x) the DIP Lender shall have given its express prior written consent with respect thereto, no such consent being implied from any other action, inaction or acquiescence by the DIP Lender, or (y) such other order requires that all Post-Petition Obligations shall first be indefeasibly paid and satisfied in full in accordance with the terms of the DIP Credit Agreement and the other DIP Loan Documents (other than unmatured indemnity obligations for which claims have not been asserted by the DIP Lender), including, without limitation, all debts and obligations of Debtors to the DIP Lender which arise or result from the obligations, loans, security interests and liens authorized herein, on terms and conditions acceptable to the DIP Lender. The security interests and liens granted to or for the benefit of the DIP Lender hereunder and the rights of the DIP Lender pursuant to this Interim Order and the DIP Loan Documents with respect to the Post-Petition Obligations, Collateral, and claims against the Loan Parties are cumulative and shall not be altered, modified, extended, impaired, or affected by any plan of reorganization or liquidation of Debtors and shall continue after confirmation and consummation of any such plan unless (i) all Post-Petition Obligations indefeasibly paid in full prior to such time, or (ii) the DIP Lender expressly consents in writing authenticated by the DIP Lender to different treatment, and *provided* that the Roll-Up shall be subject to the Challenge Period.

5.8 No Owner/Operator Liability. Subject to the entry of the Final Order granting such relief, the DIP Lender shall not, solely by reason of having made the Loans pursuant to the terms of the DIP Loan Documents and this Interim Order, be deemed to be in control of the operations of the Debtors or to be acting as a “responsible person” or “owner or operator” with respect to the operation or management of the Debtors (as such terms, or any similar terms, are

used in the United States Comprehensive Environmental Response, Compensation and Liability Act, 29 U.S.C. §§ 9601 et seq., as amended, or any similar federal or state statute).

5.9 Marshalling. Subject to entry of the Final Order granting such relief, in no event shall the DIP Lender or the Pre-Petition Lender be subject to the equitable doctrine of “marshalling” or any similar doctrine with respect to the Collateral or the Pre-Petition Collateral. The DIP Lender shall each be entitled to all of the rights and benefits of Section 552(b) of the Bankruptcy Code, and, subject to entry of the Final Order, the “equities of the case” exception under Section 552(b) of the Bankruptcy Code shall not apply to the Pre-Petition Lender with respect to proceeds, products, offspring or profits of any of the Collateral, as applicable.

5.10 Right of Setoff. To the extent any funds were on deposit with Pre-Petition Lender as of the Petition Date, including, without limitation, all funds deposited in, or credited to, an account of any Debtor with Pre-Petition Lender immediately prior to the filing of the Chapter 11 Cases (regardless of whether, as of the Petition Date, such funds had been collected or made available for withdrawal by any such Debtor), such funds (the “Deposited Funds”) are subject to rights of setoff, which setoff rights shall be subject to the Challenge Period. By virtue of such setoff rights, the Deposited Funds are subject to a lien in favor of Pre-Petition Lender pursuant to §§ 506(a) and 553 of the Bankruptcy Code.

5.11 Right to Credit Bid.

(a) Subject to Section 363(k) of the Bankruptcy Code, the DIP Lender shall have the right to “credit bid” the amount of its claims that are Post-Petition Obligations arising under the terms of the DIP Loan Documents, during any sale of all or substantially all of the Debtors’ assets, including without limitation, sales occurring pursuant to Section 363 of the

Bankruptcy Code or included as part of any restructuring plan subject to confirmation under Section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code.

(b) Subject to Section 363(k) of the Bankruptcy Code and the Challenge Period, the Pre-Petition Lender shall have the right to “credit bid” the amount of its and their claims that are Pre-Petition Obligations arising under the terms of the Pre-Petition Loan Documents, during any sale of all or substantially all of the Debtors’ assets, including without limitation, sales occurring pursuant to Section 363 of the Bankruptcy Code or included as part of any restructuring plan subject to confirmation under Section 1129(b)(2)(A)(ii)-(iii) of the Bankruptcy Code.

5.12 Payment and Review of Lender Fees and Expenses. Each Loan Party shall pay all fees, that may be reasonably required or necessary for the Loan Parties’ performance of their Post-Petition Obligations under the DIP Credit Agreement, including, without limitation, the non-refundable payment to the (i) Pre-Petition Lender of the reasonable and documented fees and expenses set forth in the Pre-Petition Loan Documents, whether incurred pre-petition or post-petition, including without limitation, all reasonable and documented fees, costs, disbursements and expenses of Chapman and Cutler, LLP, as legal counsel, Womble Bond Dickinson (US) LLP, as legal counsel, Blake, Cassels & Graydon LLP, as Canadian legal counsel and FTI Consulting Canada Limited, as financial advisor, and (ii) the DIP Lender of the fees and expenses set forth in the DIP Loan Documents, whether incurred pre-petition or post-petition including, without limitation the fees, costs, disbursements and expenses of Chapman and Cutler, LLP, as legal counsel, Womble Bond Dickinson (US) LLP, as legal counsel, Blake, Cassels & Graydon LLP, as Canadian legal counsel and FTI Consulting Canada Limited, as financial advisor, in each case whether incurred before or after the Petition Date; provided, that Debtors shall pay all such reasonable fees and expenses within ten (10) business days of delivery of a statement or invoice

for such fees and expenses (it being understood that no counsel or other professional be required to file any interim or final fee applications with the Court or otherwise seek the Court's approval of any such payments) to the Debtors, the U.S. Trustee and the Committee (if any), unless, within such ten (10) business day period, the Debtors, the U.S. Trustee or the Committee (if any) serves a written objection upon the requesting party detailing the specific fees or expenses to which such party objects along with an explanation for the basis of such objection, in which case, the Debtors shall immediately pay only such amounts that are not the subject of any objection and only pay the balance of such statements or invoices at such time and in such amount as subsequently agreed to by the requesting party and any objecting party or as otherwise ordered by the Court to be paid.

5.13 No Superior Rights of Reclamation. Subject to the Challenge Period, in no event shall any alleged right of reclamation or return (whether asserted under Section 546(c) of the Bankruptcy Code or otherwise) be deemed to have priority over the DIP Liens.

5.14 Term; Termination. Notwithstanding any provision of this Interim Order to the contrary, the term of the financing arrangements among Debtors and the DIP Lender authorized by this Interim Order may be terminated pursuant to the terms of the DIP Credit Agreement.

5.15 Limited Effect. In the event of a conflict between the terms and provisions of any of the DIP Loan Documents and this Interim Order, the terms and provisions of this Interim Order shall govern, interpreted as most consistent with the terms and provisions of the DIP Loan Documents.

5.16 Retention of Jurisdiction. The Court retains jurisdiction and power with respect to all matters arising from or related to the implementation or interpretation of this Interim Order, the DIP Credit Agreement, and the other DIP Loan Documents.

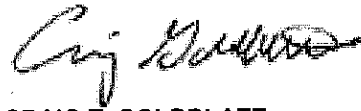
5.17 Aid and Assistance. The Court hereby requests the aid and assistance of the Canadian Court administering the Canadian Proceedings to (i) grant a stay of proceedings in the Canadian Proceedings restricting and prohibiting any further actions or steps being taken in Canada against any of the Collateral of the Debtors which may be located in Canada, and (ii) create a charge in favor of the DIP Lender to secure any Post-Petition Obligations of the Debtors which may be located in Canada in furtherance of the liens and security interests of the DIP Lender granted under the DIP Loan Documents and this Interim Order.

Section 6. Final Hearing and Response Dates.

The Final Hearing on the Motion is scheduled for May 19, 2023, at 10:00 a.m. prevailing Eastern time before this Court. The Debtors may serve the Motion and the Interim Order without the exhibits attached thereto (other than the DIP Budget) as such exhibits are voluminous and available, free of charge, at the Debtors' restructuring website (<https://www.kccllc.net/structurlam>), and such notice is deemed good and sufficient and no further notice need be given. Any party in interest objecting to the relief sought at the Final Hearing shall serve and file written objections, which objections shall be served upon (a) proposed counsel to the Debtors, (a) proposed counsel to the Debtors, Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801, Attn: William E. Chipman, Jr. ([chipman@chipmanbrown.com](mailto:chipman@chipmanbrown.com)); Robert A. Weber ([weber@chipmanbrown.com](mailto:weber@chipmanbrown.com)); Mark L. Desgrosseilliers ([desgross@chipmanbrown.com](mailto:desgross@chipmanbrown.com)); and Mark Olivere ([olivere@chipmanbrown.com](mailto:olivere@chipmanbrown.com)); (b) counsel for the DIP Lender and Pre-Petition Lender, (i) Blake, Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa ([kelly.bourassa@blakes.com](mailto:kelly.bourassa@blakes.com)), Christopher Keliher ([christopher.keliher@blakes.com](mailto:christopher.keliher@blakes.com)), Erik Fleming ([erik.fleming@blakes.com](mailto:erik.fleming@blakes.com)), and Austin Beck ([Austin.Beck@blakes.com](mailto:Austin.Beck@blakes.com)), (iii) Chapman and Cutler LLP, 320 South Canal Street, Chicago,

Illinois 60606 (Attn: Stephen R. Tetro II and James P. Sullivan), email: [stetro@chapman.com](mailto:stetro@chapman.com) and [jsulliva@chapman.com](mailto:jsulliva@chapman.com), and (iii) Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: [matthew-ward@wbd-us.com](mailto:matthew-ward@wbd-us.com); (c) counsel to any Committee; and (d) the U.S. Trustee, 844 King Street, Room 2207, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman ([Benjamin.a.hackman@usdoj.gov](mailto:Benjamin.a.hackman@usdoj.gov)); and shall be filed with the Clerk of the United States Bankruptcy Court for the District of Delaware, in each case, to allow actual receipt of the foregoing no later than 4:00 p.m. prevailing Eastern time, on May 12, 2023.

Dated: April 26th, 2023  
Wilmington, Delaware



CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1**

**DIP Credit Agreement**

**SENIOR SECURED SUPERPRIORITY DIP FINANCING  
CREDIT AGREEMENT**

**BETWEEN:**

**STRUCTURLAM MASS TIMBER CORPORATION  
- and -  
STRUCTURLAM MASS TIMBER U.S., INC., as Borrowers**

**-and-**

**BANK OF MONTREAL, as Lender**

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**THIS SENIOR SECURED SUPERPRIORITY DIP FINANCING CREDIT AGREEMENT** is dated as of April \_\_, 2023

**BETWEEN:**

**STRUCTURLAM MASS TIMBER CORPORATION**, a corporation governed by the laws of the Province of British Columbia, having an office in Penticton, British Columbia, as Cdn. Borrower

**AND**

**STRUCTURLAM MASS TIMBER U.S., INC.**, a corporation governed by the laws of the State of Delaware, having an office in Penticton, British Columbia, as U.S. Borrower

**AND**

**BANK OF MONTREAL**, as Lender

**WHEREAS** the Borrowers have requested that the Lender provide financing to fund certain of the Obligors' obligations during the pendency of the CCAA Proceedings and the U.S. Proceedings, in accordance with the terms and conditions set out herein; and

**AND WHEREAS** the Lender has agreed to establish a debtor-in-possession credit facility in order to fund certain obligations of the Obligors in the context of the Obligors' CCAA Proceedings and U.S. Proceedings on the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the premises, the covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto, the parties agree as follows:

## **ARTICLE 1 INTERPRETATION**

### **1.1 Definitions**

**"Acceleration Event"** has the meaning set out in Section 10.2 of this Agreement

**"Acceleration Notice"** has the meaning set out in Section 10.2 of this Agreement

**"Additional Compensation"** has the meaning set out in Section 11.1(a) of this Agreement.

**"Administration Charge"** means an administration charge in an aggregate amount not to exceed Cdn. \$150,000 granted by the Canadian Court pursuant to the Initial Order over all present and future assets and property of the Obligors, real and personal, tangible or intangible, and whether now owned or which are hereafter acquired or otherwise become the property of an Obligor.

**"Advance"** means an advance of funds made by the Lender to a Borrower under this Agreement.

**"Affiliate"** means any Person which, directly or indirectly, controls, is controlled by or is under common control with another Person; and, for the purposes of this definition, "control" (including, with correlative meanings, the terms "controlled by" or "under common control with") means the power to direct or cause

the direction of the management and policies of any Person, whether through the ownership of shares or other economic interests, the holding of voting rights or contractual rights or otherwise.

**"Agreed Budget"** means the weekly line item budget covering the period of at least 13 calendar weeks following the Effective Date annexed hereto as Schedule C, together with all amendments thereto approved by the Lender in writing in its sole and absolute discretion (for certainty, each Updated Budget contemplated to be delivered by the Borrowers hereby shall not constitute an amendment of the Agreed Budget unless approved by the Lender in writing in its sole and absolute discretion). The Agreed Budget shall be prepared on a cash-flow basis and shall include the payment of accrued professional fees to an escrow agent pursuant to procedures set forth more fully in the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable, such professional fees shall be held by the agreed escrow agent until such time as they may be distributed to the relevant professionals in accordance with the orders of the U.S. Court. As used in this Agreement, and notwithstanding anything contained herein to the contrary, any requirements set forth herein for the Obligor to comply (including in respect of expenditures or use of proceeds) with the Agreed Budget shall be deemed to mean compliance with Agreed Budget subject to any permitted variance contemplated by this Agreement.

**"Agreement"** means this senior secured superpriority DIP financing credit agreement and all Schedules annexed hereto, as the same may be amended, modified, supplemented or restated from time to time in accordance with the provisions thereof.

**"Alternative Restructuring Option"** means any transaction involving the refinancing or recapitalization of an Obligor or any other restructuring of the Obligors' businesses and operations to be implemented pursuant to a Plan.

**"Anti-Money Laundering Laws and Regulations"** means the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada), the USA PATRIOT Act, the U.S. Money Laundering Control Act of 1986, the U.S. Currency and Foreign Transactions Reporting Act of 1970 (the U.S. Bank Secrecy Act), and other applicable anti-money laundering, anti-terrorist financing, government sanction and "know-your-client" laws applicable in Canada or the United States and corresponding laws of jurisdictions in which any Obligor operates or in which the proceeds of the Loans will be used or from which repayments of the Secured Obligations will be derived.

**"APA"** means documentation evidencing a sale of all or substantially all of the assets of the Obligors pursuant to Section 363 of the U.S. Bankruptcy Code or otherwise.

**"APA Closing"** means the closing of the APA.

**"Applicable Laws"** or **"applicable law"** means, in relation to any Person, transaction or event, (a) all applicable provisions of laws, statutes, rules and regulations from time to time in effect of any Governmental Authority and (b) all Governmental Authorizations to which the Person is a party or by which it or its property is bound or having application to the transaction or event.

**"Applicable Pricing Margin"** means, (a) in respect of any Loan, 14% per annum, and (b) any standby fees payable under Section 5.5, 2.8% per annum, provided that (i) the above rates per annum are expressed on the basis of a year of 365 days; (ii) the standby fee will accrue on the daily undrawn portion of the Credit Facility and will be payable in arrears in accordance with Section 5.5; and (iii) upon the occurrence and during the continuance of any Default or Event of Default, the Applicable Pricing Margin specified in clause (a) of this definition will increase by 3% per annum.

**"Approved Fund"** means any Fund that is administered or managed by (a) the Lender, (b) an Affiliate of the Lender or (c) a Person or an Affiliate of a Person that administers or manages the Lender.

**"Approved Sale"** means the sale of all or substantially all of the assets of the Obligors pursuant to one or more sales approved by the Canadian Court and the U.S. Court and consented to by the Lender; provided, that no such consent of the Lender shall be required to the extent that the proceeds of an Approved Sale result in the repayment in full in cash of all Indebtedness owing under each of this Agreement and the Pre-Filing Secured Credit Agreement upon the closing of such Approved Sale.

**"Approved Securities"** means obligations maturing within one year from their date of purchase or other acquisition by the Borrowers (or either of them) and which are (a) issued by the Government of Canada, by the government of any Province of Canada or, in each case, an instrumentality or agency thereof and guaranteed fully as to principal, premium, if any, and interest by the Government of Canada or the government of such Province or (b) term deposits, guaranteed investment certificates, certificates of deposit or bearer deposit notes, in each case, of any Canadian chartered bank or other Canadian financial institution which has a long term debt rating of at least A+ by S&P, A1 by Moody's, or A (high) by DBRS.

**"Attributable Debt"** means, in respect of any lease (whether characterized as an operating lease under GAAP or not) entered into by a Person as lessee, the present value (discounted at the rate of interest implicit in such transaction, determined in accordance with GAAP) of the lease payments of the lessee, including all rent and payments to be made by the lessee in connection with the return of the leased property, during the remaining term of the lease (including any period for which such lease has been extended or may, at the option of the lessor, be extended) but excluding for certainty, (a) amounts required to be paid on account of insurance, taxes, assessments, utility, operating and labour costs and similar charges and (b) amounts payable by the lessee in connection with the exercise of any end-of-term purchase option, early buyout option or any similar amounts payable at the election of the lessee.

**"Banking Day"** means, (a) in respect of any U.S. \$ Loan, a day on which banks are open for business in Vancouver, British Columbia, Toronto, Ontario and New York, New York, and (b) for all other purposes, a day on which banks are open for business in Vancouver, British Columbia and Toronto, Ontario, but does not in any event include a Saturday or a Sunday.

**"Bankruptcy Code"** means Title 11 of the United States Code entitled "Bankruptcy".

**"BIA"** means the *Bankruptcy and Insolvency Act* (Canada).

**"Borrowers"** means, collectively, the Cdn. Borrower and the U.S. Borrower, and **"Borrower"** means either of them.

**"Canadian Court"** means the Supreme Court of British Columbia.

**"Canadian Dollars"** and **"Cdn. \$"** mean the lawful money of Canada.

**"Capital Expenditures"** means, for any period, all amounts that would be included as additions to property, plant and equipment and other capital expenditures on a combined consolidated statement of cash flows of the Borrowers, or on an unconsolidated statement of cash flows of the relevant Borrower, as applicable, during such period in accordance with GAAP (excluding capitalized interest but including the amount of assets leased under any Capital Lease).

**"Capital Lease"** means any leasing or similar arrangement which, in accordance with GAAP in effect prior to the adoption of IFRS 16, is classified as a capital lease or finance lease.

**“Carve-Out”** means the “Carve-Out” as described and defined in the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable.

**“CCAA”** means the *Companies’ Creditors Arrangement Act* (Canada).

**“CCAA Proceedings”** means the proceedings to be commenced in Canada by the Obligors before the Canadian Court pursuant to the CCAA.

**“Cdn. Borrower”** means Structurlam Mass Timber Corporation.

**“Cdn. \$ Loan”** means an Advance in Canadian Dollars made by the Lender to a Borrower.

**“CFTC”** means the U.S. Commodity Futures Trading Commission.

**“Code”** means the *United States Internal Revenue Code of 1986*, as amended from time to time.

**“Collateral”** has the meaning set forth in the definition of “Lender Charge” in this Agreement.

**“Credit Facility”** means the debtor-in-possession credit facility, including availability under the MasterCard Facilities (as defined in the Pre-Filing Secured Credit Agreement) up to the amounts of Cdn. \$25,000 and U.S. \$20,000, respectively, in the maximum principal amount of (1) Cdn. \$4,000,000 to be made available by the Lender to the Borrowers under this Agreement and the Interim U.S. DIP Order and (2) Cdn. \$3,500,000 to be made available by the Lender to the Borrowers under this Agreement and the Final U.S. DIP Order and, in each case, subject to the terms hereof.

**“Credit Facility Indebtedness”** means all Debt, liabilities and obligations of the Borrowers to the Lender with respect to the Credit Facility arising under this Agreement and any other Documents, including without limitation, all Loans and all interest, fees, costs, expenses and other amounts of any nature or kind payable by the Borrowers (or either of them).

**“DBRS”** means Dominion Bond Rating Service Limited and any successors thereto.

**“Debt”** means, with respect to any Person (“X”), all obligations, liabilities and indebtedness of X which would, in accordance with GAAP, be classified upon a consolidated balance sheet of X as liabilities of X and its Subsidiaries (or be classified upon an unconsolidated balance sheet of X as liabilities of X, if Debt is to be determined on an unconsolidated basis for X) and, whether or not so classified, shall include (without duplication):

- (a) indebtedness of X and its Subsidiaries (or of X on an unconsolidated basis) for borrowed money;
- (b) obligations of X and its Subsidiaries (or of X on an unconsolidated basis) arising pursuant or in relation to: (i) bankers’ acceptances (including payment and reimbursement obligations in respect thereof), or (ii) letters of credit and letters of guarantee supporting obligations which would otherwise constitute Debt within the meaning of this definition or indemnities issued in connection therewith;
- (c) obligations of X and its Subsidiaries (or of X on an unconsolidated basis) with respect to drawings under all other letters of credit and letters of guarantee;
- (d) obligations of X and its Subsidiaries (or of X on an unconsolidated basis) under Guarantees, indemnities, assurances, legally binding comfort letters or other contingent obligations relating to

the indebtedness or other obligations of any other Person which would otherwise constitute Debt within the meaning of this definition and all Financial Assistance including endorsements of bills of exchange (other than for collection or deposit in the ordinary course of business);

- (e) (i) all indebtedness of X and its Subsidiaries (or of X on an unconsolidated basis) representing the deferred purchase price of any property to the extent that such indebtedness is or remains unpaid after the expiry of the customary time period for payment, provided however that such time period shall in no event exceed 90 days, and (ii) all obligations of X and its Subsidiaries (or of X on an unconsolidated basis) created or arising under any: (A) conditional sales agreement or other title retention agreement or (B) Capital Lease;
- (f) all Attributable Debt of X and its Subsidiaries (or of X on an unconsolidated basis) other than in respect of (i) leases of office space or (ii) operating leases, in each case entered into in the ordinary course of business (and, for certainty, no Sale-Leaseback shall be considered to be entered into in the ordinary course of business);
- (g) all other long-term obligations (including the current portion thereof) upon which interest charges are customarily paid prior to default by X and its Subsidiaries (or by X if on an unconsolidated basis); and
- (h) all indebtedness of other Persons secured by a Security Interest on any asset of X and its Subsidiaries (or of X if on an unconsolidated basis), whether or not such indebtedness is assumed thereby; provided that the amount of such indebtedness shall be the lesser of (i) the fair market value of such asset at such date of determination, and (ii) the amount of such indebtedness shall only be Debt to the extent recorded as a liability in accordance with GAAP,

but shall exclude each of the following, determined (as required) in accordance with GAAP:

- (i) accounts payable to trade creditors and accrued liabilities incurred in the ordinary course of business;
- (ii) current taxes payable and future taxes; and
- (iii) accrued interest not yet due and payable.

**“Default”** means any event or condition which, with the giving of notice, lapse of time or upon a declaration or determination being made (or any combination thereof), would constitute an Event of Default.

**“Designated Persons”** means a person or entity (a) listed in the annex to, or otherwise subject to the provisions of, any Executive Order; (b) named as a “Specially Designated National and Blocked Person” (“SDN”) on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list (the “SDN List”) or is otherwise the subject of any Sanctions Laws and Regulations; (c) in which an entity or person on the SDN List has 50% or greater ownership interest or that is otherwise controlled by an SDN.

**“Distribution”** means:

- (a) the declaration, payment or setting aside for payment of any dividend or other distribution on or in respect of any Equity Interests in the capital of a Borrower or any other Obligor that is not wholly owned by a Borrower (including any return of capital);
- (b) the redemption, retraction, purchase, retirement or other acquisition, in whole or in part, of any limited partnership units or other Equity Interests in the capital of a Borrower or any other Obligor that is not wholly-owned by a Borrower or any securities, instruments or contractual rights capable of being converted into, exchanged or exercised for shares or other Equity Interests in the capital thereof, including, without limitation, options, warrants, conversion or exchange privileges and similar rights;
- (c) the making of any loan or advance or any other provision of credit or Financial Assistance by any Obligor to any Related Party, other than to another Obligor;
- (d) the payment of any principal, interest, fees or other amounts, or the redemption, exchange, purchase, retirement, defeasance, sinking fund or similar payment any loans, on or in respect of (i) subordinated debt or (ii) advances or other Debt, owing at any time by any Obligor to any Related Party, other than to another Obligor; or
- (e) (i) the payment of any amount, (ii) the sale, transfer, lease or other disposition of any property or assets, or (iii) any granting or creation of any rights or interests, at any time, by any Obligor to or in favour of any Related Party, other than to another Obligor, and whether any of the foregoing is made, paid or satisfied in or for cash, property or any combination thereof.

**“Documents”** means this Agreement, the Security, and all certificates, notices, instruments and other documents delivered or to be delivered to the Lender in connection herewith or therewith from time to time and all future renewals, extensions, or restatements of, or amendments, modifications or supplements to, all or any part of the foregoing.

**“Drawdown”** means an Advance of a Cdn. \$ Loan or U.S. \$ Loan.

**“Drawdown Date”** means the date on which a Drawdown is made by a Borrower pursuant to the provisions of this Agreement and which shall be a Banking Day.

**“Drawdown Notice”** means a notice substantially in the form annexed to this Agreement as Schedule A to be given to the Lender by a Borrower pursuant to this Agreement.

**“Effective Date”** has the meaning set forth in Section 3.1.

**“Environmental Claims”** means any and all administrative, regulatory or judicial actions, suits, demands, claims, liens, notices of noncompliance or violation, investigations, inspections, inquiries or proceedings relating in any way to any Environmental Laws or to any permit issued under any such Environmental Laws including, without limitation:

- (a) any claim by a Governmental Authority for enforcement, clean up, removal, response, remedial or other actions or damages pursuant to any Environmental Laws; and
- (b) any claim by a Person seeking damages, contribution, indemnification, cost recovery, compensation or injunctive or other relief resulting from or relating to Hazardous Materials,

including any Release thereof, or arising from alleged injury or threat of injury to human health or safety (arising from environmental matters) or the environment.

**“Environmental Laws”** means all Applicable Laws with respect to the environment or environmental or public health and safety matters contained in statutes, regulations, rules, ordinances, orders, judgments, approvals, notices, permits or policies, guidelines or directives having the force of law.

**“Equity Interests”** means, with respect to any Person, (a) shares of capital stock of (or other ownership or profit interests in) such Person, (b) warrants, options or other rights for the purchase or other acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, (c) securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or other acquisition from such Person of such shares (or such other interests), and (d) other ownership or profit interests in such Person (including, without limitation, partnership, member or trust interests therein), in each case, whether voting or non-voting, and whether or not such shares, warrants, options, rights or other interests are authorized or otherwise existing on any date of determination.

**“Equivalent Amount”** means, on any day, the equivalent amount in Canadian Dollars or United States Dollars, as the case may be, after giving effect to a conversion of a specified amount of United States Dollars to Canadian Dollars or of Canadian Dollars to United States Dollars, as the case may be, at the rate of exchange for Canadian interbank transactions established by the Bank of Canada for the Banking Day immediately prior to the day in question, or, if such rate is for any reason unavailable, at the spot rate quoted for wholesale transactions involving the applicable currency by the Lender at approximately noon (Toronto time) on that day in accordance with its normal practice.

**“ERISA”** means the Employee Retirement Income Security Act of 1974 of the United States of America, as amended from time to time, and any successor statute.

**“ERISA Affiliate”** means any trade or business (whether or not incorporated) that, together with any Obligor, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code; provided that, for certainty, an ERISA Affiliate shall only include those entities owned by Holdco, directly or indirectly.

**“ERISA Event”** means:

- (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder as in effect on the Effective Date with respect to a Pension Plan (other than an event for which the 30-day notice period is waived under such regulations);
- (b) the failure to meet the minimum funding standards of Section 412 or 430 of the Code;
- (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Pension Plan;
- (d) the incurrence by Holdco or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Pension Plan;
- (e) the receipt by Holdco or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Pension Plan or Pension Plans or to appoint a trustee to administer any Pension Plan;

- (f) the incurrence by Holdco or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Pension Plan or Multiemployer Plan;
- (g) the incurrence by Holdco or any of its ERISA Affiliates of any liability under Section 4062(e) of ERISA;
- (h) the receipt by Holdco or any ERISA Affiliate of any notice assessing Withdrawal Liability in connection with a complete or partial withdrawal from any Multiemployer Plan, or a determination that a Multiemployer Plan is, or is expected in the current Plan Year or the immediately succeeding Plan Year to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; or
- (i) the conditions exist for an imposition of a lien under Section 303(k) of ERISA.

**“Event of Default”** has the meaning set out in Section 10.1.

**“Executive Order”** has the meaning assigned to such term in the definition of Sanctions Laws and Regulations.

**“Exit Fee”** has the meaning set forth in Section 5.6.

**“FATCA”** means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the Code.

**“Final U.S. DIP Order”** means a final order of the U.S. Court presiding over U.S. Proceedings (i) approving liens in favor of the Lender on assets of the Obligors and super-priority claims against the Obligors and (ii) granting adequate protection to Pre-Filing Secured Creditor under the Pre-Filing Secured Credit Agreement, which order shall be satisfactory to the Lender and substantially consistent in form and substance (except with regard to finality) with the Interim U.S. DIP Order.

**“Financial Assistance”** means, with respect to any Person and without duplication, any loan, guarantee, indemnity, assurance, acceptance, extension of credit, loan purchase, share purchase, equity or capital contribution, investment or other form of direct or indirect financial assistance or support of any other Person or any obligation (contingent or otherwise) primarily for the purpose of enabling another Person to incur or pay any Debt or to comply with agreements relating thereto or otherwise to assure or protect creditors of the other Person against loss in respect of Debt of the other Person and includes any guarantee of or indemnity in respect of the Debt of the other Person and any absolute or contingent obligation to (directly or indirectly):

- (a) advance or supply funds for the payment or purchase of any Debt of any other Person;
- (b) purchase, sell or lease (as lessee or lessor) any property, assets, goods, services, materials or supplies primarily for the purpose of enabling any Person to make payment of Debt or to assure the holder thereof against loss;
- (c) guarantee, indemnify, hold harmless or otherwise become liable any creditor of any other Person from or against any losses, liabilities or damages in respect of Debt;
- (d) make a payment to another for goods, property or services regardless of the non-delivery or non-furnishing thereof to that Person; or

- (e) make an advance, loan or other extension of credit to or to make any subscription for equity, equity or capital contribution, or investment in or to maintain the capital, working capital, solvency or general financial condition of another Person.

The amount of any Financial Assistance is the amount of any loan or direct or indirect financial assistance or support, without duplication, given, or all Debt of the obligor to which the Financial Assistance relates, unless the Financial Assistance is limited to a determinable amount, in which case the amount of the Financial Assistance is the determinable amount.

**"Financial Instrument"** means any instrument or agreement which effects a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, forward sale, exchange traded futures contract or any other similar transaction (including any option with respect to any of these transactions or any combination of these transactions).

**"Fund"** means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its business.

**"GAAP"** means generally accepted accounting principles in Canada, which shall be deemed to be reference to the recommendations at the relevant time of the Chartered Professional Accountants of Canada (or any successor institute thereto) applicable on a consolidated basis (unless otherwise specifically provided or contemplated in this Agreement) as at the date on which any determination or calculation is made or required to be made in accordance with such principles, which, for purposes of this Agreement is determined to be Canadian accounting standards for private enterprises (ASPE), applied on a consistent basis.

**"Governmental Authority"** means any federal, provincial, state, regional, municipal or local government or any department, agency, board, tribunal, accreditation entity or authority thereof or other political subdivision thereof and any entity or Person exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government or the operation thereof.

**"Governmental Authorization"** means an authorization, accreditation, order, permit, approval, grant, license, consent, right, franchise, privilege, certificate, judgment, writ, injunction, award, determination, direction, decree or demand or the like issued or granted by law or by rule or regulation of any Governmental Authority.

**"Guarantee"** means any guarantee, undertaking to assume, endorse, contingently agree to purchase or to provide funds for the payment of, or otherwise become liable in respect of, any obligation of any Person; provided that the amount of each Guarantee shall be deemed to be the amount of the obligation guaranteed thereby, unless the Guarantee is limited to a determinable amount in which case the amount of such Guarantee shall be deemed to be the lesser of such determinable amount or the amount of such obligation; and the term **"Guaranteed"** shall be construed accordingly.

**"Guarantors"** means, (a) with respect to all Secured Obligations of the Borrowers, (i) Holdco and (ii) all present and future Subsidiaries of the Borrowers (or of either of them), (b) with respect to all Secured Obligations of the Cdn. Borrower, the U.S. Borrower, and (c) with respect to all Secured Obligations of the U.S. Borrower, the Cdn. Borrower, and **"Guarantor"** means any one of them.

**“Hazardous Materials”** means any substance or mixture of substances which, if released into the environment, would likely cause, immediately or at some future time, harm or degradation to the environment or to human health or safety and includes any substance defined as or determined to be a pollutant, contaminant, waste, hazardous waste, hazardous chemical, hazardous substance, toxic substance or dangerous good under any Environmental Law.

**“Holdco”** means SLP Holdings Ltd., the corporation which legally and beneficially owns 100% of the Equity Interests of the Cdn. Borrower, and which legally and beneficially owns 100% of the Equity Interests of the U.S. Borrower.

**“Indemnified Parties”** means the Lender, including a receiver, receiver manager or similar Person appointed under applicable law, and their respective shareholders, Affiliates, officers, directors, employees and agents, and **“Indemnified Party”** means any one of the foregoing.

**“Indemnified Third Party”** has the meaning set out in Section 12.3 of this Agreement.

**“Information”** has the meaning set out in Section 13.3(b) of this Agreement.

**“Information Officer”** means Alvarez & Marsal Canada Inc., in its capacity as court appointed information officer of the Obligors.

**“Initial Order”** means an initial recognition order and supplemental order of the Canadian Court substantially in the form annexed hereto as Schedule D and otherwise in form and substance satisfactory to the Lender that, among other things, (i) recognizes the Foreign Representative as a “foreign representative” of the Obligors pursuant to the provisions of the CCAA, (ii) recognizes the U.S. Proceedings as foreign main or foreign nonmain proceedings in respect of each of the Obligors pursuant to the provisions of the CCAA, (iii) recognizes and gives effect to certain orders granted in the U.S. Proceedings, including, among other things, the Interim U.S. DIP Order and the Cash Management Order, (iv) grants the Lender Charge (subject only to Permitted Priority Liens and the Carve-Out), and (v) appoints the Information Officer, as information officer (as such order or orders may be amended, modified, varied or restated with the consent of the Lender).

**“Intellectual Property”** means, collectively, patents, patents pending, copyrights, proprietary processes or programs, industrial designs, trademarks, trademark applications, trade names and other intellectual property of every nature and kind.

**“Interest Payment Date”** means, with respect to each Loan, the last Banking Day of each calendar month; provided that, the Maturity Date or, if applicable, any earlier date on which the Credit Facility is fully cancelled or permanently reduced in full, shall be an Interest Payment Date with respect to all Loans then outstanding under the Credit Facility.

**“Interest Period”** means, with respect to each Loan, the period commencing on the applicable Drawdown Date and terminating on the date selected by the relevant Borrower under this Agreement for the repayment of such Loan, provided that the last day of all Interest Periods for Loans outstanding under the Credit Facility shall expire on or prior to the Maturity Date.

**“Interim U.S. DIP Order”** means an interim order of the U.S. Court presiding over U.S. Proceedings authorizing the Obligors to enter into this agreement and, *inter alia*, (i) approving liens in favor of the Lender on assets of the Obligors and super-priority claims against the Obligors and (ii) granting adequate protection to Pre-Filing Secured Creditor under the Pre-Filing Secured Credit Agreement, which order shall be satisfactory to the Lender and substantially in the form annexed hereto as Schedule F.

**“Interpretive Guidance”** means the *Interpretive Guidance and Policy Statement Regarding Compliance with Certain Swap Regulations*, 78 Fed. Reg. 45292 (July 26, 2013), as amended or supplemented by the CFTC from time to time.

**“Investment”** means (a) any purchase or other acquisition of shares or other securities of any Person, (b) any form of Financial Assistance to or for the benefit of any Person, (c) any capital contribution to any other Person and (d) any purchase or other acquisition of any assets, property or undertaking (including Capital Expenditures) other than an acquisition in the ordinary course of business of the purchaser.

**“Judgment Conversion Date”** has the meaning set out in Section 12.4(a)(ii) of this Agreement.

**“Judgment Currency”** has the meaning set out in Section 12.4(a) of this Agreement.

**“KEIP”** means any key employee incentive plan acceptable to the Lender and approved by the U.S. Court in the U.S. Proceedings.

**“KERP”** means any key employee retention plan acceptable to the Lender and approved by the U.S. Court in the U.S. Proceedings.

**“Lender”** means Bank of Montreal.

**“Lender Charge”** means, collectively, the super-priority administrative claim, authorized by the U.S. Court pursuant to the Interim U.S. DIP Order or the Final U.S. DIP Order, as applicable, in accordance with § 364(c)(1) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities and indebtedness of the Obligors (other than the Carve-Out), the liens authorized by the U.S. Court pursuant to the Interim U.S. DIP Order or the Final U.S. DIP Order, as applicable, in accordance with § 364(d) of the Bankruptcy Code, having priority in right of payment over any and all other obligations, liabilities and indebtedness of the Obligors (other than the Permitted Priority Liens and the Carve-Out) and the charge granted by the Canadian Court pursuant to the Initial Order over all present and future assets and property of the Obligors, real and personal, tangible or intangible, and whether now owned or which are hereafter acquired or otherwise become the property of an Obligor in favour of the Lender (collectively, the “Collateral”).

**“Lender’s Account for Payments”** means:

- (a) for amounts payable in Canadian Dollars:

Bank of Montreal  
595 Burrard Street  
Vancouver, British Columbia V7X 1L7

Transit No. and Bank Code: 00149 001  
Beneficiary Account No.: 1999-815

- (b) for amounts payable in United States Dollars:

Bank of Montreal  
595 Burrard Street  
Vancouver, British Columbia V7X 1L7

Transit No. and Bank Code: 00109 001

Beneficiary Account No.: 4604-350

**“Lender’s Branch”** means the Lender’s branch located at 595 Burrard Street, Vancouver, B.C. V7X 1L7 or such other branch in Canada as the Lender may from time to time designate.

**“Lender’s Counsel”** means the firms of Blake, Cassels & Graydon LLP, Chapman and Cutler LLP and Womble Bond Dickinson (US) LLP or such other firms of legal counsel as the Lender may from time to time designate.

**“Lender’s Counsel’s Financial Advisor”** means FTI Consulting Canada Limited, in its capacity as financial advisor to the Lender’s Counsel.

**“Loan”** means a Cdn. \$ Loan or U.S. \$ Loan under this Agreement.

**“Material Adverse Change”** means a material adverse change in:

- (a) the business, financial condition, operations, assets, management or properties of the Obligors on a consolidated basis, taken as a whole;
- (b) the validity or enforceability of this Agreement or any other Document or the validity or enforceability of any of the Lender Charge or the ranking of any of the Security Interests granted thereby or the material rights or remedies intended or purported to be granted to the Lender under or pursuant to such Lender Charge; or
- (c) the ability of any Obligor to perform any material obligation under this Agreement, any other Document or any Restructuring Court Order, or the ability of any Obligor to carry out an Approved Sale or Alternative Restructuring Option,

but does not include any of the Obligors filing for relief under the CCAA or under Chapter 11 or Chapter 15 of the Bankruptcy Code or any facts or circumstances disclosed by the Obligors in the pleadings supporting any such filing.

**“Material Adverse Effect”** means a material adverse effect upon:

- (a) the business, financial condition, operations, assets, management or properties of the Obligors on a consolidated basis, taken as a whole;
- (b) the validity or enforceability of this Agreement or any other Document or the validity or enforceability of any of the Lender Charge or the ranking of any of the Security Interests granted thereby or the material rights or remedies intended or purported to be granted to the Lender under or pursuant to such Lender Charge; or
- (c) the ability of any Obligor to perform any material obligation under this Agreement, any other Document or any Restructuring Court Order, or the ability of any Obligor to carry out an Approved Sale or Alternative Restructuring Option.

but does not include the effect of any of the Obligors filing for relief under the CCAA or under Chapter 11 or Chapter 15 of the Bankruptcy Code or the effect of any facts or circumstances disclosed by the Obligors in the pleadings supporting any such filing.

**“Maturity Date”** means, the earlier to occur of: (a) June 30, 2023; (b) the effective date of a Plan; (c) the APA Closing; and (d) the date of delivery of an Acceleration Notice or the occurrence of an Acceleration Event.

**“Milestones”** means, unless otherwise agreed to by the Lender, each of the following events:

- (a) reasonable best efforts shall be made by the Borrowers to have the U.S. Court enter the Interim U.S. DIP Order on or prior to one (1) Banking Day after the Petition Date, and in any case on or prior to two (2) Banking Days after the Petition Date, the U.S. Court shall have entered the Interim U.S. DIP Order;
- (b) reasonable best efforts shall be made by the Borrowers to have the Canadian Court issue the Initial Order on or prior to two (2) Banking Days after the date the U.S. Court enters the Interim U.S. DIP Order, and in any case on or prior to three (3) Banking Days after the date the U.S. Court enters the Interim U.S. DIP Order, the Canadian Court shall have issued the Initial Order;
- (c) on or prior to one (1) Banking Day after the Petition Date, the Obligors shall have filed with the U.S. Court a motion seeking entry of the Sale Procedures Order and the Sale Order;
- (d) on or prior to April 28, 2023, the Obligors shall have filed with the Canadian Court a motion seeking an order recognizing the Sale Procedures Order and Sale Order.
- (e) reasonable best efforts shall be made by the Borrowers to have the U.S. Court enter the Sale Procedures Order by April 28, 2023, and in any case on or prior to the first Banking Day that is ten (10) calendar days after the Petition Date, the U.S. Court shall have entered the Sale Procedures Order;
- (f) reasonable best efforts shall be made by the Borrowers to have the Canadian Court issue an order recognizing the Sale Procedures Order by May 8, 2023, and in any case on or prior to May 12, 2023, the Canadian Court shall have issued an order recognizing the Sale Procedures Order;
- (g) subject only to availability of the U.S. Court, on or prior to twenty-one (21) days after the date the U.S. Court enters the Interim U.S. DIP Order, the U.S. Court shall have entered the Final U.S. DIP Order (if the U.S. Court does not have the requisite availability, this Milestone is to be discharged on the U.S. Court’s next available date);
- (h) reasonable best efforts shall be made by the Borrowers to have the U.S. Court enter the Sale Order on or prior to May 24, 2023 and in any case on or prior to the first Banking Day that is 35 calendar days after the Petition Date the U.S. Court shall have entered the Sale Order;
- (i) reasonable best efforts shall be made by the Borrowers to have the Canadian Court issue an order recognizing the Sale Order on or prior to May 29, 2023 and in any case prior to May 31, 2023, the Canadian Court shall have issued an order recognizing the Sale Order; and
- (j) by the later of June 1, 2023, and the date that is 45 calendar days after the Petition Date, the final APA Closing shall have occurred and the Credit Facility Indebtedness shall have been paid in full in cash.

**“Month End”** means the last day of each of calendar month.

**“Moody’s”** means Moody’s Investors Service, Inc. and any successors thereto.

**“Multiemployer Plan”** means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

**“Negative Cash Flow Variance”** means, at any time, the cumulative negative variance in the Obligors’ actual cash receipts and cash expenditures and outflows, in respect of any line item (other than in respect of (i) foreign exchange fluctuations and (ii) fees and expenses of professionals engaged by the Lender) to the Agreed Budget of 15% or greater. For greater certainty, the payment of professional fees into escrow on a monthly basis pursuant to procedures set forth more fully in the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable, shall be included in any variance calculation as if those payments were made to the professionals directly.

**“Obligor Guarantee”** means, collectively, the unlimited guarantee and indemnity (including any addition agreements executed in connection therewith) governed by the laws of the Province of British Columbia, in form satisfactory to the Lender, executed by each Obligor in favour of the Lender in respect of the Secured Obligations of each other Obligor, and each other guarantee executed by an Obligor governed by the laws of any other jurisdiction, if requested by the Lender, acting reasonably.

**“Obligors”** means, collectively, the Borrowers and Guarantors, and **“Obligor”** means any one of them.

**“OFAC”** has the meaning set out in the definition of Sanctions Laws and Regulations.

**“Officer’s Certificate”** means a certificate or notice signed by any one of the chief executive officer or chief financial officer of a Borrower or of the applicable Obligor; provided that Drawdown Notices and Repayment Notices shall be executed on behalf of the relevant Borrower by any one of the foregoing persons or such other persons as may from time to time be designated by written notice from the Borrowers to the Lender.

**“Outside Date”** means April 27, 2023.

**“Outstanding Principal”** means, at any time, the aggregate of (i) the principal amount of all outstanding Cdn. \$ Loans, and (ii) the Equivalent Amount in Canadian Dollars of the principal amount of all outstanding U.S. \$ Loans, in each case, advanced or issued and outstanding under the Credit Facility.

**“Payment Protocol”** has the meaning given to such term in Section 2.10.

**“PBGC”** means Pension Benefit Guaranty Corporation or any Governmental Authority succeeding to any of its principal functions under ERISA.

**“Pension Plan”** means any employee pension benefit plan (other than a Multiemployer Plan) sponsored or contributed to by Holdco or any ERISA Affiliate which is subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which Holdco or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA during the time period set out therein) would have liability for contributions under Section 412(c)(11) of the Code or as a “contributing sponsor” as defined in Section 4001(a)(13) of ERISA.

**“Permitted Contest”** means action taken by or on behalf the Obligors in good faith by appropriate proceedings diligently pursued to contest a Tax, claim or Security Interest, provided that:

- (a) the Borrowers, on a combined consolidated basis, have established reasonable reserves therefor if and to the extent required by GAAP;

- (b) proceeding with such contest does not have, and would not reasonably be expected to have, a Material Adverse Effect; and
- (c) proceeding with such contest will not create a material risk of sale, forfeiture or loss of, or interference with the use or operation of, a material part of the property, assets and undertaking of any Obligor.

**"Permitted Debt"** means the following:

- (a) the Secured Obligations;
- (b) Debt owing to the Lender;
- (c) all Debt of the Obligors which has been issued, created, incurred, assumed or existed on or prior to the Effective Date and to the extent such Debt was Permitted Debt (under and as defined in the Pre-Filing Secured Credit Agreement);
- (d) Debt owing by an Obligor to any other Obligor in accordance with the Agreed Budget;
- (e) Indebtedness incurred in the ordinary course of business by an Obligor after the Effective Date with respect to trade payables;
- (f) all Debt secured by a Permitted Encumbrance; and
- (g) such other Debt of an Obligor which the Lender has consented to in writing.

**"Permitted Dispositions"** means, in respect of an Obligor, any sale, exchange, lease, transfer or other disposition of inventory in the ordinary course of business.

**"Permitted Encumbrances"** means, as at any particular time, any of the following encumbrances on the property or any part of the property of an Obligor:

- (a) the Lender Charge;
- (b) the other Permitted Priority Liens;
- (c) valid and perfected Security Interests existing prior to the Effective Date and to the extent such Security Interests were Permitted Encumbrances (under and as defined in the Pre-Filing Secured Credit Agreement);
- (d) inchoate statutory Security Interests arising after the Effective Date in respect of any accounts payable arising after the Outside Date in the ordinary course of business, provided that all such amounts are paid by the applicable Obligor as and when due;
- (e) liens for taxes, assessments or governmental charges not at the time due or delinquent or, if due or delinquent, the validity of which is being contested at the time by a Permitted Contest;
- (f) deemed liens and trusts arising by operation of law in connection with workers' compensation, employment insurance and other social security legislation, in each case, which secure obligations not at the time due or delinquent or, if due or delinquent, the validity of which is being contested at the time by a Permitted Contest;

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- (g) undetermined or inchoate liens and charges incidental to operations arising in the ordinary course of business which have not at such time been filed pursuant to law against any Obligor or which relate to obligations not due or delinquent or, if due or delinquent, the validity of which is being contested at the time by a Permitted Contest;
- (h) easements, rights of way, servitudes or other similar rights in land (including, without in any way limiting the generality of the foregoing, rights of way and servitudes for railways, sewers, drains, gas and oil and other pipelines, gas and water mains, electric light and power conduits, poles, wires and cables) granted to or reserved or taken by other Persons which individually or in the aggregate do not materially detract from the value of the land concerned or materially impair its use in the operation of the business of the Obligors;
- (i) security given by any Obligor to a public utility or any municipality or governmental or other public authority when required by such utility or municipality or other authority in connection with the operations of the Obligor, all in the ordinary course of its business which individually or in the aggregate do not materially detract from the value of the asset concerned or materially impair its use in the operation of the business of the Obligor;
- (j) pledges or deposits to secure performance of (i) bids, tenders, contracts (other than contracts for the payment of money) or (ii) leases of real property, in each case, to which an Obligor is a party;
- (k) Security Interests resulting from the deposit of cash or Approved Securities as security when any Obligor is required to do so by a Governmental Authority or by normal business practice in connection with contracts, licenses or tenders or similar matters in the ordinary course of business and for the purpose of carrying on the same, or to secure workers' compensation, surety or appeal bonds or to secure costs of litigation when required by Applicable Law;
- (l) minor defects of title which, individually and in the aggregate, do not materially affect the right of ownership of the Obligors in and to the property affected thereby or the right of any Obligor to utilize such property to conduct its business;

provided that nothing in this definition shall in and of itself cause the Secured Obligations under this Agreement or the other obligations secured by the Security to be subordinated in priority of payment to any such Permitted Encumbrance or cause any Security Interests in favour of the Lender to rank subordinate to any such Permitted Encumbrance.

**"Permitted Financial Assistance"** means any Financial Assistance provided by the Obligors on or prior to date hereof and which was Permitted Financial Assistance (under and as defined in the Pre-Filing Secured Credit Agreement) and any Financial Assistance provided to an Obligor in accordance with the Agreed Budget.

**"Permitted Priority Liens"** means:

- (a) the Administration Charge;
- (b) Permitted Encumbrances (under and as defined in the Pre-Filing Secured Credit Agreement) that were properly perfected and senior in priority to the Pre-Filing Security under applicable law as of the Petition Date;
- (c) statutory security interests that by operation of law cannot be subordinated or primed by the Lender Charge; and

(d) such other Security Interests as may be agreed to in writing by the Lender,

provided that, for greater certainty, except as expressly set forth herein, Security Interests arising from the construction, repair, maintenance and/or improvement of real or personal property, shall not be "Permitted Priority Liens".

**"Person"** includes an individual, a partnership, a joint venture, a trust, an unincorporated organization, a company, a corporation, an association, a government or any department or agency thereof including Canada Revenue Agency, and any other incorporated or unincorporated entity.

**"Petition Date"** means the date of commencement of the U.S. Proceedings by the filing of voluntary petitions for relief by the Obligors.

**"Plan"** means a plan of reorganization, liquidation, compromise or arrangement within the CCAA Proceedings or the U.S. Proceedings that either (i) is in form and substance satisfactory to the Lender or (ii) would result in the repayment in full in cash of all Indebtedness owing under each of this Agreement and the Pre-Filing Secured Credit Agreement on the effective date of such Plan.

**"Pre-Filing Secured Credit Agreement"** means the amended and restated credit agreement dated as of December 3, 2019 between Structurlam Mass Timber Corporation, as Canadian borrower, Structurlam Mass Timber U.S., Inc., as U.S. borrower, and Bank of Montreal, as lender (as amended prior to the date hereof).

**"Pre-Filing Secured Creditor"** means Bank of Montreal, as the lender under the Pre-Filing Secured Credit Agreement.

**"Pre-Filing Security"** means the Security Interests granted to the Pre-Filing Secured Creditor by the Obligors.

**"Quarter End"** means the last day of each of March, June, September and December in each fiscal year of the Borrowers.

**"Receiver"** means any receiver, trustee, examiner, interim receiver, manager, or receiver and manager of the Collateral or any part thereof or the business and undertaking of any Obligor, or any part thereof, whether appointed by the Lender under a Document or by a court pursuant to Applicable Law and any nominee of the Lender or any other person that is appointed by the Lender to exercise all or any of the powers, rights, benefits and discretion of the Lender under such Document.

**"Related Party"** means any Person which is any one or more of the following:

- (a) an Affiliate of a Borrower, or any Subsidiary thereof, other than an Obligor;
- (b) a shareholder or partner of any Obligor, which, together with all Affiliates of such Person, owns or controls, directly or indirectly, more than 10% of the shares, capital or other ownership interests (however designated) of such Obligor, or an Affiliate of any such shareholder or partner;
- (c) the Sponsor;
- (d) Holdco;
- (e) an officer or director of any of the foregoing; and

(f) a Person which is not at arm's length from any Obligor.

**"Release"** means any release, spill, emission, leak, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the environment including, without limitation, the movement of Hazardous Materials through ambient air, soil, surface water, ground water, wetlands, land or sub-surface strata.

**"Reorganization Transaction"** has the meaning set forth in Section 8.2(d).

**"Repayment Notice"** means a notice substantially in the form annexed to this Agreement as Schedule B to be given to the Lender by a Borrower pursuant to this Agreement.

**"Required Permits"** means, in respect of any Obligor, all Governmental Authorizations which are necessary at any given time for such Obligor to own and operate its property, assets, rights and interests or to carry on its business and affairs.

**"Restructuring Court Orders"** means, collectively, the court orders made in the CCAA Proceedings and the U.S. Proceedings applicable to an Obligor, and **"Restructuring Court Order"** means any one of such orders.

**"S&P"** means the Standard & Poor's Rating Group (a division of The McGraw-Hill Companies, Inc.) and any successors thereto.

**"Sale-Leaseback"** means an arrangement, transaction or series of arrangements or transactions under which title to any real property, tangible personal property or fixture is transferred by an Obligor to another Person which leases or otherwise grants the right to use such property to the Obligor (or its nominee) and, whether or not in connection therewith, the Obligor also acquires a right or is subject to an obligation to acquire such property or a material portion thereof, and regardless of the accounting treatment of such arrangement, transaction or series of arrangements or transactions.

**"Sale Order"** means an order of the U.S. Court presiding over the U.S. Proceedings approving, pursuant to section 363 of the Bankruptcy Code, one or more sales of, collectively, all or substantially all of the assets of the Obligors to one or more purchasers on an APA Closing, that approves the payment in full in cash of all Indebtedness owing under each of this Agreement and the Pre-Filing Secured Credit Agreement or that is otherwise acceptable in form and substance to the Lender.

**"Sale Procedures Order"** means an order or orders of the U.S. Court presiding over U.S. Proceedings each acceptable in form and substance to the Lender approving one or more APAs as a stalking horse bidder on terms and conditions acceptable to the Lender and approving bidding and sale procedures for one or more sales pursuant to Section 363 of the Bankruptcy Code on terms and conditions acceptable to the Lender.

**"Sanctions Laws and Regulations"** means (a) any sanctions, prohibitions or requirements imposed by any executive order (an **"Executive Order"**) or by any sanctions program administered by the U.S. government, including without limitation the U.S. Department of the Treasury Office of Foreign Assets Control (**"OFAC"**) and (b) any sanctions measures imposed by the United Nations Security Council, European Union or the United Kingdom.

**"Security"** has the meaning set forth in Section 9.1.

**"Security Interest"** means mortgages, charges, pledges, hypothecs, assignments by way of security, conditional sales or other title retentions, security created under the *Bank Act* (Canada), liens,

encumbrances, security interests or other interests in property, howsoever created or arising, whether fixed or floating, perfected or not, which secure payment or performance of an obligation and, including, in any event:

- (a) deposits or transfers of cash, marketable securities or other financial assets under any agreement or arrangement whereby such cash, securities or assets may be withdrawn, returned or transferred only upon fulfilment of any condition as to the discharge of any other indebtedness or other obligation to any creditor;
- (b) (i) rights of set-off or (ii) any other right of or arrangement of any kind with any creditor, which in any case are made, created or entered into, as the case may be, for the purpose of or having the effect (directly or indirectly) of (A) securing Debt, (B) preferring some holders of Debt over other holders of Debt or (C) having the claims of any creditor be satisfied prior to the claims of other creditors with or from the proceeds of any properties, assets or revenues of any kind now owned or later acquired (other than, with respect to (C) only, rights of setoff granted or arising in the ordinary course of business);
- (c) the rights of lessors under Capital Leases, operating leases and any other lease financing; and
- (d) absolute assignments of accounts receivable.

“**Seller Disclosure Schedule**” has the meaning ascribed to that term in the Stalking Horse Bid.

“**Sponsor**” means KF Arc Holdings LP (or its Affiliates), or an assignee of KF Arc Holdings LP approved by the Lender in its sole discretion.

“**Stalking Horse Bid**” means the Asset Purchase Agreement between Mercer International Inc. and the Obligors dated April 21, 2023.

“**Subsidiary**” means, with respect to any Person (“X”):

- (a) any corporation of which at least a majority of the outstanding shares having by the terms thereof ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time shares of any other class or classes of such corporation might have voting power by reason of the happening of any contingency, unless the contingency has occurred and then only for as long as it continues) is at the time directly, indirectly or beneficially owned or controlled by X or one or more of its Subsidiaries, or X and one or more of its Subsidiaries;
- (b) any partnership of which, at the time, X, or one or more of its Subsidiaries, or X and one or more of its Subsidiaries: (i) directly, indirectly or beneficially own or control more than 50% of the income, capital, beneficial or ownership interests (however designated) thereof; and (ii) is a general partner, in the case of limited partnerships, or is a partner or has authority to bind the partnership, in all other cases; or
- (c) any other Person of which at least a majority of the income, capital, beneficial or ownership interests (however designated) are at the time directly, indirectly or beneficially owned or controlled by X, or one or more of its Subsidiaries, or X and one or more of its Subsidiaries,

provided that, unless otherwise expressly provided or the context otherwise requires references in this Agreement to “Subsidiary” or “Subsidiaries” shall be and shall be deemed to be references to Subsidiaries of the Cdn. Borrower or the other Obligors.

**"Taxes"** means all taxes, levies, imposts, stamp taxes, duties, fees, deductions, withholdings, charges, compulsory loans or restrictions or conditions resulting in a charge which are imposed, levied, collected, withheld or assessed by any country or political subdivision or taxing authority thereof now or at any time in the future, together with interest thereon and penalties, charges or other amounts with respect thereto, if any, and **"Tax"** and **"Taxation"** shall be construed accordingly.

**"United States Dollars"** and **"U.S. \$"** mean the lawful money of the United States of America.

**"Updated Budget"** means an update to the Agreed Budget prepared and delivered to the Lender on a weekly basis in accordance with Section 8.1(e)(ii)(B) for the period commencing at the end of the Friday of the previous week through and including 13 weeks thereafter, which shall reflect the Borrowers' good faith projections and be in form and detail consistent with the initial Agreed Budget and subject to the approval of the Lender (for certainty, the Updated Budget shall not constitute an amendment of the Agreed Budget unless consented to by the Lender in its sole and absolute discretion (exercised reasonably)). Each Updated Budget shall be prepared on a cash-flow basis and shall include the payment of accrued professional fees to an escrow agent pursuant to procedures set forth more fully in the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable, to be held by the agreed escrow agent until such time as they may be distributed to the relevant professionals in accordance with the orders of the U.S. Court.

**"USA PATRIOT Act"** means the *U.S. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001* and the regulations and rules promulgated thereunder, as amended from time to time.

**"U.S. \$ Loan"** means an Advance in United States Dollars made by the Lender to a Borrower under the Credit Facility.

**"U.S. Borrower"** means Structurlam Mass Timber U.S., Inc., a Delaware corporation.

**"U.S. Court"** means the United States Bankruptcy Court for the District of Delaware.

**"U.S. Guarantor"** means Natural Outcomes, LLC, a Delaware limited liability corporation.

**"U.S. Proceedings"** means the proceedings to be commenced in the United States by the Borrowers and the other Obligors before the U.S. Court pursuant to chapter 11 of the Bankruptcy Code.

**"Variance Testing Date"** means the second Wednesday occurring after the Outside Date and each Wednesday thereafter.

**"Weekly Cashflow Report"** has the meaning set forth in Section 8.1(e)(ii)(A).

**"Withdrawal Liability"** means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

## 1.2 Headings; Articles and Sections

The division of this Agreement into Sections and Subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement

supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement.

### **1.3 Number; including**

Words importing the singular number only shall include the plural and *vice versa*, words importing the masculine gender shall include the feminine and neuter genders and vice versa, and words and terms denoting inclusiveness (such as “include” or “includes” or “including”), whether or not so stated, are not limited by their context or by the words or phrases which precede or succeed them.

### **1.4 Application of Accounting Principles; Accounting Changes**

Where the character or amount of any asset or liability or item of revenue or expense or amount of equity is required to be determined, or any consolidation or other accounting computation is required to be made for the purpose of this Agreement or any other Document, such determination or calculation shall, to the extent applicable and except as otherwise specified herein or as otherwise agreed in writing by the parties, be made in accordance with GAAP applied on a consistent basis. In the event that any “Accounting Change” (as defined below) shall occur and such change results in a change in the method of calculation of financial covenants, standards or terms in this Agreement, then the Borrowers and the Lender agree to enter into good faith negotiations in order to amend such provisions of this Agreement so as to reflect equitably such Accounting Changes with the desired result that the criteria for evaluating the Cdn. Borrower’s consolidated financial condition shall be substantially the same after such Accounting Changes as if such Accounting Changes had not been made. Until such time as such an amendment shall have been executed and delivered by the Borrowers and the Lender, all financial covenants, standards and terms in this Agreement shall continue to be calculated or construed as if such Accounting Changes had not occurred. “Accounting Changes” refers to changes in accounting principles required by the promulgation of any rule, regulation, pronouncement or opinion by the Chartered Professional Accountants of Canada, and in all events including changes resulting from implementation of the International Financial Reporting Standards or accounting standards for private enterprises to the extent required by the Canadian Accounting Standards Board and to the extent applicable to the Borrowers.

### **1.5 References to Agreements and Enactments**

Reference herein to any agreement, instrument, licence or other document shall be deemed to include reference to such agreement, instrument, licence or other document as the same may from time to time be amended, modified, supplemented or restated in accordance with the provisions of this Agreement if and to the extent such provisions are applicable; and reference herein to any enactment shall be deemed to include reference to such enactment as re-enacted, amended or extended from time to time and to any successor enactment.

### **1.6 Per Annum Calculations; Currency**

Unless otherwise stated, wherever in this Agreement reference is made to a rate “per annum” or a similar expression is used, such rate is expressed on the basis of, and shall be calculated on the basis of, a year of 365 or 366 days, as applicable. Unless otherwise stated herein, all dollar amounts referenced in this Agreement are in Canadian currency.

### **1.7 Schedules**

The following are the Schedules annexed hereto and incorporated by reference and deemed to be part hereof:

<u>Schedules 7.1(e) to 7.1(x)</u>	-	Disclosure Schedules
<u>Schedule A</u>	-	Drawdown Notice
<u>Schedule B</u>	-	Repayment Notice
<u>Schedule C</u>	-	Agreed Budget
<u>Schedule D</u>	-	Initial Order
<u>Schedule E</u>	-	[Reserved]
<u>Schedule F</u>	-	Interim U.S. DIP Order
<u>Schedule G</u>	-	[Reserved]

## 1.8 Time

Unless otherwise provided herein, all references to a time in this Agreement shall mean local time in Vancouver, British Columbia.

## 1.9 Payment for Value

All payments required to be made hereunder shall be made for value on the required day in same day immediately available funds.

# ARTICLE 2 THE CREDIT FACILITY

## 2.1 The Credit Facility

Subject to the terms and conditions hereof, the Lender shall make available to the Borrowers the Credit Facility. At any date, the Outstanding Principal under the Credit Facility shall not exceed the maximum principal amount thereof.

## 2.2 Types of Availments

- (a) Under the Credit Facility, a Borrower may, in Canadian Dollars, make Drawdowns of Cdn. \$ Loans and may, in United States Dollars, make Drawdowns of U.S. \$ Loans.
- (b) The Borrowers shall have the option, subject to the terms and conditions hereof, to determine which types of Loans shall be drawn down under the Credit Facility and in which combinations or proportions.

## 2.3 Purpose

The Credit Facility is being made available to the Borrowers solely for the purposes set forth in Section 8.1(s).

## 2.4 Availability of the Credit Facility

Subject to the terms and conditions hereof, the Borrowers may make Drawdowns under the Credit Facility after the Effective Date and prior to the Maturity Date for the purposes described in Section 2.3 above.

## 2.5 Minimum Drawdowns

Each Drawdown under the Credit Facility of the following types of Loans shall be in the following amounts indicated:

- (a) Cdn. \$ Loans in minimum principal amounts of \$50,000; and
- (b) U.S. \$ Loans in minimum principal amounts of U.S.\$50,000.

## **2.6 Drawdown Notices; Drawdowns**

A Drawdown Notice shall be given to the Lender by 11:00 a.m. (Local Time) on Friday of each calendar week (or as otherwise required with the approval of the Information Officer, the Lender and the Lender's Counsel's Financial Advisor) substantially in the form of Schedule A annexed hereto. Subject to the satisfaction of the conditions precedent specified in this Agreement, the Lender shall make such amounts available to the Borrowers by depositing such amounts in the applicable Borrower's account with the Lender. Notwithstanding anything to the contrary herein, a Borrower may from time to time deliver a Drawdown Notice to the Lender whereby the proceeds of the Loan requested thereunder will be used for one or more of the purposes permitted pursuant to Section 8.1(s) but not contemplated by the Agreed Budget (or the most recent Updated Budget), and the Lender may, in its discretion, make the requested amount under such Drawdown Notice available to the Borrowers with the approval of the Information Officer.

## **2.7 Lender's Obligations with Respect to Cdn. \$ Loans and U.S. \$ Loans**

The Lender shall, for same day value on the Drawdown Date specified by a Borrower in a Drawdown Notice with respect to a Cdn. \$ Loan or U.S. \$ Loan, make an advance to such Borrower of the full amount of the requested Loan in the relevant currency in accordance with any payment instructions set forth in the applicable Drawdown Notice.

## **2.8 Irrevocability**

A Drawdown Notice or Repayment Notice given by a Borrower hereunder shall be irrevocable and, subject to any options the Lender may have hereunder in regard thereto and such Borrower's rights hereunder in regard thereto, shall oblige such Borrower to take the action contemplated on the date specified therein.

## **2.9 Optional Repayment of the Credit Facility**

A Borrower may at any time and from time to time repay, without penalty, to the Lender the whole or any part of any Loan owing by it under the Credit Facility, together with accrued interest thereon to the date of such repayment provided that:

- (a) except as otherwise provided in Section 2.10, such Borrower shall give a Repayment Notice (executed in accordance with the definition of Officer's Certificate) to the Lender not later than 9:00 a.m. (Local Time) one Banking Day prior to the date of the proposed repayment of such Loan;
- (b) repayments pursuant to this Section may only be made on a Banking Day;
- (c) each such repayment shall be in a minimum amount of the lesser of: (i) the minimum amount required pursuant to Section 2.5 for Drawdowns of the type of Loan proposed to be repaid, and any repayment in excess of such amount shall be in integral multiples of \$100,000 or U.S.\$100,000, as the case may be, and (ii) the Outstanding Principal of all Loans outstanding under the relevant Credit Facility immediately prior to such repayment;

- (d) a Borrower may not repay a portion only of an outstanding Loan unless the unpaid portion is equal to or exceeds, in the relevant currency, the minimum amount required pursuant to Section 2.5 for Drawdowns of the type of Loan proposed to be repaid; and
- (e) unless the Lender otherwise agrees in writing, each repayment of the Credit Facility by the Borrower hereunder shall automatically result in a permanent reduction of the maximum principal amount of the Credit Facility by an amount equal to the principal amount repaid.

## **2.10 Mandatory Repayment of Credit Facility**

Subject to Section 10.2 and Article 6, the Borrowers shall: (a) repay or pay, as the case may be, to the Lender all Loans and other Secured Obligations outstanding under the Credit Facility on or before the Maturity Date, and (b) subject to any funding requirements with respect to the Carve-Out set forth in the Interim U.S. DIP Order and the Final U.S. DIP Order, if and to the extent the aggregate amount of all receipts and deposits made to the Obligors' bank accounts during the period from and including the Effective Date through the Maturity Date exceeds the amount set out in the Agreed Budget (as such amount may be modified with the mutual consent of the Lender and the Borrowers), apply, when available, all such receipts and deposits in excess thereof in the following order (the "Payment Protocol") (i) against the pre-filing indebtedness of the Obligors under the Pre-Filing Secured Credit Agreement up to the amount of C\$3,900,000, and (ii) as a mandatory prepayment of the Credit Facility (and, for certainty, any amounts so prepaid may not be reborrowed).

## **2.11 Repayment of Borrowings In Excess of the Authorized Principal Amount**

If the Outstanding Principal under the Credit Facility (determined in Cdn. Dollars with all Loans denominated in U.S. Dollars under the Credit Facility being converted to the Equivalent Amount of Cdn. Dollars) is on any day in excess of the authorized principal amount of the Credit Facility, the Borrowers shall within five (5) Banking Days thereafter repay or otherwise reduce a portion of such Loans under the Credit Facility to the extent of the amount of such excess.

## **2.12 Cancellation of Credit Facility and Prepayment**

Provided that the Information Officer is satisfied that there are sufficient cash reserves in the Obligors' bank accounts to satisfy amounts secured by the Permitted Priority Liens and to satisfy the Carve-Out, the Borrowers may, without penalty or premium, at any time during the term of this Agreement upon five (5) Banking Days prior written notice substantially in the form annexed hereto as Schedule B, cancel the Credit Facility or any portion thereof in minimum amounts of Cdn. \$500,000 and whole multiples of Cdn. \$100,000 thereafter if, on or prior to the last day of such notice period, the Borrowers have:

- (a) prepaid or otherwise reduced the applicable Loans outstanding under the Credit Facility in an amount equal to the amount by which the Loans outstanding under the Credit Facility would otherwise be in excess of the stated amount of the Credit Facility immediately after the reduction of the Credit Facility provided for in such notice; and
- (b) paid all accrued interest and other charges and fees in respect of the applicable Loans being repaid or reduced as aforesaid.

Any such notice of cancellation is irrevocable and the amount of the Credit Facility so cancelled and reduced may not be reinstated hereunder.

**2.13 Mandatory Prepayments**

- (a) On the Maturity Date, the Credit Facility and the Lender's commitment thereunder shall be permanently cancelled and the Borrowers shall repay all Loans and other Credit Facility Indebtedness outstanding under the Credit Facility to the Lender in full.
- (b) Unless otherwise consented to in writing by the Lender, and provided the Information Officer is satisfied that there are sufficient cash reserves in the Obligors' bank accounts to satisfy (x) amounts secured by the Permitted Priority Liens and to satisfy the Carve-Out, and (y) amounts anticipated on the date of the mandatory repayment under the Agreed Budget in respect of which Loans were made that have not yet been incurred or paid (including, for greater certainty, anticipated legal or advisory fees in the CCAA Proceedings or U.S. Proceedings):
  - (i) upon receipt by an Obligor of a refund or payment on account of taxes from any Governmental Authority, excluding refunds or payments on account of sales taxes;
  - (ii) to the extent directed by a final order of the U.S. Court in the U.S. Proceedings (which may include the Sale Order), upon receipt by an Obligor of the proceeds of any sale, assignment, transfer, conveyance, surrender, exchange, lease, sub-lease or other disposition of property other than Permitted Dispositions (the proceeds from which Permitted Distributions shall be applied as directed by the orders of the U.S. Court and the Canadian Court); and
  - (iii) upon receipt by an Obligor of the proceeds arising from the issuance of any equity or debt securities of such Obligor,

the Borrowers shall repay, or shall cause to be repaid, Loans in accordance with the Payment Protocol in an amount equal to the amount so received in cash and cash equivalents (less any amount determined by the Information Officer to be retained as an addition to cash reserves in the Obligor's bank accounts to satisfy amounts described in clauses (x) or (y) above and any other amounts reserved on account thereof in the Agreed Budget) within one Banking Day.

Each Borrower hereby authorizes and directs the Lender to debit such Borrower's or any other Obligor's accounts with the Lender to effect any of the foregoing to the extent that the Borrowers have not made any such mandatory prepayment in accordance with this Section 2.13(b). For greater certainty, amounts prepaid pursuant to this Section 2.13(b) shall permanently reduce the stated amount of the Credit Facility and may not be reborrowed.

**ARTICLE 3**  
**CONDITIONS PRECEDENT TO DRAWDOWNS**

**3.1 Conditions Precedent**

This Agreement shall be effective on the date (the "**Effective Date**") upon which each of the following conditions are satisfied or waived in writing by the Lender:

- (a) **Initial Order.** The Canadian Court shall have issued and entered the Initial Order by the Outside Date, satisfactory to the Lender and substantially in the form annexed hereto as Schedule D, and the Initial Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a way that adversely impacts the rights and interests of the Lender, as determined by the Lender (acting reasonably), without the consent of the Lender.

- (b) **U.S. Interim DIP Order.** The U.S. Court shall have issued and entered the Interim U.S. DIP Order by the Outside Date, satisfactory to the Lender and substantially in the form annexed hereto as Schedule E, and the Interim U.S. DIP Order shall not have been stayed, vacated or otherwise caused to be ineffective or amended, restated or modified in a way that adversely impacts the rights and interests of the Lender, as determined by the Lender (acting reasonably), without the consent of the Lender.
- (c) [Reserved]
- (d) **Representations and Warranties.** The representations and warranties contained in Section 7.1 are true and correct as of such time, and the Lender shall have received a certificate from the Borrowers certifying the same.
- (e) **No Event of Default.** As of the Effective Date, there exists no Default or Event of Default, and the Lender shall have received a certificate from the Borrowers certifying the same.
- (f) **No Material Adverse Change.** No Material Adverse Change shall have occurred since the date of issuance of the Initial Order and the Lender shall have received a certificate of the Borrowers certifying the same.
- (g) **Receipt of Documentation.** The Lender shall have received, in form and substance satisfactory to the Lender, (a) a duly executed original of this Agreement, (b) duly executed copies of the Security required pursuant to Section 9.1, (c) a certificate of status, certificate of good standing or similar document in respect of each Obligor issued under the laws of each jurisdiction where such Obligor is organized or formed; (d) an officer's certificate provided by or on behalf of each Obligor attaching thereto its constating documents and bylaws and other governing documents, any authorizing resolutions, and an incumbency certificate of the officer's executing the Documents; (e) a true and complete copy of the Initial Order, the Interim U.S. DIP Order, and the Agreed Budget; (f) an officer's certificate of the Borrowers certifying as to the matters set forth in Sections 3.1(d), (e) and (f); (g) a certificate or certificates of insurance in respect of the Obligors; (h) any applicable "know your client" or anti-money laundering information which the Lender may require; and (i) such other documents as are required under this Agreement or which the Lender may reasonably request.
- (h) **Lender Charge.** There are no Security Interests ranking in priority to the Lender Charge, other than Permitted Priority Liens.
- (i) **Fees.** The Borrowers have paid to the Lender a work fee in Canadian Dollars in respect of the Credit Facility calculated at a rate equal to 3% of the maximum authorized principal amount of the Credit Facility on the Effective Date.
- (j) **Lenders Fees and Expenses.** The Borrowers have paid to the Lenders all other fees and expenses of the Lender then due and payable (including all accrued and unpaid the fees and expenses of Lender's Counsel and Lender's Counsel's Financial Advisor).

### 3.2 Conditions Precedent for all Drawdowns

On or before each Drawdown under the Credit Facility the following conditions shall be satisfied:

- (a) the Lender shall have received a proper and timely Drawdown Notice from the relevant Borrower requesting the Drawdown;
- (b) the representations and warranties set forth in Section 7.1 shall be true and accurate in all material respects on and as of the date of the requested Drawdown, except to the extent that such representations and warranties refer specifically to an earlier date, in which case such representations and warranties shall be true and accurate in all material respects as of such earlier date; provided that any representation or warranty that is qualified as to "in all material respects", "materiality", "Material Adverse Effect" or similar language shall be true and accurate in all respects, as so qualified, on and as of the date of the requested Drawdown or as of such earlier date, as the case may be;
- (c) no Default or Event of Default shall have occurred and be continuing on and as of the date of the requested Drawdown nor shall the Drawdown result in the occurrence of a Default or Event of Default;
- (d) after giving effect to the proposed Drawdown, the Outstanding Principal of all Loans outstanding under the Credit Facility shall not exceed the maximum principal amount of the Credit Facility; and
- (e) all fees and expenses of the Lender then due and payable (including all accrued and unpaid fees and expenses of Lender's Counsel and Lender's Counsel's Financial Advisor) for which invoices have been provided to the Borrowers, shall have been paid or will be paid from the proceeds of the requested Drawdown.

### 3.3 Waiver

The conditions set forth in Sections 3.1 and 3.2 are inserted for the sole benefit of the Lender and may be waived by the Lender, in whole or in part (with or without terms or conditions).

## ARTICLE 4 EVIDENCE OF DRAWDOWNS

### 4.1 Accounts of Record

The Lender shall open and maintain books of account at the Lender's Branch evidencing all Loans and all other amounts owing by the Borrowers to the Lender hereunder. The Lender shall enter in the foregoing accounts details of all amounts from time to time owing, paid or repaid by the Borrowers hereunder. The information entered in the foregoing accounts shall, absent manifest error, constitute *prima facie* evidence of the obligations of the Borrowers to the Lender hereunder with respect to all Loans and all other amounts owing by the Borrowers to the Lender hereunder. After a request by a Borrower, the Lender shall promptly advise the Borrowers of such entries made in the Lender's books of account.

## ARTICLE 5 PAYMENTS OF INTEREST AND FEES

### 5.1 Interest on Cdn. \$ Loans

Each Borrower shall pay interest on each Cdn. \$ Loan owing by it during each Interest Period applicable thereto in Canadian Dollars at a rate per annum equal to the Applicable Pricing Margin to the Lender's Account for Payment. Such interest shall accrue daily and shall be payable in arrears on

each Interest Payment Date for such Loan for the period from and including the Drawdown Date or the preceding Interest Payment Date, as the case may be, for such Loan to and including the day preceding such Interest Payment Date and shall be calculated on the principal amount of the Cdn. \$ Loan outstanding during such period and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as applicable.

## **5.2 Interest on U.S. \$ Loans**

Each Borrower shall pay interest on each U.S. \$ Loan owing by it during each Interest Period applicable thereto in United States Dollars at a rate per annum equal to the Applicable Pricing Margin to the Lender's Account for Payment. Such interest shall accrue daily and be payable in arrears on each Interest Payment Date for such Loan for the period from and including the Drawdown Date or the preceding Interest Payment Date, as the case may be, for such Loan to and including the day preceding such Interest Payment Date and shall be calculated on the principal amount of the U.S. \$ Loan outstanding during such period and on the basis of the actual number of days elapsed in a year of 365 or 366 days, as applicable.

## **5.3 Interest Act (Canada)**

- (a) Whenever a rate of interest or other rate per annum hereunder is calculated on the basis of a year (the "**deemed year**") which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest or other rate shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest or other rate by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.
- (b) Whenever a rate of interest or other rate per annum hereunder is expressed or calculated on the basis of a year of 360 days, such rate of interest or other rate shall be expressed as a rate per annum, calculated on the basis of a 365 day year, by multiplying such rate of interest or other rate by 365 and dividing it by 360.

## **5.4 Nominal Rates; No Deemed Reinvestment**

The principle of deemed reinvestment of interest shall not apply to any interest calculation under this Agreement; all interest payments to be made hereunder shall be paid without allowance or deduction for deemed reinvestment or otherwise, before and after maturity, default and judgment. The rates of interest specified in this Agreement are intended to be nominal rates and not effective rates. Interest calculated hereunder shall be calculated using the nominal rate method and not the effective rate method of calculation.

## **5.5 Standby Fees**

- (a) The Borrowers shall pay to the Lender a standby fee in Canadian Dollars in respect of the Credit Facility calculated at a rate per annum equal to the Applicable Pricing Margin on the amount, if any, by which the amount of the Outstanding Principal under the Credit Facility for each day in the period of determination is less than the maximum amount for each such day of the Credit Facility (taking into account the actual amount of the Credit Facility that is actually authorized to be borrowed on such date). Fees determined in accordance with this Section 5.5 shall accrue daily from and after the Effective Date and be payable by the Borrowers monthly in arrears, on cancellation in full of the Credit Facility and on the Maturity Date.

- (b) As of: (i) the last Banking Day of each calendar month, (ii) the date of the cancellation in full of the Credit Facility, and (iii) the Maturity Date, the Lender shall determine the standby fees under Section 5.5(a) for the period from and including the Effective Date or the date of the immediately preceding determination, as the case may be, to but excluding that date of determination and is hereby authorized to debit the current accounts of the Cdn. Borrower for payment of the standby fees so determined for the account of the Lender.

#### **5.6 Exit Fee**

The Borrowers shall pay to the Lender an exit fee in Canadian Dollars in respect of the Credit Facility calculated at a rate equal to 1% of the maximum authorized principal amount of the Credit Facility on the Effective Date (the “**Exit Fee**”), such Exit Fee to be payable in full on the Maturity Date.

#### **5.7 Default Interest**

Notwithstanding any other provision hereof, upon the occurrence of and during the continuation of any Event of Default, the Borrowers shall, at the option of the Lender by written notice to the Borrowers, pay interest on the Outstanding Principal of all outstanding Loans and any other Secured Obligations payable hereunder (including, without limitation, interest on interest), if and to the fullest extent permitted by applicable law, from the date of such Event of Default and such interest shall accrue daily, be calculated and compounded monthly and be payable on demand, after as well as before maturity, default and judgment, at a rate per annum that is equal to the Applicable Pricing Margin (for certainty, after giving effect to clause (iii) of the definition thereof).

#### **5.8 Waiver**

To the extent permitted by applicable law, the covenants of the Borrowers to pay interest at the rates provided herein shall not merge in any judgment relating to any obligation of the Borrowers (or either of them) to the Lender and any provision of the *Interest Act* (Canada) or *Court Order Interest Act* (British Columbia) which restricts any rate of interest set forth herein shall be inapplicable to this Agreement and is hereby waived by the Borrowers (and each of them).

#### **5.9 Maximum Rate Permitted by Law**

No interest or fee to be paid hereunder shall be paid at a rate exceeding the maximum rate permitted by applicable law. In the event that such interest or fee exceeds such maximum rate, such interest or fees shall be reduced or refunded, as the case may be, so as to be payable at the highest rate recoverable under applicable law.

### **ARTICLE 6 PLACE AND APPLICATION OF PAYMENTS**

#### **6.1 Place of Payment of Principal, Interest and Fees; Payments to Lender**

All payments of principal, interest, fees and other amounts to be made by a Borrower to the Lender pursuant to this Agreement shall be made to the Lender for value on the day such amount is due, and if such day is not a Banking Day on the Banking Day next following, by deposit or transfer thereof to the Lender's Account for Payment or at such other place as the Borrowers and the Lender may from time to time agree.

## **6.2 Funds**

Each amount advanced, disbursed or paid hereunder shall be advanced, disbursed or paid, as the case may be, in such form of funds as may from time to time be customarily used in Vancouver, British Columbia, and Toronto, Ontario in the settlement of banking transactions similar to the banking transactions required to give effect to the provisions of this Agreement on the day such advance, disbursement or payment is to be made (for certainty, each such amount advanced, disbursed or paid hereunder shall be advanced, disbursed or paid, as the case may be, in immediately available funds to the extent possible in the relevant jurisdiction).

## **6.3 Application of Payments**

Except as otherwise agreed in writing by the Lender, if any Event of Default shall occur and be continuing, all payments made by the Borrowers to the Lender shall be applied in the following order:

- (a) to amounts due hereunder as fees;
- (b) to amounts due hereunder as costs and expenses;
- (c) to amounts due hereunder as default interest;
- (d) to amounts due hereunder as interest; and
- (e) to amounts due hereunder as principal.

## **6.4 Payments Clear of Taxes**

- (a) Any and all payments by the Obligor to the Lender hereunder shall be made free and clear of, and without deduction or withholding for or on account of, any and all present or future Taxes and all liabilities with respect thereto imposed, levied, collected, withheld or assessed by any Governmental Authority or under the laws of any international tax authority imposed on the Lender, or by or on behalf of the foregoing (and, for greater certainty, nothing in this Section 6.4(a) shall make a Borrower liable for any taxes imposed on or measured by the Lender's overall net income, capital taxes or franchise taxes imposed on it (in lieu of net income taxes) by the jurisdiction (or any political subdivision thereof) under the laws of which the Lender is organized, in which its applicable lending office is maintained or in which its principal office is located or as a result of a present or former connection between the Lender and the jurisdiction imposing such tax (other than any such connection arising solely from the Lender having executed, delivered or performed its obligations or received a payment under this Agreement)). In addition, each Obligor agrees to pay any present or future stamp, transfer, registration, excise, issues, documentary or other taxes, charges or similar levies which arise from any payment made under this Agreement or the Loans or in respect of the execution, delivery or registration or the compliance with this Agreement or the other Documents contemplated hereunder other than taxes imposed on or measured by the Lender's overall net income and franchise taxes imposed on it (in lieu of net income taxes) by the jurisdiction (or any political subdivision thereof) under the laws of which the Lender is organized, in which its applicable lending office is maintained or in which its principal office is located or as a result of a present or former connection between the Lender and the jurisdiction imposing such tax (other than any such connection arising solely from the Lender having executed, delivered or performed its obligations or received a payment under this Agreement). Each Obligor shall indemnify and hold harmless the Lender for the full amount of any Taxes or other amounts paid or payable by the

Lender and any liability (including penalties, interest, additions to tax and reasonable out-of-pocket expenses) resulting therefrom or with respect thereto which arise from any payment made under or pursuant to this Agreement or the Loans or in respect of the execution, delivery or registration of, or compliance with, this Agreement or the other Documents other than taxes imposed on or measured by the Lender's overall net income, capital taxes and franchise taxes imposed on it (in lieu of net income taxes) by the jurisdiction (or any political subdivision thereof) under the laws of which the Lender is organized, in which its applicable lending office is maintained or in which its principal office is located or as a result of a present or former connection between the Lender and the jurisdiction imposing such tax (other than any such connection arising solely from the Lender having executed, delivered or performed its obligations or received a payment under this Agreement); provided, however, that notwithstanding anything to the contrary in this Section 6.4(a), the Obligors do not indemnify or hold the Lender harmless for any amount of U.S. federal withholding Taxes imposed due to the Lender's failure to comply with FATCA.

- (b) If any Obligor shall be required by law to deduct or withhold any amount for which it is liable under Section 6.4(a) from any payment or other amount required to be paid to the Lender hereunder, or if any liability therefor shall be imposed or shall arise from or in respect of any sum payable hereunder, then the sum payable to the Lender hereunder shall be increased as may be necessary so that after making all required deductions, withholdings, and additional income tax payments attributable thereto (including deductions, withholdings or income tax payable for additional sums payable under this provision) the Lender receives an amount equal to the amount it would have received had no such deductions or withholdings been made or if such additional taxes had not been imposed; in addition, such Obligor shall pay the full amount deducted or withheld for such liabilities to the relevant taxation authority or other authority in accordance with applicable law, such payment to be made (if the liability is imposed on such Obligor) for its own account or (if the liability is imposed on the Lender) on behalf of and in the name of the Lender, as the case may be. If the liability is imposed on the Lender, such Obligor shall deliver to the Lender evidence satisfactory to the Lender, acting reasonably, of the payment to the relevant taxation authority or other authority of the full amount deducted or withheld.
- (c) The Lender shall provide any documentation reasonably requested by any Obligor sufficient for such Obligor to comply with its obligations, if any, under FATCA and to determine whether the Lender has complied with any applicable reporting requirements under FATCA.

## ARTICLE 7

### REPRESENTATIONS AND WARRANTIES

#### 7.1 Representations and Warranties

Each of the Obligors represents and warrants as follows to the Lender and acknowledges and confirms that the Lender is relying upon such representations and warranties:

- (a) Existence and Good Standing. Each of the Obligors is a corporation validly existing and in good standing under the laws of its jurisdiction of incorporation, or is a partnership or trust validly existing under the laws of its jurisdiction of organization or formation; each Obligor is duly registered in all other jurisdictions where the nature of its property or character of its business requires registration, except for jurisdictions where the failure to be so registered or qualified would not have a Material Adverse Effect, and has all necessary power and authority to own its properties and carry on its business as presently carried on or as contemplated by the Documents.

- (b) Authority. Subject to issuance of the Initial Order and the Interim U.S. DIP Order, each Obligor has full power, legal right and authority to enter into the Documents and do all such acts and things as are required by such Documents to be done, observed or performed, in accordance with the terms thereof.
- (c) Valid Authorization. The execution, delivery and performance by each Obligor of each of the Documents to which it is a party:
- (i) have been duly authorized by all necessary corporate, partnership, trust and other action, as applicable;
  - (ii) are within its corporate, partnership or trust power and capacity, as applicable;
  - (iii) do not violate any provision of law or of its articles of incorporation or by laws, partnership agreement or other constating or organizational documents, as applicable;
  - (iv) do not result in the breach of or constitute a default or require any consent under, or result in the creation of any Security Interest upon any of its property or assets pursuant to, any indenture or other agreement or instrument to which it is a party or by which it or its property may be bound or affected, and
  - (v) subject to the issuance of the Interim U.S. DIP Order and the Final U.S. DIP Order, as applicable, and the Initial Order, do not require any license, consent or approval of or advance notice to or advance filing with any governmental agency or regulatory authority except those which have already been made or obtained and which are in full force and effect.
- (d) Execution and Delivery. Each Document to which an Obligor is a party has been duly executed and delivered by such Obligor.
- (e) Validity of Agreement; Non-Conflict. Subject to the issuance of the Interim U.S. DIP Order and the Final U.S. DIP Order, as applicable, and the Initial Order, none of the authorization, execution or delivery of this Agreement or the other Documents or performance of any obligation pursuant hereto or thereto requires or will require, pursuant to applicable law now in effect, any approval or consent of any Governmental Authority having jurisdiction (except such as has already been obtained and are in full force and effect) nor is in conflict with or contravention of (i) any Obligor's articles, by-laws or other constating documents or any resolutions of directors or shareholders or (ii) the provisions of any material agreement, the contravention of which, in the case of clause (ii) above, has had or would reasonably be expected to have a Material Adverse Effect. The Documents, when executed and delivered, will constitute valid and legally binding obligations of each Obligor which is a party thereto enforceable against each such party in accordance with their respective terms, subject to applicable bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights and to the fact that equitable remedies are only available in the discretion of the court.
- (f) Ownership and Location of Property. Each Obligor has good and marketable title to its material property, subject to Permitted Encumbrances which, individually and in the aggregate, do not materially affect the rights of ownership of such Obligor to such property, the value thereof or its right or ability to utilize the same in the conduct of its business and affairs. Each location where tangible material property of any Obligor is kept is set forth in Schedule 7.1(e) annexed hereto.

- (g) Debt. None of the Obligors, has created, incurred, assumed, suffered to exist, or entered into any contract, instrument or undertaking pursuant to which any such Obligor is now or may hereafter become liable for any Debt other than Permitted Debt.
- (h) Encumbrances. None of the Obligors has created, incurred, assumed, suffered to exist, or entered into any contract, instrument or undertaking pursuant to which, any Person may have or be entitled to any Security Interest on or in respect of its property and assets or any part thereof except for Permitted Encumbrances.
- (i) No Material Adverse Effect. No event or circumstance has occurred or is continuing which has had or would reasonably be expected to have a Material Adverse Effect.
- (j) No Omissions. The Obligors have made available to the Lender all material information necessary to make any representations, warranties and statements contained in this Agreement not misleading in any material respect in light of the circumstances in which they are given.
- (k) Non-Default.
  - (i) No Default or Event of Default has occurred or is continuing or is, immediately after giving effect thereto, reasonably expected to occur following any Drawdown hereunder.
  - (ii) No event or circumstance has occurred and is continuing which constitutes, or which with the giving of notice, the lapse of time, a relevant determination or any combination thereof would constitute, a contravention of or default under any material agreement which could reasonably be expected to have a Material Adverse Effect.
- (l) Financial Condition. The audited and unaudited combined consolidated and unconsolidated financial statements of the Borrowers delivered to the Lender pursuant hereto present fairly, in all material respects, the combined consolidated or unconsolidated financial condition of such Persons or Person as at the date thereof and the results of the combined consolidated or unconsolidated operations thereof for the fiscal year or fiscal quarter (as applicable) then ending, all in accordance with GAAP consistently applied.
- (m) Information Provided. All information, materials and documents, including all cash flow projections, economic models, capital and operating budgets and other information and data:
  - (i) prepared and provided to the Lender by the Obligors in respect of the transactions contemplated by this Agreement, or as required by the terms of this Agreement, were, in the case of financial projections, prepared in good faith based upon reasonable assumptions at the date of preparation, and, in all other cases, true, complete and correct in all material respects as of the respective dates thereof; and
  - (ii) to the extent prepared by Persons other than the Obligors and provided to the Lender by or on behalf of the Obligors in respect of the transactions contemplated by this Agreement, or as required by the terms of this Agreement, were, to the best of the knowledge of the Obligors, after due inquiry, in the case of financial projections, prepared in good faith based upon reasonable assumptions at the date of preparation, and, in all other cases, true, complete and correct in all material respects as of the respective dates thereof.
- (n) Absence of Undisclosed Liabilities. None of the Obligors has any material liabilities, losses or obligations of any nature (whether absolute, known or unknown, accrued, fixed, contingent,

liquidated, unliquidated, due or to become due, or otherwise), except for (i) liabilities included or reflected in the financial statements delivered to the Lender and adequately reserved against therein in accordance with GAAP consistently applied, (ii) liabilities or performance obligations arising subsequent to the date of the balance sheets delivered to the Lender in the ordinary course of business (and not as a result of a breach or default by any Obligor) out of or under agreements, contracts, leases, arrangements or commitments to which such Obligor is a party or (iii) otherwise constituting Permitted Debt.

- (o) Absence of Litigation. Except as set out in Schedule 3.6 of the Seller Disclosure Schedule and the general pendency of the CCAA Proceedings and the U.S. Proceedings, and actions arising in the ordinary course of the Business and that would not have, in the aggregate, a Material Adverse Effect, there are no actions, suits or proceedings pending or, to the knowledge of the Obligors, threatened against or affecting any of the Obligors or their respective property, undertakings and assets, at law, in equity or before any arbitrator or before or by any Governmental Authority having jurisdiction in the premises in respect of which there is a reasonable possibility of a determination adverse to such Person and which, if determined adversely, would have or would reasonably be expected to have a Material Adverse Effect.
- (p) Compliance with Applicable Laws, Court Orders and Material Agreements. Except as set out in Schedule 3.8(b) of the Seller Disclosure Schedule or Schedule 7.1(p) annexed hereto, and except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect each of the Obligors and their respective property, businesses and operations are in compliance with all Applicable Laws (including, without limitation, all applicable Environmental Laws), all applicable directives, judgments, decrees, injunctions and orders rendered by any Governmental Authority or court of competent jurisdiction, its articles, by-laws, other constating documents, partnership agreements and other organizational documents, all material agreements, as applicable, and any employee benefit plans, except to the extent that any such non-compliance would not reasonably be expected to have a Material Adverse Effect or is otherwise stayed, including in accordance with section 362 of the Bankruptcy Code, or as contemplated by the Initial Order.
- (q) Governmental Approvals; Required Permits in Effect.
  - (i) subject to issuance of the Initial Order, no action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required in connection with the transactions contemplated by this Agreement or any of the Documents, in each case, except for (i) the filing of PPSA financing statements and similar security or collateral filings and registrations under applicable laws in other jurisdictions, and (ii) such actions, consents, approvals, registrations and filings as have been made or obtained and are in full force and effect; and
  - (ii) all Required Permits are in full force and effect, except to the extent that the failure to have or maintain the same in full force and effect would not, when taken in the aggregate, have or reasonably be expected to have a Material Adverse Effect.
- (r) Remittances Up to Date. All of the material remittances required to be made by the Obligors to Governmental Authorities which are due and payable have been made, are currently up to date and there are no outstanding arrears, other than those which are being contested by Permitted Contest.
- (s) Agreed Budget and Updated Budgets. The Agreed Budget and each Updated Budget (when the same is delivered) are reasonable and have been prepared in good faith.

- (t) Use of Borrowings. The Borrowers' use of the proceeds of Loans obtained by it (and the request for Advances therefor) complies with the requirements of Section 2.3.
- (u) Payroll Obligations. No Obligor has defaulted in respect of its obligations for payroll and source deductions or is in arrears in respect of the payment of any such obligations.
- (v) Environmental.
  - (i) to the best of the knowledge and belief of the Obligors, after due inquiry, the Obligors and their properties, assets and undertakings taken as a whole comply in all material respects and the businesses, activities and operations of same and the use of such properties, assets and undertakings and the processes and undertakings performed thereon comply in all material respects with all Environmental Laws; further, no Obligor knows, or has reasonable grounds to know, of any facts which result in or constitute or are likely to give rise to material non-compliance with any Environmental Laws.
  - (ii) no Obligor has received written notice and, except as previously disclosed to the Lender in writing, has no knowledge, after due inquiry, of any facts which could give rise to any notice of material non-compliance with any Environmental Laws and has not received any notice that any Obligor is a potentially responsible party for a federal, provincial, regional, municipal or local clean up or corrective action in connection with its properties, assets and undertakings.
- (w) Taxes. Except as disclosed in Schedule 3.16 of the Seller Disclosure Schedule, each Obligor has duly filed on a timely basis all tax returns required to be filed by it and have paid all material Taxes which are due and payable, and has paid all material assessments and reassessments, and all other material Taxes, governmental charges, governmental royalties, penalties, interest and fines claimed against it, other than those which (i) are being contested by it by Permitted Contest or (ii) those arising from a voluntary disclosure which have an aggregate liability of \$100,000 or less; it has made adequate provision for, and all required instalment payments have been made in respect of, Taxes payable for the current period for which returns are not yet required to be filed; there are no agreements, waivers or other arrangements providing for an extension of time with respect to the filing of any tax return by it or the payment of any Taxes; there are no actions or proceedings being taken by any taxation authority in any jurisdictions where any Obligor carries on business to enforce the payment of any Taxes by it other than those which are being contested by it by Permitted Contest.
- (x) Structure. Holdco is the sole shareholder of each of the Cdn. Borrower and the U.S. Borrower, and no Person (other than an Obligor) has any right or option to purchase any of the issued and outstanding Equity Interests of any Obligor.
- (y) Subsidiaries. The only Subsidiaries of each of Holdco, the Cdn. Borrower and the U.S. Borrower are as disclosed in Schedule 7.1(y) annexed hereto, as supplemented from time to time by the Borrowers within 10 Banking Days of the acquisition, creation or existence, or disposition, of each Subsidiary created, acquired or disposed of after the Effective Date. Each supplemented Schedule 7.1(y) sets forth a list of all of the Subsidiaries of each of Holdco, the Cdn. Borrower and the U.S. Borrower and identifies (A) the jurisdiction of incorporation, existence, organization or formation of each such Subsidiary and (B) each jurisdiction in which each such Person has assets or carries on a material part of its business. As at the Effective Date, the only Subsidiaries of Holdco are the Cdn. Borrower, the U.S. Borrower and the U.S. Guarantor.

- (z) Insurance. Each Obligor is insured with financially sound and reputable insurance companies that are not Affiliates of the Borrowers, in such minimum amounts, with such maximum deductibles and covering such risks as are consistent with the insurance carried by companies engaged in similar businesses and owning similar properties in localities where such Obligor operates.
- (aa) Intellectual Property. Each Obligor has or has the legal right to use all Intellectual Property necessary for the operation and conduct of its business, affairs, operations and processes and, to the best of the Obligors' knowledge and belief, no Person has asserted any claim or taken any step or proceedings to prohibit or limit the use of such Intellectual Property by the Obligors or any of them.
- (bb) Material Agreements. Except for the contracts listed in Schedule 3.8 of the Seller Disclosure Schedule, as supplemented from time to time by the Obligors within 10 Banking Days of executing a new material agreement after the Effective Date, the Obligors have no material agreements. Save and except for any material breach, default or event of default or similar event or condition (howsoever described) brought about by the Obligors commencing the CCAA Proceeding or the US Proceeding, each material agreement of the Obligors is in full force and effect and no material breach, default or event of default or similar event or condition (howsoever described) by any Obligor is subsisting thereunder, except as set forth in Schedule 7.1(bb) annexed hereto.
- (cc) Transactions with Related Parties. Except for the transactions referenced in Schedule 7.1(cc) annexed hereto, no Obligor is engaged in any transaction with any Related Party (other than another Obligor) on terms less favourable to such Obligor than those that would be obtainable by it in a comparable arm's-length transaction with a Person that is not a Related Party.
- (dd) ERISA. Except as disclosed in writing to the Lender, neither Holdco, nor any ERISA Affiliate maintains, sponsors, participates in or contributes to any Pension Plan or any Multiemployer Plan. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect, and each Pension Plan has complied in all material respects with the applicable provisions of ERISA and the Code. Neither Holdco, nor any Borrower sponsors a "welfare benefit plan", as defined in Section 4.1 of ERISA, that is subject to ERISA and which provides post-retirement medical benefits, other than liability for continuation coverage described in Part 6 of Subtitle B of Title I of ERISA.
- (ee) Sanctions and AML Laws and Regulations. No Obligor is (i) in violation of any Sanctions Laws and Regulations, (ii) in violation of any Anti-Money Laundering Laws and Regulations, (iii) a Designated Person, (iv) subject to or in violation of any sanctions, prohibitions or requirements imposed by any Executive Order or by any sanctions program administered by OFAC, (v) acting as agent for any person or government covered by any of the foregoing or (vi) subject to any action or investigation in respect of any of the foregoing.

## 7.2 Deemed Repetition

On the date of delivery by a Borrower of a Drawdown Notice to the Lender, and again on the date of any Drawdown made by a Borrower pursuant thereto:

- (a) each of the representations and warranties contained in Section 7.1 shall be deemed to be repeated; and

- (b) the Obligors shall be deemed to have represented to the Lender that no event has occurred and remains outstanding which would constitute a Default or an Event of Default nor will any such event occur as a result of the aforementioned Drawdown.

### **7.3 Other Documents**

All representations, warranties, certifications and statements of any Obligor contained in any other Document delivered pursuant hereto or thereto shall be deemed to constitute representations and warranties made by the Obligors to the Lender under Section 7.1 of this Agreement.

### **7.4 Effective Time of Repetition**

All representations and warranties, when repeated or deemed to be repeated hereunder, shall be construed with reference to the facts and circumstances existing at the time of repetition, unless they are stated herein to be made as at the date hereof or as at another date.

### **7.5 Nature of Representations and Warranties**

The representations and warranties set out in this Agreement or deemed to be made pursuant hereto shall survive the execution and delivery of this Agreement and the making of each Drawdown, notwithstanding any investigations or examinations which may be made by the Lender or Lender's Counsel. Such representations and warranties shall survive until this Agreement has been terminated, provided that the representations and warranties relating to environmental matters shall survive the termination of this Agreement.

## **ARTICLE 8 GENERAL COVENANTS**

### **8.1 Affirmative Covenants of the Obligors**

So long as any Secured Obligation is outstanding or the Credit Facility is available hereunder, each Obligor covenants and agrees with the Lender that, unless the Lender otherwise consents in writing:

- (a) Punctual Payment and Performance. Each Borrower shall duly and punctually pay the principal of all Loans, all interest thereon and all fees and other amounts required to be paid by such Borrower hereunder in the manner specified hereunder and each Obligor shall maintain, perform and observe all of its respective obligations under this Agreement and under any other Document to which it is a party.
- (b) Books and Records. It shall keep proper books of record and account in which complete and correct entries will be made of its transactions in accordance with GAAP.
- (c) Maintenance and Operation. It shall do or cause to be done all things necessary or required to have all its properties, assets and operations owned, operated and maintained, in all material respects, in accordance with diligent and prudent industry practice and Applicable Laws, and at all times cause the same to be owned, operated, maintained and used in compliance with all terms of any applicable insurance policy to the extent necessary to ensure that coverage under any such policy cannot be denied by the insurers thereunder.

- (d) Maintain Existence; Compliance with Legislation Generally; Required Permits. Except as otherwise expressly permitted by Section 8.2(d) or (n), each Obligor shall preserve and maintain its existence as a corporation, partnership or trust under the laws of its jurisdiction of incorporation, organization or formation. Each Obligor shall do or cause to be done all acts necessary or desirable to comply with all Applicable Laws, except where such failure to comply does not and would not reasonably be expected to have a Material Adverse Effect, and to preserve and keep in full force and effect all Required Permits and all other franchises, licences, rights, privileges, permits and Governmental Authorizations necessary to enable such Obligor to operate and conduct its business and own its properties and assets (including, without limitation, its material owned and leased real property) in all material respects, in accordance with Applicable Laws and prudent industry practice.
- (e) Budgets, Financial Statements and Other Information. The Obligors shall deliver to the Lender:
- (i) Working Capital Reports – when requested by the Lender, as soon as available and in any event within three (3) Banking Days of the Lender’s request, a written report setting forth the Obligors’ cash balances, accounts receivable and accounts payable, in each case, as at the end of the period covered by the Lender’s request, such report and statement to include all supporting ledgers, analysis and other information for such period, each such report to be in a form and with such level of detail as shall be satisfactory to the Lender, acting reasonably;
  - (ii) Weekly Cashflow Reports and Projections – commencing April 24, 2023 and on each Wednesday thereafter, by no later than 2:00 pm (Vancouver time) on each such Wednesday:
    - (A) a written report (the “**Weekly Cashflow Report**”), in form (including reasonable supporting information, to the extent requested by the Lender) satisfactory to the Lender in its sole discretion, summarizing the Obligors’ actual cash receipts and cash expenditures and outflows, on a line by line basis, for (i) the period ending on Friday of the prior week, and (ii) the cumulative period commencing on April 24, 2023 and ending on Friday of the prior week, including details with respect to any variances, as compared to the Agreed Budget for the corresponding periods; and
    - (B) an Updated Budget together with a written summary of any changes to the Agreed Budget or the preceding Updated Budget, as applicable (for certainty, the Updated Budget shall not constitute an amendment of the Agreed Budget unless consented to by the Lender in its sole and absolute discretion (exercised reasonably)); and
  - (iii) Other - such other information, reports, certificates, projections of income and cash flow or other matters affecting the business, affairs, financial condition, property or assets of the Obligors as the Lender may reasonably request.
- (f) Rights of Inspection. At any reasonable time and from time to time upon reasonable prior notice, each Obligor shall permit the Lender or any representative thereof (at the expense of the Borrowers) to (i) examine and make copies of and abstracts from the records and books of account of such Obligor, (ii) visit and inspect the premises and properties of such Obligor (in each case at the risk of the Borrowers, except for the gross negligence or willful misconduct of the inspecting party or the failure of any such inspecting party) and provided that the Lender (and its officers and employees) conducts such visit and inspection in accordance with Applicable Laws, prudent industry practice and the Borrowers’ reasonable site safety requirements, and (iii) discuss the

affairs, operations, finances and accounts of the Obligor with any of the officers or directors of the Obligor.

- (g) Notice of Material Litigation. The Borrowers shall promptly give written notice to the Lender of any litigation, proceeding or dispute affecting any Obligor in respect of a demand or claim in respect of which there is a reasonable possibility of an adverse determination and which (i) involves potential liability on the part of any Obligor in excess of \$100,000, or (ii) if adversely determined would otherwise reasonably be expected to have a Material Adverse Effect, and shall, in each case, from time to time furnish to the Lender all reasonable information requested by the Lender concerning the status of any such litigation, proceeding or dispute.
- (h) Notice of Default or Event of Default. The Borrowers shall deliver to the Lender, as soon as reasonably practicable and in any event no later than 3 Banking Days after becoming aware of a Default or an Event of Default, an Officer's Certificate describing in detail such Default or such Event of Default and specifying the steps, if any, being taken to cure or remedy the same.
- (i) Notice of Management Letters; Material Adverse Effect. The Borrowers shall, as soon as reasonably practicable, promptly notify the Lender of (i) receipt of any accountant's or auditor's letters relating to the preparation of financial statements of any Obligor, or (ii) any event, circumstance or condition that has had or is reasonably likely to have a Material Adverse Effect.
- (j) Notice of Change of Ownership. The Borrowers shall promptly give written notice to the Lender of any change in ownership of the equity capital of any Obligor after the date hereof.
- (k) Notice of ERISA Events. The Borrowers shall, as soon as reasonably practicable, give written notice to the Lender of the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, could reasonably be expected to result in liability of the Borrowers and Subsidiaries in an aggregate amount exceeding \$500,000 (or the Equivalent Amount thereof).
- (l) Payment of Taxes, Withholdings, etc. Each Obligor shall, from time to time, pay or cause to be paid all material Taxes, rents, rates, levies or assessments, ordinary or extraordinary, governmental fees or dues, and to make and remit all withholdings, lawfully levied, assessed or imposed upon such Obligor or any of its assets as and when the same become due and payable, except when and so long as the validity of any such material Taxes, rents, rates, levies, assessments, fees, dues or withholdings is being contested by such Obligor by a Permitted Contest.
- (m) Payment of Preferred Claims. Each Obligor shall, from time to time, pay when due or cause to be paid when due, in accordance with the Agreed Budget, all material amounts related to wages, workers' compensation obligations, government royalties or pension fund obligations and any other amount which may result in a lien, charge, Security Interest or similar encumbrance against the assets of such Obligor arising under statute or regulation, except when and so long as the validity of any such material amounts or other obligations is being contested by such Obligor by a Permitted Contest or when such material amounts or other obligations become due on termination of an employee and are of a kind that may become subject to a deemed Security Interest pursuant to section 81.3 or 81.4 of the of BIA.
- (n) Environmental Covenants. Without limiting the generality of Section 8.1(d) above, each Obligor shall, and shall use commercially reasonable efforts to cause any other party acting under its direction to, conduct its business and operations and maintain their properties and assets so as to comply at all times with all Environmental Laws in all material respects. If any Obligor shall:

- (i) receive or give any notice that a material violation of any Environmental Law has or may have been committed or is about to be committed by the same;
  - (ii) receive any notice that a complaint, proceeding or order has been filed or is about to be filed against the same alleging a material violation of any Environmental Law; or
  - (iii) receive any notice requiring any Obligor to take any action in connection with the Release of Hazardous Materials into the environment or alleging that any Obligor may be liable or responsible for costs associated with a response to or to clean up a Release of Hazardous Materials into the environment or any damages caused thereby, the Borrowers shall promptly provide the Lender with a copy of such notice and shall furnish to the Lender from time to time all reasonable information requested by the Lender relating to the same.
- (o) Milestones. The Borrower shall, and shall cause each other Obligor to, do all such further acts and things reasonably practicable to achieve all the Milestones, including complying with the reasonable best efforts undertakings set out in any Milestone.
- (p) Compliance with Agreed Budget. The Borrowers shall and shall cause each other Obligor to manage and operate their respective properties and assets and conduct their respective businesses and activities, in each case, in a manner which is consistent with the Agreed Budget.
- (q) Conference Calls. The Borrowers shall, and shall use commercially reasonable efforts, if requested by the Lender, to cause (i) its non-legal advisors to, participate on weekly conference calls with the Lender, and its non-legal advisors, to discuss the Agreed Budget and any Updated Budgets, the Borrowers' current and projected operational performance, and any related financial matters; and (ii) its sale advisor, Miller Buckfire & Co., LLC, to provide regular updates to the Lender and its advisors with respect to the sales process being undertaken by such advisors on behalf of the Obligors, including updates in a timely manner with respect to prospective bidders identified by the Borrowers or such advisors, communications with such prospective bidders and the identity of any bidders and details of bids received; further, the Borrowers shall provide and shall cause their financial advisors to provide the Lender and its advisors with draft copies of all materials prepared for distribution to potential bidders prior to such distribution, including any invitation or "teaser" letter, confidential information memorandum or management presentation.
- (r) Notices, Filings and other Information. The Borrowers shall, on a timely basis, furnish to the Lender: (i) as soon as practically possible upon the entering of the same, a true and complete copy of the Final U.S. DIP Order and the Initial Order; (ii) notice of all material developments with respect to the business and affairs of the Obligors, including (without limitation) the development of a Plan or an Alternative Restructuring Option; (iii) within a reasonable period of time prior to filing with the Canadian Court or U.S. Court, which, in any event, shall be: (A) in respect of any pleading related or connected to this Agreement, including in respect of any Plan or Approved Sale, at least 3 Banking Days (or such shorter time agreed by the Lender, which consent may be provided via email) prior to any such filing or proposed filing by, or on behalf of, an Obligor, (B) in the event of any other filing or proposed filing by, or on behalf of, an Obligor, as soon as reasonably practicable in advance of filing, copies of all material pleadings, material motions, material applications, material proposed orders or financing information and other material documents, in each case, which could reasonably be expected to affect the Lender or this Agreement, in each case, proposed to be filed by, or on behalf of any Obligor; (iv) regular (which, in any event shall be at least once weekly) update calls regarding the status of the CCAA Proceedings and U.S. Proceedings including, without limitation, reports on the progress of any Plan, Alternative Restructuring Option or Approved Sale and any information which may otherwise be confidential; and (v) copies of any

financial reporting provided to the Information Officer and any reports or commentary received from the Information Officer regarding the financial position of the Obligors. In addition to the foregoing and without in any way derogating therefrom, the Borrowers shall provide to the Lender copies of all such other information relating to the business, affairs, operations and financial condition of any Obligor as the Lender may reasonably request.

- (s) Use of Credit Facility. Unless otherwise agreed to in writing by the Lender, the Borrowers shall use the Credit Facility and the proceeds thereof solely: (i) (A) to finance operating expenses and restructuring costs in the CCAA Proceedings and U.S. Proceedings, (B) to pay (1) professional fees and (2) other items in accordance with the Agreed Budget and (C) for general corporate purposes of the Borrowers and the other Obligors, all in accordance with the Agreed Budget (including the funding of the Carve-Out); and (ii) to pay fees and expenses related to the Credit Facility, the CCAA Proceedings and the U.S. Proceedings in each case, as contemplated in the Initial Order or the Interim U.S. DIP Order or Final U.S. DIP Order, as applicable, provided that, no proceeds of any Loan will be used: (x) for any purpose which violates, or would be inconsistent with, Regulation T, Regulation U or Regulation X each as issued by the U.S. Federal Reserve, (y) by the Obligors to investigate, object to or challenge in any way any claims of the Lender against any of the Obligors in respect of the Credit Facility or of the Pre-Filing Secured Creditor under the Pre-Filing Secured Credit Agreement; or (z) to investigate, object to or challenge in any way the validity, perfection or enforceability of the Security Interests created pursuant to the Lender Charge or any Security Interests granted pursuant to the U.S. Proceedings.
- (t) Compliance with CCAA Proceedings and U.S. Proceedings. The Borrowers shall and shall cause each other Obligor to comply with the provisions of each Restructuring Court Order.
- (u) Notice of Negative Cash Flow Variance. Without limiting any other obligation of the Borrowers under the Documents, the Borrowers shall forthwith advise the Lender in writing if, as at the end of any period ending on Friday of the prior week, a Negative Cash Flow Variance exists.
- (v) Required Insurance. Each Obligor shall maintain, with financially sound and reputable insurers, insurance with respect to its properties and business and against such casualties and contingencies and in such types and such amounts as shall be required by the Lender (acting reasonably) and, in any event, as shall be in accordance with prudent business practices for Persons of the size and type of business and operations as such Obligor and in the case of the Cdn. Borrower or the U.S. Borrower, shall include business interruption insurance and third-party liability insurance. Each Obligor shall cause the Lender to be named loss payee or additional insured on each of its insurance policies required hereunder. In addition, the Borrowers shall provide to the Lender, promptly upon the Lender's request, (i) evidence of compliance with this Section 8.1(v), and (ii) a certified copy of each applicable policy of insurance.
- (w) Intellectual Property. Each Obligor shall own, or have the legal right to use, all Intellectual Property necessary for the operation and conduct of its business, affairs, operations and processes.
- (x) Cash Management; Accounts. To the extent authorized by the U.S. Court in the U.S. Proceedings, each of the Obligors shall cause all of its deposit accounts (other than the escrow account established in connection with the funding of the Carve-Out), securities accounts, and treasury accounts to be maintained with a branch of the Lender.

## 8.2 Negative Covenants of the Obligors

So long as any Secured Obligation is outstanding or any Credit Facility is available hereunder, each Obligor covenants and agrees with the Lender that, unless the Lender otherwise consents in writing:

- (a) Change of Business/Holdco to remain a Passive Holding Company.
  - (i) No Obligor shall change in any material respect the nature of its business or operations from the types of business and operations carried on by such Obligor on the date hereof.
  - (ii) Holdco shall not engage in any business or activities other than (A) its ownership of the Equity Interests of the Cdn. Borrower, (B) management of the Cdn. Borrower, (C) the issuance of Equity Interests and the investment of any proceeds therefrom in the Cdn. Borrower, and (D) entering into contracts and incurring other obligations in the ordinary course of business; provided that at no time shall Holdco own any property or assets other than the Equity Interests of the Cdn. Borrower.
- (b) Negative Pledge. No Obligor shall create, issue, incur, assume or permit to exist any Security Interests on any of its property, undertakings or assets other than Permitted Encumbrances.
- (c) No Restrictions on Pledge. No Obligor shall, directly or indirectly (except pursuant to the Documents):
  - (i) create or otherwise cause or suffer to exist or become effective any consensual restriction or encumbrance of any kind on the ability of such Obligor to make Distributions on any of its Equity Interests or to pay fees, including management fees, or make other payments to any other Obligor; or
  - (ii) enter into, assume or become subject to any agreement prohibiting or otherwise restricting the existence of any Security Interest upon any of its property, assets, or undertaking in favor of the Lender, whether now owned or hereafter acquired, except pursuant to agreements in connection with Debt of the type permitted under clause (g) of the definition of Permitted Debt, so long as such prohibition or restriction is limited to the assets financed with such Debt.
- (d) Restriction on Amalgamation, etc. No Obligor shall enter into or become party to any transaction (each a **"Reorganization Transaction"**) or merger, amalgamation, consolidation, winding-up, plan of arrangement, reorganization or restructuring with any Person or enter into any transaction by way of transfer, liquidation, dissolution, sale, lease, disposition or otherwise whereby all or substantially all of its undertaking, property or assets would become the property of any other Person, or take any corporate, limited liability company, partnership or trust action in pursuance of any of the foregoing; provided that any Obligor may undertake a Reorganization Transaction if such Reorganization Transaction is undertaken pursuant to an (i) Approved Sale or (ii) an Alternative Restructuring Option that is either consented to by the Lender or that would result in the repayment in full in cash of all Indebtedness owing under each of this Agreement and the Pre-Filing Secured Credit Agreement upon the closing of such Reorganization Transaction.
- (e) Restriction on Dispositions. Except for Permitted Dispositions, no Obligor shall sell, transfer, exchange, lease, release or otherwise dispose of property or assets, whether in one or a series of transactions. Holdco shall not sell, transfer, exchange, release or otherwise dispose of its Equity

Interests of the Cdn. Borrower. The Cdn. Borrower shall not sell, transfer, exchange, release or otherwise dispose of its Equity Interests of the U.S. Borrower.

- (f) Limit on Sale-Leasebacks. No Obligor shall enter into any Sale-Leaseback, synthetic lease or similar transaction involving any of its assets.
- (g) Limit on Debt. No Obligor shall have or incur any Debt other than Permitted Debt.
- (h) Limit on Investment. No Obligor shall make Investments other than:
  - (i) Investments consisting of Financial Assistance permitted under Section 8.2(j) below;
  - (ii) Investments in other Obligors contemplated by the Agreed Budget;
  - (iii) Investments contemplated by the Agreed Budget.
- (i) Limits on Distributions and Payments on account of Subordinated Debt. No Obligor shall make any Distribution, payment of management fees, or payment of principal or interest on account of subordinated debt other than (i) a Distribution that is permitted by a Restructuring Court Order, provided that any such Distribution does not cause a Default or Event of Default, (ii) Distributions that are provided for in the Agreed Budget, and (iii) Distributions to another Obligor in accordance with the Agreed Budget.
- (j) Limit on Financial Assistance. No Obligor shall provide any Financial Assistance to or in favour of any Person except for Permitted Financial Assistance.
- (k) No Financial Instruments. No Obligor shall enter into or transact any Financial Instruments after the Effective Date.
- (l) Cash Management; Accounts. No Obligor shall open or maintain any deposit account or treasury account or enter into any cash management agreement or arrangement with any financial institution other than the Lender, except to the extent required by a final order of the U.S. Court entered in the U.S. Proceedings.
- (m) Non-Arm's Length Transactions. No Obligor shall enter into any contract, agreement or transaction whatsoever, including for the sale, purchase, lease or other dealing in any property or the provision of any services, with any Related Party (other than another Obligor) except (i) contracts, agreements, or transactions upon fair and reasonable terms, which terms are not less favourable to such Obligor than it would obtain in an arm's length transaction and, if applicable, for consideration which equals the fair market value of such property or other than at a fair market rental as regards leased property.
- (n) No Amalgamation, Merger, etc. Other than the Stalking Horse Bid or another APA entered into in accordance with the Bidding Procedures (as defined in the Stalking Horse Bid), Obligor shall enter into, or agree to enter into, any transaction whereby all or substantially all of its undertaking, property and assets would become the property of any other Person whether by way of reconstruction, reorganization, recapitalization, consolidation, amalgamation, merger, transfer, sale or otherwise (and whether such transaction is consensual or hostile) except, in the case of any Obligor other than a Borrower, where the successor thereto or transferee thereof is a Borrower or a Guarantor.

- (o) Fiscal Periods. No Obligor shall cause any Quarter End to end on a date other than as set out in the definition of Quarter End without the prior written consent of the Lender.
- (p) Sanctions and AML Laws and Regulations.
  - (i) No Obligor shall, directly or indirectly, use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any Subsidiary, joint venture partner or other person or entity (A) to fund any activities or business of or with any Designated Person, or in any country or territory, that at the time of such funding is the subject of any sanctions under any Sanctions Laws and Regulations or (B) in any other manner that would result in a violation of any Sanctions Laws and Regulations by any party to this Agreement.
  - (ii) Each Obligor shall use commercially reasonable efforts to ensure that none of the funds or assets used to pay any amount due pursuant to this Agreement constitute funds derived from any unlawful activity, including without limitation (A) activities in violation of Anti-Money Laundering Laws and Regulations or (B) transactions with or relating to Designated Persons or countries which are the subject of sanctions under any Sanctions Laws and Regulations.
- (q) Distribution of Funds Only to Obligors. Except as set out in the Agreed Budget, no Obligor shall permit to occur, any payment or distribution of funds (whether from proceeds of any Loan under the Credit Facility or otherwise) from an Obligor to any Affiliate that is not an Obligor.
- (r) Payments Consistent with Agreed Budget. The Obligors shall not make any payment or distribution which is not consistent with the Agreed Budget.
- (s) Approved Sale Restriction. Without the prior written consent of the Lender, the Obligors shall not seek any authorization, approval or other order of the Canadian Court or the U.S. Court which will result in, or would reasonably be expected to result in, the authorization, approval or other order of such Canadian Court or U.S. Court of a sale of its assets, business and undertaking other than pursuant to an Approved Sale; *provided* that nothing in this Section 8.2(s) shall, or shall be deemed to, prohibit or restrict an Obligor's fulfillment of any fiduciary duty in accordance with Applicable Law, including pursuant to section 1107 of the Bankruptcy Code.
- (t) Payments under Employment Benefit Plans. The Obligors shall not make any payment or distribution in respect of post-employment benefit payments (excluding the KERP and KEIP).
- (u) New Subsidiaries. None of the Obligors shall acquire, create or cause to exist any Subsidiary which does not already exist on and as of the date hereof.

### 8.3 Lender May Perform Covenants

If the Obligors or any of them fail to perform any covenants on their part herein contained, subject to any consents or notice or cure periods required by Section 10.1, the Lender may give notice to the Borrowers of such failure and if such covenant remains unperformed, the Lender may, in its discretion but need not, perform any such covenant capable of being performed by the Lender and if the covenant requires the payment or expenditure of money, the Lender may make such payments or expenditure and all sums so expended shall be forthwith payable by the Borrowers to the Lender and shall bear interest at the applicable interest rate provided in Section 5.6. No such performance, payment or expenditure by the Lender shall be deemed to relieve the Obligors or any of them of any default hereunder or under the other Documents.

## ARTICLE 9 SECURITY

### 9.1 Security

Subject to the Carve-Out, to secure the payment and performance of all amounts from time to time owing by the Obligors to the Lender (including without limitation, all Loans, interest thereon and all fees, legal and other costs, charges and expenses) and all obligations owing by the Obligors to the Lender, in each case, under or pursuant to the Documents and which may arise pursuant to the CCAA Proceedings and the U.S. Proceedings, including any amounts owing under the MasterCard Facilities, as defined in the Pre-Filing Secured Credit Agreement (collectively, the “**Secured Obligations**”), the Borrowers shall, or shall cause:

- (a) the Lender Charge to be granted to and in favour of the Lender;
- (b) each Guarantor to execute and deliver to the Lender an Obligor Guarantee; and
- (c) each Obligor to execute and deliver to the Lender such other security documents, agreements and instruments as the Lender may, acting reasonably, require,

(collectively, the “**Security**”). In addition to and without in any way derogating from the foregoing, the Lender’s Account for Payments shall be subject to a priority Security Interest in favour of the Lender, subordinate only to the Permitted Priority Liens set forth in paragraphs (a) and (c) of the definition thereof and the Carve-Out.

### 9.2 Forms

The Security will be in such form or forms as will be required by the Lender, acting reasonably. Should the Lender determine at any time and from time to time that the form and nature of the then existing Security is deficient in any way or does not fully provide the Lender with the Guarantees and Security Interests and priority to which each is entitled hereunder, the Obligors will forthwith execute and deliver to the Lender, at the Borrowers’ expense, such amendments to the Security or provide such new Guarantees or security as the Lender may reasonably request, in a form satisfactory to the Lender, acting reasonably.

### 9.3 No Merger

The taking of any Security as provided under this Agreement shall not operate by way of merger of any of the obligations of any Obligor under this Agreement or any other agreement evidencing Secured Obligations, or of any Security Interest, Guarantee, contract, promissory note, bill of exchange or security in any other form, whether or not similar to the foregoing, and no judgment recovered by the Lender shall operate by way of merger or in any way affect the obligations provided for in this Agreement or any other agreement evidencing Secured Obligations. For greater certainty, no judgment recovered by the Lender shall operate by way of merger or in any way affect the obligation of the Borrowers to pay interest at the rates, times and manner as provided in this Agreement or any other agreement evidencing Secured Obligations.

**9.4 Permitted Encumbrances and Permitted Debt**

None of:

- (a) the fact that any person is permitted to create or suffer to exist any Permitted Encumbrance or Permitted Debt;
- (b) the fact that any representation, warranty or covenant herein may make an exception for the existence of Permitted Encumbrances or Permitted Debt; or
- (c) the fact that the Security Interests created pursuant to the Security are stated to be subject to, or are not required to rank in priority to, Permitted Encumbrances;

shall in any manner, nor in any cause or proceeding, directly or indirectly, be taken to constitute a subordination of any Security Interest created pursuant to the Security to any Permitted Encumbrance or to any other Security Interest or other obligation whatsoever, or that the Secured Obligations are in any way subordinate or junior in right of payment to any Permitted Debt, it being the intention of the parties that all Security Interests created pursuant to the Security shall at all times, to the maximum extent permitted by applicable law and subject to Permitted Priority Liens and the Carve-Out, rank as first priority Security Interests in priority to Permitted Encumbrances and all other Security Interests or other obligations whatsoever and that the Secured Obligations will rank in right of payment at all times at least equally with such Permitted Debt.

**9.5 Dealing with Security**

The Lender may grant extensions of time or other indulgences, take and give up securities (including the Security or any part or parts thereof), accept compositions, grant releases and discharges and otherwise deal with the Obligors or any of them and other parties and with security (including without limitation, the Security and each part thereof) as the Lender may see fit, without prejudice to or in any way limiting the liability of the Obligors or any of them under this Agreement or the other Documents or under any of the Security or any other collateral security.

**9.6 Effectiveness**

The Security and the security created by any other Document constituted or required to be created shall be effective, and the undertakings as to the Security herein or in any other Document shall be continuing, whether any Loans are then outstanding or any amounts thereby secured or any part thereof shall be owing before or after, or at the same time as, the creation of such Security Interests or before or after or upon the date of execution of any amendments to this Agreement.

**9.7 Further Assurances – Security**

Each Obligor shall, forthwith and from time to time on the reasonable request of the Lender, grant to the Lender all such further rights and Security Interests necessary or of advantage to the Lender to permit it to operate the assets and business of the Obligors in a liquidation of assets or as a going concern following the occurrence of an Event of Default. In addition, each Obligor shall forthwith and from time to time on the reasonable request of the Lender execute and do or cause to be executed and done all assurances and things which in the opinion of the Lender may be necessary or of advantage to give the Lender the Security Interests and the priority intended hereunder to be created by the Security.

## 9.8 Release and Discharge of Security

No Obligor shall be discharged from the Security or any part thereof except by a written release and discharge signed by the Lender; provided that (1) to the extent such Security applies to a Permitted Disposition, the Lender shall provide a release or no interest letter in respect of the property and assets subject to such Permitted Disposition, promptly upon the request of the applicable Obligor, or (2) if all of the Secured Obligations have been unconditionally and indefeasibly repaid, paid, satisfied and discharged, as the case may be, in full and the Credit Facility and the Lender's commitment thereunder have been fully cancelled, then the Lender shall cause the Security and its interest therein to be released and discharged at the expense of the Borrowers.

## ARTICLE 10 EVENTS OF DEFAULT AND ACCELERATION

### 10.1 Events of Default

The occurrence of any one or more of the following events (each such event being herein referred to as an "Event of Default") shall constitute a default under this Agreement:

- (a) Principal Default: if a Borrower fails to pay the principal of any Loan hereunder when due and payable;
- (b) Other Payment Default: if a Borrower fails to pay:
  - (i) any interest (including, if applicable, default interest) accrued on any Loan; or
  - (ii) any fees or other amounts not specifically referred to in paragraph (a) above or in this paragraph (b) payable by a Borrower hereunder;

in each case when due and payable, and such default is not remedied within two (2) Banking Days after written notice thereof is given by the Lender to the Borrowers specifying such default and requiring the relevant Borrower to remedy or cure the same;

- (c) Certain Covenant Defaults: if any Obligor fails to observe or perform any covenant in Section 8.2 or any negative covenant set forth in any Document;
- (d) Breach of Other Covenants: if any Obligor fails to observe or perform any covenant or obligation herein or in any other Document required on its part to be observed or performed (other than a covenant or condition whose breach or default in performance is specifically dealt with elsewhere in this Section) and the relevant Obligor shall fail to remedy such default within a period of three (3) Banking Days after the earlier of a Borrower or such Obligor having actual knowledge of such failure and delivery of notice by the Lender to the Borrowers specifying such default and requiring the relevant Obligor to remedy or cure the same;
- (e) Incorrect Representations: if any representation or warranty made by any Obligor herein or in any other Document shall prove to have been incorrect or misleading in any material respect on and as of the date made, or if any such representation or warranty is qualified as to "in all material respects", "materiality", "Material Adverse Effect" or similar language, such representation or warranty shall prove to have been incorrect or misleading in any respect on and as of the date made, and, in each case, the facts or circumstances which make such representation or warranty incorrect or misleading are not remedied and the representation or warranty in question remains incorrect or

misleading more than five (5) Banking Days after a Borrower or any such Obligor becomes aware that such representation or warranty was incorrect or misleading in any respect;

- (f) Disposition of Assets: if any Obligor shall pass an effective resolution or initiate steps or proceedings (including applications to the Canadian Court and the U.S. Court) without the prior written consent of the Lender for the purpose of authorizing the disposition of all or a material amount of its property, assets and undertakings (except for a disposition in accordance with and as permitted by Section 8.2(e));
- (g) Invalid Documents: if any material provision of any Document continues to be invalid or unenforceable in whole or in a material part, or any of the Security Interests in and to any material Collateral constituted by the Security fails to attach thereto or to have the priority intended thereby;
- (h) Adverse Proceedings: (i) if any proceeding, motion or application is commenced or filed by any of the Obligors, or, if commenced by another party, supported or otherwise consented to by any Obligor, seeking the invalidation, subordination or other challenging of the terms of the Credit Facility, the Lender Charge, this Agreement, any other Document or the Initial Order; (ii) the filing of any Plan or application to the Canadian Court or the U.S. Court for approval of an Alternative Restructuring Option or sale of all or substantially all of the assets of the Obligors which does not either (A) have the prior written consent of the Lender or (B) result in the repayment in full in cash of all Indebtedness owing under each of this Agreement and the Pre-Filing Secured Credit Agreement upon the earlier of (x) the closing of such sale or Alternative Restructuring Transaction or upon the effective date of such Plan, and (y) the Maturity Date; or (iii) if any Obligor commences an action or takes any other proceeding to obtain any form of relief against the Lender, or the Pre-Filing Secured Creditor or any Affiliate thereof, including, without limitation, a proceeding to recover damages or to obtain payment of any amounts purported to be owing by the Lender, or the Pre-Filing Secured Creditor or any Affiliate thereof to any Obligor or any Affiliate thereof if the Lender, the Pre-Filing Secured Creditor or such Affiliate disputes any of the same;
- (i) Restructuring Court Orders: if: (i) any Restructuring Court Order contravenes this Agreement or any other Document so as to materially adversely impact the rights or interests of the Lender, as determined by the Lender, acting reasonably; or (ii) any Obligor breaches or otherwise violates in any way any Restructuring Court Order or (iii) the occurrence of any "Event of Default" as defined in the Interim U.S. DIP Order or the Final U.S. DIP Order;
- (j) Court Order: the issuance of an order of the Canadian Court or the U.S. Court (including any Restructuring Court Order) or any other court of competent jurisdiction: (i) dismissing the CCAA Proceedings or U.S. Proceedings, or lifting the stay in the CCAA Proceedings or U.S. Proceedings to permit (A) the enforcement of any Security Interest against an Obligor, or a material portion of their respective property, assets or undertaking, or (B) the appointment of a Receiver or the making of a bankruptcy order against an Obligor; (ii) granting any Security Interest which is senior to or *pari passu* with or senior to the Lender Charge, other than the Carve-Out; (iii) staying, reversing, vacating or otherwise modifying the Documents or any Restructuring Court Order in a manner materially adverse to the interests of the Lender, as determined by the Lender acting reasonably; (iv) materially adversely impacting the rights and interests of the Lender, as determined by the Lender acting reasonably, without the prior written consent of the Lender; (v) directing any Obligor to pay any post-employment benefits (excluding the KERP and KEIP); or (vi) other than the Carve-Out, granting, approving or allowing any administrative expense claim in the U.S. Proceedings, having any priority over, or being *pari passu* with, the superadministrative priority of the Credit Facility Indebtedness;

- (k) Prohibited Filings: the filing of any pleading by any Obligor seeking any of the matters set forth in Section 10.1(j) or failure of any Obligor to diligently oppose any Person that brings an application or motion for the relief set out in Section 10.1(j);
- (l) Updated Budget Default: if any information in the Updated Budget or Weekly Cashflow Report: (i) contemplates or forecasts an adverse change or changes from the then existing Agreed Budget and such change or changes constitute a Material Adverse Change; or (ii) forecasts that Advances under the Credit Facility will exceed the total authorized amount of the Credit Facility at any time (unless and until the Lender consents to increase the total authorized amount of the Credit Facility, which shall be in the Lender's sole and absolute discretion);
- (m) Cash Flow Test: if, after the date of this Agreement, as at the applicable calculation date, a Negative Cash Flow Variance exists, other than a variance solely due to: (i) changes in currency exchange rates, or (ii) the payment of professionals engaged by the Lender.
- (n) Material Adverse Change: if there occurs any Material Adverse Change;
- (o) Excess Advances: if at any time the Outstanding Principal exceeds the total authorized amount of the Credit Facility, provided that if such excess is a result of exchange rate fluctuations, if such excess is not repaid in accordance with Section 2.11;
- (p) Plans and Alternative Restructuring Options: if any Plan is filed with the U.S Court or the Canadian Court for approval or sanctioned or any Alternative Restructuring Option is filed with the U.S Court or the Canadian Court for approval or consummated by any of the Obligors that is not consistent with or contravenes any provision of this Agreement or any other Document;
- (q) Prohibited Payments: if except as set out in the Agreed Budget, or except or as otherwise agreed to in writing by the Lender, any Obligor is required by any Governmental Authority to make expenditures or pay damages, fines, claims, costs or expenses to remediate, in respect of any environmental liabilities, and such requirement is not stayed by a Restructuring Court Order;
- (r) Permitted Priority Liens: if any Obligor creates, permits to exist or seeks or supports a motion by another party to provide to any third party a Security Interest on the Collateral which is senior to or *pari passu* with the Lender Charge, other than the Permitted Priority Liens;
- (s) Change in Name or Location: if any Obligor changes its name, its trade name or its locations of business from those set forth in Schedule 7.1(e) annexed hereto without giving the Lender fifteen (15) days' prior notice thereof;
- (t) Amend or Terminate Material Contracts: if any Obligor disclaims, rejects, modifies, alters, amends, replaces, knowingly waives strict and timely performance of any compliance with (including, without limitation waive any default under) any material contract or terminates, cancels or suspends or assigns any material contract (except in accordance with its terms) or any material term, agreement, provision, item, obligation or covenant contained in any material contract, in each case, in any material respects without the consent of the Lender;
- (u) Insurance Proceeds: if any Obligor makes any application or use of any insurance proceeds (other than proceeds in respect of business interruption insurance) received by it in respect of any single claim or event which are not used to repair or replace any property which are the subject of such insurance claim until such application has been approved by the Lender in writing;

- (v) Milestones: the failure to achieve any one or more of the Milestones at the prescribed times including, for greater certainty, an Event of Default shall occur for the failure by the Obligors to use reasonable best efforts as prescribed by any particular Milestone;
- (w) Bankruptcy, Receivership or Insolvency Proceedings: if any Obligor becomes subject to any receivership proceedings or bankruptcy proceedings under the BIA or to any proceeding under chapter 7 or chapter 11 of the Bankruptcy Code or in any United States Bankruptcy Court other than the U.S. Court, or to any other bankruptcy, receivership or insolvency proceedings in any jurisdiction other than Canada, the United States or any State thereof, other than the U.S. Proceedings and CCAA Proceedings; or
- (x) ERISA: if (i) Holdco or any Borrower shall engage in any non-exempt "prohibited transaction" (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Pension Plan; or (ii) any ERISA Event shall occur and, taking together all such events, is reasonably expected to have a Material Adverse Effect.

## 10.2 Acceleration

If any Event of Default shall occur and for so long as it is continuing, subject to the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable:

- (a) the entire principal amount of all Loans then outstanding from the Borrowers and all accrued and unpaid interest thereon; and
- (b) all other Secured Obligations outstanding hereunder,

shall, at the option of the Lender, become immediately due and payable (and, concurrently therewith, the Credit Facility and the Lender's commitment hereunder shall be fully and unconditionally cancelled) upon written notice (an "**Acceleration Notice**") to that effect from the Lender to the Borrowers, all without any other notice and without presentment, protest, demand, notice of dishonour or any other demand whatsoever (all of which are hereby expressly waived by the Borrowers); provided that, upon the occurrence of an Event of Default specified in Section 10.1(j)(i) (an "**Acceleration Event**") all Loans and other Secured Obligations outstanding hereunder shall automatically become due and payable (and, concurrently therewith, the Credit Facility and the Lender's commitment hereunder shall be fully and unconditionally cancelled) subject to any notice requirements set forth in the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable. In such event and if the Borrowers do not immediately pay all such amounts upon receipt of any required notice, the Lender may, in its discretion, exercise any right or recourse and/or proceed by any action, suit, remedy or proceeding against the Borrowers authorized or permitted by law for the recovery of all the indebtedness and liabilities of the Borrowers to the Lender and proceed to exercise any and all rights hereunder and under the other Documents and no such remedy for the enforcement of the rights of the Lender shall be exclusive of or dependent on any other remedy but any one or more of such remedies may from time to time be exercised independently or in combination.

## 10.3 Termination of Lender's Obligations

The occurrence of a Default or Event of Default shall relieve the Lender of all obligations to provide any further Drawdowns to the Borrowers hereunder for so long as such Default or Event of Default is continuing; provided that the foregoing shall not prevent the Lender from disbursing money requested by the Borrowers and acceptable to the Lender.

**10.4 Remedies Cumulative and Waivers**

For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lender hereunder or under any other Document are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lender of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement or other Document shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lender may be lawfully entitled for such default or breach. Any waiver by the Lender of the strict observance, performance or compliance with any term, covenant, condition or other matter contained herein and any indulgence granted, either expressly or by course of conduct, by the Lender shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lender under this Agreement or any other Document as a result of any other default or breach hereunder or thereunder.

**10.5 Application of Payments Following Demand and Acceleration**

Subject to the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable, except as otherwise agreed to by the Lender in its sole discretion, any sum received by the Lender at any time after delivery of an Acceleration Notice or the occurrence of an Acceleration Event which the Lender is obliged to apply in or towards satisfaction of sums due from the Borrowers hereunder shall be applied by the Lender in accordance with amounts owed to the Lender in respect of each category of amounts set forth below, each such application to be made in the following order with the balance remaining after application in respect of each category to be applied to the next succeeding category:

- (a) firstly, in or towards payment of any fees or expenses then due and payable to the Lender hereunder;
- (b) secondly, in or towards payment of amounts due and payable to the Lender as and by way of recoverable expenses hereunder;
- (c) thirdly, in or towards payment of amounts due and payable to the Lender by way of interest and overdue interest;
- (d) fourthly, in or towards repayment to the Lender of the Loans then outstanding hereunder; and
- (e) fifthly, in or towards payment of any other amounts not already referred to in this Section 10.5, which are then due and payable by the Borrowers hereunder.

**10.6 Remedies**

After an Event of Default:

- (a) Enforce Security: the Lender may take such actions and commence such proceedings as the Lender in its sole discretion may determine and may enforce or otherwise realize upon any Security, all without any obligation to marshal any Security Interests and without additional notice, presentation, demand or protest, all of which each of the Obligors hereby expressly waives (to the extent such rights may be waived under Applicable Law);
- (b) General Remedies: the rights and remedies of the Lender under the Documents are cumulative and are in addition to and not in substitution for any rights or remedies provided by law. The Lender

may, to the extent permitted and not prohibited by Applicable Law, bring suit at law, in equity or otherwise for any available relief or purpose including but not limited to:

- (i) Specific Performance: the specific performance of any covenant or agreement contained in the Documents;
- (ii) Injunction: enjoining a violation of any of the terms of the Documents;
- (iii) Assistance: aiding in the exercise of any power granted by the Documents or by law;
- (iv) Judgment: obtaining and recovering judgment for any and all amounts due in respect of the Loans or amounts otherwise due hereunder or under the Documents;
- (v) Receiver: seeking, by way of an application to the Canadian Court the appointment of a Receiver or similar official and such related proceedings in the U.S. Court as may be required;
- (vi) BIA/Chapter 7: seeking to adjudicate the Obligors bankrupt or convert the CCAA Proceedings and the U.S. Proceedings to proceedings under the BIA and/or proceedings under chapter 7 of the Bankruptcy Code;
- (vii) Information Officer: seeking to expand the powers of the Information Officer, pursuant to the terms of an order of the Canadian Court satisfactory to the Information Officer, to allow the Information Officer to realize on the Collateral and such ancillary and related relief before the U.S. Court as may be required; or
- (viii) Remedies at Law: exercising the powers and rights of a secured party under the *Personal Property Security Act* (British Columbia), the *Uniform Commercial Code* (United States) or any legislation of similar effect and all such other rights and remedies under the Documents, the Restructuring Court Orders and Applicable Law.

## 10.7 Set-Off

- (a) Subject to the Interim U.S. DIP Order and Final U.S. DIP Order, as applicable, in addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence of an Event of Default which remains unremedied (whether or not the Loans have been accelerated hereunder), the Lender shall have the right (and is hereby authorized by each of the Obligors) at any time and from time to time to combine all or any of the Obligors' accounts with the Lender and to set-off and to appropriate and to apply any and all deposits (general or special, term or demand) including indebtedness evidenced by certificates of deposit whether matured or unmatured, and any other indebtedness at any time held by any of the Obligors or owing by the Lender to or for the credit or account of any of the Obligors against and towards the satisfaction of any Secured Obligations owing by any of the Obligors, and may do so notwithstanding that the balances of such accounts and the liabilities are expressed in different currencies, and the Lender is hereby authorized to effect any necessary currency conversions at the spot rate of exchange announced by the Bank of Canada for the Banking Day before the day of conversion.
- (b) The Lender shall provide advanced written notice to the Borrowers of any such set-off from the Obligors' accounts in accordance with the Interim U.S. DIP Order and the Final U.S. DIP Order, as applicable.

**ARTICLE 11**  
**CHANGE OF CIRCUMSTANCES**

**11.1 Change in Law**

- (a) If the adoption of any applicable law, regulation, treaty or official directive (whether or not having the force of law) or any change therein or in the interpretation or application thereof by any court or by any Governmental Authority or any other entity charged with the interpretation or administration thereof or compliance by the Lender with any request or direction (whether or not having the force of law) of any such authority or entity in each case after the date hereof (including, without limitation, the *Dodd-Frank Wall Street Reform and Consumer Protection Act* and all requests, rules, regulations, guidelines and directives thereunder or issued in connection therewith and all requests, rules, regulations, guidelines and directives concerning capital adequacy promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority or any United States, Canadian or foreign regulatory authority), in each case regardless of the date enacted, adopted, or issued):
- (i) subjects the Lender to, or causes the withdrawal or termination of a previously granted exemption with respect to, any Taxes (other than Taxes on the Lender's overall income), or changes the basis of taxation of payments due to the Lender, or increases any existing Taxes (other than Taxes on the Lender's overall income) on payments of principal, interest or other amounts payable by a Borrower to the Lender under this Agreement;
  - (ii) imposes, modifies or deems applicable any reserve, liquidity, special deposit, regulatory or similar requirement against assets or liabilities held by, or deposits in or for the account of, or loans by the Lender, or any acquisition of funds for loans or commitments to fund loans or obligations in respect of undrawn, committed lines of credit;
  - (iii) imposes on the Lender or requires there to be maintained by the Lender any capital adequacy or additional capital requirements (including, without limitation, a requirement which affects the Lender's allocation of capital resources to its obligations) in respect of any Loan or obligation of the Lender hereunder, or any other condition with respect to this Agreement; or
  - (iv) directly or indirectly affects the cost to the Lender of making available, funding or maintaining any Loan (other than changes in Taxes on the Lender's overall income) or otherwise imposes on the Lender any other condition or requirement affecting this Agreement or any Loan or any obligation of the Lender hereunder;

and the result of (i), (ii), (iii) or (iv) above, in the sole determination of the Lender acting in good faith, is:

- (v) to increase the cost to the Lender of performing its obligations hereunder with respect to any Loan;
- (vi) to reduce any amount received or receivable by the Lender hereunder or its effective return hereunder or on its capital in respect of any Loan or the Credit Facility; or
- (vii) to cause the Lender to make any payment with respect to or to forego any return on or calculated by reference to, any amount received or receivable by the Lender hereunder with respect to any Loan or the Credit Facility;

the Lender shall determine that amount of money which shall compensate the Lender for such increase in cost, payments to be made or reduction in income or return or interest foregone (herein referred to as "**Additional Compensation**"). Upon the Lender having determined that it is entitled to Additional Compensation in accordance with the provisions of this Section, the Lender shall promptly so notify the Borrowers. The Lender shall provide the Borrowers with a photocopy of the relevant law, rule, guideline, regulation, treaty or official directive (or, if it is impracticable to provide a photocopy, a written summary of the same) and a certificate of a duly authorized officer of the Lender setting forth the Additional Compensation and the basis of calculation therefor, which shall be conclusive evidence of such Additional Compensation in the absence of manifest error. The Borrowers shall pay to the Lender within 10 Banking Days of the giving of such notice the Lender's Additional Compensation. The Lender shall be entitled to be paid such Additional Compensation from time to time to the extent that the provisions of this Section are then applicable notwithstanding that the Lender has previously been paid any Additional Compensation.

- (b) The Lender agrees that it will not claim Additional Compensation from the Borrowers under Section 12.4(a) if it is not claiming similar compensation from its other customers in similar circumstances or in respect of any period greater than twelve months prior to the delivery of notice in respect thereof by the Lender, unless, in the latter case, the adoption, change or other event or circumstance giving rise to the claim for Additional Compensation is retroactive or is retroactive in effect.

## 11.2 Illegality

If the Lender determines, in good faith, that the adoption of any applicable law, regulation, treaty or official directive (whether or not having the force of law) or any change therein or in the interpretation or application thereof by any court or by any Governmental Authority or any other entity charged with the interpretation or administration thereof or compliance by the Lender with any request or direction (whether or not having the force of law) of any such authority or entity, now or hereafter makes it unlawful or impossible for the Lender to make, fund or maintain a Loan under the Credit Facility or to give effect to its obligations in respect of such a Loan, the Lender may, by written notice thereof to the Borrowers declare its obligations under this Agreement in respect of such Loan to be terminated whereupon the same shall forthwith terminate, and the relevant Borrower shall, within the time required by such law (or at the end of such longer period as the Lender at its discretion has agreed), prepay the principal of such Loan together with accrued interest, such Additional Compensation as may be applicable with respect to such Loan to the date of such payment and all costs, losses and expenses incurred by the Lender by reason of the liquidation or re deployment of deposits or other funds or for any other reason whatsoever resulting from the repayment of such Loan or any part thereof on other than the last day of the applicable Interest Period. If any such change shall only affect a portion of the Lender's obligations under this Agreement which is, in the opinion of the Lender, severable from the remainder of this Agreement so that the remainder of this Agreement may be continued in full force and effect without otherwise affecting any of the obligations of the Lender or the Borrowers hereunder, the Lender shall only declare its obligations under that portion so terminated.

## ARTICLE 12 COSTS, EXPENSES AND INDEMNIFICATION

### 12.1 Costs and Expenses

The Borrowers shall pay promptly upon notice from the Lender all reasonable out-of-pocket costs and expenses of the Lender in connection with the Documents and the establishment of the Credit Facility, including in connection with (a) the preparation, printing, execution and delivery of this

Agreement and the other Documents and (b) the Lender's and any third party's due diligence investigation of the Obligors, in each case whether or not any Drawdown has been made hereunder, and also including, without limitation, the reasonable fees and out-of-pocket costs and expenses of Lender's Counsel with respect thereto and with respect to advising the Lender as to its rights and responsibilities under this Agreement and the other Documents. Except for ordinary expenses of the Lender relating to the day-to-day administration of this Agreement, the Borrowers further agree to pay within 10 days of demand by the Lender all reasonable out-of-pocket costs and expenses in connection with the preparation or review of waivers, consents and amendments pertaining to this Agreement, and in connection with the establishment of the validity and enforceability of this Agreement and the preservation or enforcement of rights of the Lender under this Agreement and other Documents, including, without limitation, all reasonable out-of-pocket costs and expenses sustained by the Lender as a result of any failure by the Obligors to perform or observe any of their respective obligations hereunder or in connection with any action, suit or proceeding (whether or not an Indemnified Party is a party or subject thereto), together with interest thereon from and after such 10<sup>th</sup> day if such payment is not made by such time.

## **12.2 General Indemnity**

In addition to any liability of the Borrowers to the Lender under any other provision hereof, the Borrowers shall indemnify each Indemnified Party and hold each Indemnified Party harmless against any losses, claims, costs, damages or liabilities (including, without limitation, any expense or cost incurred in the liquidation and re deployment of funds acquired to fund or maintain any portion of a Loan and reasonable out-of-pocket expenses and reasonable legal fees on a solicitor and his own client basis) incurred by the same as a result of or in connection with the Credit Facility or the Documents (including any use of the proceeds of any Loan), including as a result of or in connection with:

- (a) any cost or expense incurred by reason of the liquidation or re-deployment in whole or in part of deposits or other funds required by the Lender to fund or maintain any Loan as a result of a Borrower's failure to complete a Drawdown or to make any payment, repayment or prepayment on the date required hereunder or specified by it in any notice given hereunder;
- (b) a Borrower's failure to pay any other amount, including without limitation any interest or fee, due hereunder on its due date after the expiration of any applicable grace or notice periods (subject, however, to the interest obligations of the Borrowers hereunder for overdue amounts);
- (c) a Borrower's failure to give any notice required to be given by it to the Lender hereunder;
- (d) the failure of a Borrower to make any other payment due hereunder;
- (e) any inaccuracy or incompleteness of the Obligors' representations and warranties contained in Article 7;
- (f) any failure of the Obligors to observe or fulfil their obligations under Article 8;
- (g) any failure of the Obligors to observe or fulfil any other obligation not specifically referred to above; or
- (h) the occurrence of any Default or Event of Default in respect of any Obligor,

provided that this Section shall not apply to any losses, claims, costs, damages or liabilities that arise by reason of the gross negligence or willful misconduct of the Indemnified Party claiming indemnity hereunder. The provisions of this Section shall survive repayment of the Secured Obligations.

### 12.3 Environmental Indemnity

The Borrowers shall indemnify and hold harmless the Indemnified Parties forthwith on demand by the Lender from and against any and all claims, suits, actions, debts, damages, costs, losses, liabilities, penalties, obligations, judgments, charges, expenses and disbursements (including without limitation, all reasonable legal fees and disbursements on a solicitor and his own client basis) of any nature whatsoever, suffered or incurred by the Indemnified Parties or any of them in connection with the Credit Facility, whether as beneficiaries under the Documents, as successors in interest of the Obligors, or voluntary transfer in lieu of foreclosure, or otherwise howsoever, with respect to any Environmental Claims relating to the property of the Obligors arising under any Environmental Laws as a result of the past, present or future operations of the Obligors (or any predecessor in interest thereto) relating to the property of the Obligors, or the past, present or future condition of any part of the property of the Obligors owned, operated or leased by the Obligors (or any such predecessor in interest), including any liabilities arising as a result of any indemnity covering Environmental Claims given to any Person by the Lender or a receiver, receiver manager or similar Person appointed hereunder or under applicable law (collectively, the “**Indemnified Third Party**”); but excluding any Environmental Claims or liabilities relating thereto to the extent that such Environmental Claims or liabilities arise by reason of the gross negligence or willful misconduct of the Indemnified Party or the Indemnified Third Party claiming indemnity hereunder. The provisions of this Section shall survive the repayment of the Secured Obligations.

### 12.4 Judgment Currency

- (a) If for the purpose of obtaining or enforcing judgment against the Obligors or any of them in any court in any jurisdiction, it becomes necessary to convert into any other currency (such other currency being hereinafter in this Section referred to as the “**Judgment Currency**”) an amount due in Canadian Dollars under this Agreement, the conversion shall be made at the rate of exchange prevailing on the Banking Day immediately preceding:
  - (i) the date of actual payment of the amount due, in the case of any proceeding in the courts of any jurisdiction that will give effect to such conversion being made on such date; or
  - (ii) the date on which the judgment is given, in the case of any proceeding in the courts of any other jurisdiction (the date as of which such conversion is made pursuant to this Section being hereinafter in this Section referred to as the “**Judgment Conversion Date**”).
- (b) If, in the case of any proceeding in the court of any jurisdiction referred to in Section 12.4(a)(ii), there is a change in the rate of exchange prevailing between the Judgment Conversion Date and the date of actual payment of the amount due, the relevant Obligors shall pay such additional amount (if any) as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of Canadian Dollars which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial order at the rate of exchange prevailing on the Judgment Conversion Date.
- (c) Any amount due from the Obligors under the provisions of Section 12.4(b) shall be due as a separate debt and shall not be affected by judgment being obtained for any other amounts due under or in respect of this Agreement.
- (d) The term “rate of exchange” in this Section 12.4 means the rate of exchange for Canadian interbank transactions in Canadian Dollars in the Judgment Currency published by the Bank of Canada for

the day in question, or if such rate is not so published by the Bank of Canada, such term shall mean the rate of exchange determined by the Lender, acting reasonably.

#### **12.5 Waiver of Consequential Damages, Etc.**

To the fullest extent permitted by applicable law, the Obligors shall not assert, and each of the Obligors hereby waives, any claim against the Lender, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan advanced hereunder, or the use of the proceeds thereof. The Lender shall not be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Documents or the transactions contemplated hereby or thereby.

### **ARTICLE 13 INTERPRETATION; GENERAL**

#### **13.1 Survival of Undertakings**

All covenants, undertakings, agreements, representations and warranties made pursuant to this Agreement survive the execution and delivery of this Agreement and continue in full force and effect until the full payment and satisfaction of all obligations of the Borrowers incurred pursuant to the Documents and the termination of this Agreement.

#### **13.2 Failure to Act**

No failure, omission or delay on the part of the Lender in exercising any right, power or privilege hereunder shall impair such right, power or privilege or operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any further exercise thereof or the exercise of any other right, power or privilege.

#### **13.3 Exchange and Confidentiality of Information**

- (a) The Obligors agree that the Lender may provide any assignee or participant or any *bona fide* prospective assignee or participant pursuant to Section 13.6 with any information concerning the financial condition of the Obligors provided such party agrees in writing with the Lender for the benefit of the Obligors to be bound by a like duty of confidentiality to that contained in this Section.
- (b) The Lender acknowledges the confidential nature of the financial, operational and other information and data provided and to be provided to them by the Obligors pursuant hereto (the "**Information**") and agrees to use all reasonable efforts to prevent the disclosure thereof; provided that:
  - (i) the Lender may disclose all or any part of the Information if, in their reasonable opinion, such disclosure is required in connection with any actual or threatened judicial, administrative or governmental proceedings including, without limitation, proceedings initiated under or in respect of this Agreement;

- (ii) the Lender shall incur no liability in respect of any Information required to be disclosed by any applicable law or regulation, or by applicable order, policy or directive having the force of law, to the extent of such requirement;
- (iii) the Lender may provide Lender's Counsel and their other agents and professional advisors with any Information; provided that such Persons shall be under a like duty of confidentiality to that contained in this Section;
- (iv) the Lender may provide its Affiliates (including BMO Financial Group business groups) and subsidiaries for the purpose of assisting the Lender in supporting the Obligors' strategic plans;
- (v) the Lender shall incur no liability in respect of any Information: (i) which is or becomes readily available to the public (other than by a breach hereof) or which has been made readily available to the public by the Obligors, (ii) which the Lender can show was, prior to receipt thereof from the Obligors, lawfully in the Lender's possession and not then subject to any obligation on its part to the Obligors to maintain confidentiality, or (iii) which the Lender received from a third party who was not, to the knowledge of the Lender, under a duty of confidentiality to the Obligors at the time the information was so received;
- (vi) the Lender may disclose the Information to other financial institutions and other Persons in connection with the assignment by the Lender of the Credit Facility and the Loans (or any portion thereof) or the granting by the Lender of a participation in the Credit Facility and the Loans where such financial institution or other Person agrees to be under a like duty of confidentiality to that contained in this Section; and
- (vii) the Lender may disclose all or any part of the Information so as to enable the Lender to initiate any lawsuit against the Obligors or any of them or to defend any lawsuit commenced by the Obligors or any of them the issues of which touch on the Information, but only to the extent such disclosure is necessary to the initiation or defense of such lawsuit.

#### 13.4 Notices

Any demand, notice or communication to be made or given hereunder shall be in writing and may be made or given by personal delivery or by facsimile transmission or other electronic means of communication addressed to the respective parties as follows:

To the Obligors or any of them:

c/o SLP Holdings Ltd.  
2176 Government Street  
Penticton, BC Canada V2A 8B5

Attention: Shawn Turkington  
Email: [sturkington@structurlam.com](mailto:sturkington@structurlam.com)

To the Lender:

Bank of Montreal  
595 Burrard Street, 6<sup>th</sup> Floor  
P.O. Box 49500  
Vancouver, BC Canada V7X 1L7

Attention: Shane Klein / Sandy Hayer  
E-mail: [shane.klein@bmo.com](mailto:shane.klein@bmo.com) / [sandy.hayer@bmo.com](mailto:sandy.hayer@bmo.com)

or to such other address or facsimile number as any party may from time to time notify the others in accordance with this Section. Any demand, notice or communication made or given by personal delivery or by facsimile transmission or other electronic means of communication during normal business hours at the place of receipt on a Banking Day shall be conclusively deemed to have been made or given at the time of actual delivery or transmittal, as the case may be, on such Banking Day. Any demand, notice or communication made or given by personal delivery or by facsimile transmission or other electronic means of communication after normal business hours at the place of receipt or otherwise than on a Banking Day shall be conclusively deemed to have been made or given at 9:00 a.m. (Local Time) on the first Banking Day following actual delivery or transmittal, as the case may be.

### 13.5 Governing Law; Jurisdiction

- (a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein, without prejudice to or limitation of any other rights or remedies available under the laws of any jurisdiction where property or assets of the Borrowers may be found.
- (b) Submission. The Borrowers and the Lender agree that the U.S. Court has jurisdiction to settle any disputes in connection with the Documents and accordingly the Borrowers and the Lender each submits to the non-exclusive jurisdiction of the U.S. Court.
- (c) Forum Convenience and Enforcement Abroad. Each Borrower:
  - (i) waives objection to the U.S. Court on grounds of inconvenient forum or otherwise as regards proceedings in connection with a Document; and
  - (ii) agrees that a judgment or order of the U.S. Court in connection with a Document is conclusive and binding on it (subject to any rights of appeal in respect thereof) and may be enforced against it in the courts of any other jurisdiction.
- (d) Non-exclusivity. Nothing in this Section 13.5 limits the right of the Lender to bring proceedings against the Borrowers in connection with any Document:
  - (i) in any other court of competent jurisdiction; or
  - (ii) concurrently in more than one jurisdiction.

**13.6 Benefit of this Agreement; Assignment; Participations**

- (a) This Agreement shall enure to the benefit of and be binding upon the Obligors, the Lender and their respective successors and permitted assigns.
- (b) The Lender may, without consent during the continuance of an Event of Default and at all other times with the prior written consent of the Borrowers, which consent shall not be unreasonably withheld or delayed, sell, assign, transfer or grant an interest in the Credit Facility, the Loans and its rights under this Agreement and the other Documents; provided that (a) any such sale, assignment, transfer or grant of interest shall be in a minimum principal amount of \$1,000,000 and (b) the purchaser, assignee, transferee, or grantee of such interest shall thereafter hold a minimum principal amount of \$1,000,000 of the Credit Facility. Notwithstanding the preceding sentence, the Lender may, at any time, without the prior written consent of the Borrowers, sell, assign, transfer or grant an interest in the Credit Facility, the Loans and its rights under this Agreement and the other Documents to an Affiliate of the Lender or an Approved Fund. Upon any such sale, assignment, transfer or grant, the Lender shall have no further obligation hereunder with respect to such interest. The Obligors shall not assign their rights or obligations hereunder without the prior written consent of the Lender.
- (c) The Lender may, without the consent of the Borrowers, grant one or more participations in the Loans to other Persons; provided that the granting of such a participation: (a) shall be at the Lender's own cost and (b) shall not affect the obligations of the Lender hereunder nor shall it increase the costs to the Borrowers hereunder or under any of the other Documents.

**13.7 Severability**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

**13.8 Whole Agreement; Amendments and Waivers**

- (a) This Agreement and the other Documents constitute the whole and entire agreement between the parties hereto regarding the subject matter hereof and thereof and cancel and supersede any prior agreements, undertakings, declarations, commitments, representations, written or oral, in respect thereof.
- (b) Any provision of this Agreement may be amended only if the Borrowers and the Lender so agree in writing and may be waived only if the Lender agrees in writing. Any such waiver and any consent by the Lender under any provision of this Agreement must be in writing and may be given subject to any conditions thought fit by Lender. Any waiver or consent shall be effective only in the instance and for the purpose for which it is given.

**13.9 Further Assurances**

The Obligors and the Lender shall promptly cure any default by it in the execution and delivery of this Agreement, the other Documents or any of this Agreements provided for hereunder to which it is a party. Each Obligor, at the expense of the Borrowers, shall promptly execute and deliver to the Lender, upon request by the Lender (acting reasonably), all such other and further deeds, agreements, opinions, certificates, instruments, affidavits, registration materials and other documents reasonably necessary for such Obligor's compliance with, or accomplishment of the covenants and agreements of the Obligors

hereunder or more fully to state the obligations of the Obligor as set out herein or to make any registration, recording, file any notice or obtain any consent, all as may be reasonably necessary or appropriate in connection therewith.

**13.10 Time of the Essence**

Time shall be of the essence of this Agreement.

**13.11 Agreement Governs**

In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the other Documents, the provisions of this Agreement, to the extent of the conflict or inconsistency, shall govern and prevail.

**13.12 Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart. Delivery of an executed counterpart of a signature page of this Agreement by facsimile transmission or by sending a scanned copy by electronic mail shall be effective as delivery of a manually executed counterpart of this Agreement.


**13.13 Resolving Discrepancies with Court Orders**

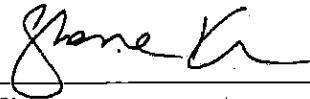
In the event of any discrepancy between the terms of this Agreement and the terms of any order of the U.S. Court or the Canadian Court, such discrepancy shall be resolved in favour of the order of the U.S. Court.

**[The remainder of this page has been intentionally left blank.]**

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed as of the date first written above.


**BANK OF MONTREAL**

By:   
Name: Sandy Hayer  
Title: Director, SAMU National Accounts

By:   
Name: Shane Klein  
Title: Managing Director

**BORROWERS:**


**STRUCTURLAM MASS TIMBER CORPORATION**

By:   
Name: Stephen Turner  
Title: CEO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the corporation.

**STRUCTURLAM MASS TIMBER U.S., INC.**

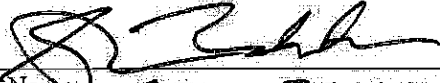
By:   
Name: Stephen Turner  
Title: CEO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the corporation.

GUARANTORS:

SLP HOLDINGS LTD.

By:   
Name: Shawn Chen  
Title: CFO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the corporation.

NATURAL OUTCOMES, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

I/We have authority to bind the corporation.

**GUARANTORS:**

**SLP HOLDINGS LTD.**

By: <sup>Designated by:</sup> Shawn Turkington  
Name: Shawn Turkington  
Title: Interim CEO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
I/We have authority to bind the corporation.

**NATURAL OUTCOMES, LLC**

By: Nathan Waters  
Name: Nathan Waters  
Title: Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
I/We have authority to bind the corporation.

**EXHIBIT 2**

**Initial DIP Budget**



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

In re:	)	Chapter 11
STRUCTURLAM MASS TIMBER U.S., INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 23-10497 (CTG)
Debtors.	)	(Jointly Administered)
	)	<b>Re: Docket No. 8</b>

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO  
(A) CONTINUE TO OPERATE THEIR CASH MANAGEMENT  
SYSTEM, (B) HONOR CERTAIN PREPETITION OBLIGATIONS  
RELATED THERETO, (C) MAINTAIN EXISTING BUSINESS FORMS,  
AND (D) CONTINUE TO PERFORM INTERCOMPANY TRANSACTIONS,  
(II) GRANTING ADMINISTRATIVE EXPENSE STATUS TO POSTPETITION  
INTERCOMPANY BALANCES, AND (III) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing the Debtors to (i) continue to operate their Cash Management System, (ii) honor certain prepetition obligations related thereto, (iii) maintain existing Business Forms in the ordinary course of business, and (iv) continue to perform Intercompany Transactions consistent with historical practice; (b) granting administrative expense status to postpetition Intercompany Balances; (c) scheduling a final hearing to consider approval of the Motion on a final basis; and (d) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114); The location of the Debtors’ headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Motion.

*Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard any statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on May 19, 2023, at 10:00 a.m. (prevailing Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on May 12, 2023, and shall be served on: (a) the Debtors, 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (b) proposed counsel to the Debtors, Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801, Attn: William E. Chipman, Jr. (chipman@chipmanbrown.com); Robert A. Weber (weber@chipmanbrown.com); Mark L. Desgrosseilliers (desgross@chipmanbrown.com); and Mark Olivere

(olivere@chipmanbrown.com); (c) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (Benjamin.A.Hackman@usdoj.gov); (d) counsel to the Prepetition Lender and DIP Lender (i) Blake, Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa (kelly.bourassa@blakes.com), Christopher Keliher (christopher.keliher@blakes.com), Erik Fleming (erik.fleming@blakes.com), and Austin Beck (Austin.Beck@blakes.com) (ii) Chapman and Cutler LLP, 320 South Canal Street, Chicago, Illinois 60606, Attn: Stephen R. Tetro II (tetro@chapman.com), James P. Sullivan (jsullivan@chapman.com), and (iii) Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: matthewward@wbd-us.com; and (f) counsel to any statutory committee appointed in the Chapter 11 Cases.

3. The Debtors are authorized, but not directed, on an interim basis, to: (a) continue operating the Cash Management System, as described in the Motion, with all pre-petition agreements related to the Bank Accounts remaining in full force and effect; (b) honor their prepetition obligations related thereto; (c) use, in their present form, all preprinted correspondence and Business Forms (including letterhead and checks) without reference to the Debtors' status as debtors in possession, subject to paragraph 5 below; and (d) continue to perform Intercompany Transactions consistent with historical practice.

4. The Debtors are further authorized, but not directed, on an interim basis, to: (a) continue to use, with the same account numbers, the Bank Accounts in existence as of the Petition Date, including those accounts identified on Exhibit 1 attached hereto; (b) treat the Bank Accounts for all purposes as accounts of the Debtors as debtors in possession; (c) deposit funds in and withdraw funds from the Bank Accounts by all usual means, including checks, wire transfers,

and other debits; (d) pay the Bank Fees (including any prepetition amounts); and (e) pay, pursuant to those certain existing deposit, cash management and credit card agreements between the Debtors and the Cash Management Banks, any ordinary course Bank Fees, including attorneys' fees, incurred in connection with the Bank Accounts, irrespective of whether such fees arose prior to the Petition Date, and to otherwise perform their obligations under the documents governing the Bank Accounts. Any postpetition fees, costs, charges and expenses, including Bank Fees, or charge-backs payable to the Cash Management Banks that are not so paid shall be entitled to priority as administrative expenses pursuant to section 503(b)(1) of the Bankruptcy Code.

5. In the event the Debtors need to purchase additional check stock during the pendency of these Chapter 11 Cases, such new check stock shall include a legend referring to the Debtors as a "Debtors in Possession" or "DIP." Further, within fourteen days of entry of this Interim Order, the Debtors will update any electronically produced checks to reflect the Debtors' status as "Debtors in Possession."

6. The Cash Management Banks are authorized to continue to maintain, service, and administer the Bank Accounts as accounts of the Debtors as debtors in possession, without interruption and in the ordinary course, and to receive, process, honor, and pay, to the extent of available funds, any and all checks, drafts, wires, credit card payments, and ACH transfers issued and drawn on the Bank Accounts after the Petition Date by the holders or makers thereof, as the case may be; *provided*, however, the Debtors will take all reasonable steps to stop payment on any checks, drafts, wires, or ACH transfers drawn or issued by the Debtors before, but which did not clear the Bank Accounts prior to, the Petition Date; provided further that (a) those certain existing deposit, cash management and credit card agreements between the Debtors and the Cash Management Banks shall continue to govern the postpetition cash management relationship

between the Debtors and the respective Cash Management Bank, and all of the provisions of such agreements, including the termination and fee provisions and any provisions relating to offset or charge back rights with respect to returned items, shall remain in full force and effect, and (b) the Debtors and the Cash Management Banks may, without further order of this Court, agree to and implement changes to the Cash Management System and procedures related thereto in the ordinary course of business pursuant to terms of those certain existing deposit, cash management and credit card agreements, including the closing of Bank Accounts or the opening of new bank accounts; *provided, however*, that, except as provided in this Interim Order, none of the Cash Management Banks shall sweep, without an order from this Court, any cash postpetition in the Bank Accounts to set off or otherwise pay down or diminish any prepetition debt owed to such Cash Management Bank.

7. The relief granted in this Interim Order is extended to any new bank account opened by the Debtors after the date hereof, which account shall be deemed a Bank Account, and to the bank at which such account is opened, which bank shall be deemed a Cash Management Bank.

8. All banks, including the Cash Management Banks, provided with notice of this Interim Order maintaining any of the Bank Accounts shall not honor or pay any bank payments drawn on the listed Bank Accounts, or otherwise issued before the Petition Date, absent further direction from the Debtors.

9. The Debtors will maintain records in the ordinary course reflecting transfers of cash, if any, so as to permit all such transactions to be ascertainable.

10. In the course of providing cash management services to the Debtors, each of the Cash Management Banks is authorized, in the ordinary course of business without further order of this Court, to deduct, pursuant to those certain existing deposit, cash management and credit card

agreements between the Debtors and the Cash Management Banks, the applicable fees and expenses (including any costs incurred by the Cash Management Banks to comply with any requirements of the U.S. Trustee, including posting collateral and all letter of credit fees and expenses) associated with the nature of the deposit, cash management and credit card services rendered to the Debtors, whether arising prepetition or postpetition, from the appropriate accounts of the Debtors, and further, to charge back to the appropriate accounts of the Debtors any amounts resulting from returned checks or other returned items, including returned items that result from wire transfers, ACH transactions, or other electronic transfers of any kind, regardless of whether such items were deposited or transferred prepetition or postpetition and regardless of whether the returned items relate to prepetition or postpetition items or transfers.

11. Each of the Cash Management Banks is authorized to debit the Debtors' accounts in the ordinary course and without further order of this Court on account of: (a) all checks drawn on the Debtors' accounts that have been cashed at such banks' counters or exchanged for cashier's or official checks by the payees thereof prior to the Petition Date; (b) all checks or other items deposited in one of the Debtors' accounts with such bank prior to the Petition Date which have been dishonored or returned unpaid for any reason, together with any fees and costs in connection therewith, to the same extent the Debtors were responsible for such items prior to the Petition Date; and (c) all undisputed prepetition amounts outstanding as of the date hereof, if any, owed to any bank as to service charges for the maintenance of the Cash Management System.

12. Any bank, including a Cash Management Bank, may rely upon the representations of the Debtors with respect to whether any check, draft, wire, or other transfer drawn or issued by the Debtors prior to the Petition Date should be honored pursuant to any order of this Court, and no bank that honors a prepetition check or other item drawn on any account that is the subject of

this Interim Order (a) at the direction of the Debtors, (b) in a good-faith belief that this Court has authorized such prepetition check or item to be honored, or (c) as a result of an innocent mistake made despite implementation of customary item handling procedures, shall be deemed to be nor shall be liable to the Debtors, their estates, or any other party on account of such prepetition check or other item being honored postpetition, or otherwise deemed to be in violation of this Interim Order.

13. Any and all banks, including the Cash Management Banks, are further authorized to (a) honor the Debtors' directions with respect to the opening and closing of any Bank Account and (b) accept and hold the Debtors' funds in accordance with the Debtors' instructions; *provided* that the Cash Management Banks shall not have any liability to any party for relying on such representations to the extent such reliance otherwise complies with applicable law.

14. The Debtors are authorized to open any new Bank Accounts or close any existing Bank Accounts as they may deem necessary and appropriate; *provided* that such actions are not prohibited or restricted by the terms of the DIP Order or any of the DIP Documents; *provided, further*, that the Debtors shall give notice within five business days to the U.S. Trustee and any statutory committee appointed in these Chapter 11 Cases of the opening or closing of any Bank Accounts and such opening or closing shall be timely indicated on the Debtors' monthly operating reports; *provided, further*, that the Debtors shall open any such new Bank Account at one of the Debtors' existing Banks or banks that have executed a Uniform Depository Agreement with the U.S. Trustee for the District of Delaware or at such banks that are willing to immediately execute such an agreement

15. For Cash Management Banks at which the Debtors hold Bank Accounts that are party to a Uniform Depository Agreement with the U.S. Trustee, within 14 days of the date of

entry of this Interim Order, the Debtors shall (i) contact each Cash Management Bank, (ii) provide the Cash Management Bank with each of the Debtors' employer identification numbers, (iii) identify each of their Bank Accounts held at such Cash Management Bank as being held by a debtor in possession and (iv) serve a copy of the interim order on each Cash Management Bank.

16. The requirements of section 345(b) of the Bankruptcy Code are waived on an interim basis for a period of 30 days after entry of this Interim Order as to Cash Management Banks at which the Debtors hold Bank Accounts that are not party to a Uniform Depositary Agreement with the U.S. Trustee for the District of Delaware.

17. The requirement to establish separate accounts for cash collateral and/or tax payments is hereby waived.

18. Notwithstanding anything to the contrary set forth herein, the Debtors are authorized, but not directed, to continue Intercompany Transactions arising from or related to the operation of their business in the ordinary course. The Debtors shall not be authorized by this Interim Order to undertake any Intercompany Transactions that are (a) not on the same terms as, or materially consistent with, the Debtors' operation of their business in the ordinary course during the prepetition period or (b) prohibited or restricted by the terms of the DIP Order or any of the DIP Documents. All postpetition payments from a Debtor to another Debtor under any postpetition Intercompany Transactions authorized hereunder are hereby accorded administrative expense status under section 503(b) of the Bankruptcy Code, subject and junior to the claims, including adequate protection and superpriority claims, granted in connection with any DIP Orders. In connection with the Intercompany Transactions, the Debtors shall continue to maintain current records with respect to all transfers of cash so that all Intercompany Transactions may be readily ascertained, traced, and properly recorded on intercompany accounts consistent with

historical practice as described in the Motion; *provided* that such records shall distinguish between prepetition and postpetition transactions. The Debtors shall not make any intercompany loans to non-debtor entities absent further order of the court.

19. Nothing contained in the Motion or this Interim Order shall be construed to (a) create or perfect, in favor of any person or entity, any interest in cash of a Debtor that did not exist as of the Petition Date or (b) alter or impair any security interest or perfection thereof, in favor of any person or entity, that existed as of the Petition Date.

20. Notwithstanding the Debtors' use of a consolidated cash management system, the Debtors shall calculate quarterly fees under 28 U.S.C. § 1930(a)(6) based on the disbursements of each Debtor, regardless of which entity pays those disbursements.

21. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Bank Fees.

22. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any

other party in interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

23. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

24. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

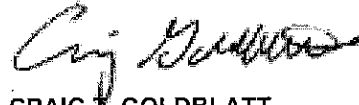
25. Notice of the Motion was provided in accordance with Local Rule 9013-1(m) and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

26. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

27. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

28. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Dated: April 26th, 2023  
Wilmington, Delaware



CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

**EXHIBIT 1****Bank Accounts**

#	Debtor	Account Bank	Currency	Last Four Digits	Account Type
1	SLP Holdings Ltd.	Bank of Montreal	CAD	(6367)	Inactive HoldCo Account
2	SLP Holdings Ltd.	Bank of Montreal	USD	(6078)	Inactive HoldCo Account
3	Structurlam Mass Timber Corporation	Bank of Montreal	CAD	(6375)	General Operating Account (Canada)
4	Structurlam Mass Timber Corporation	Bank of Montreal	USD	(6086)	Intermediary Exchange Account
5	Structurlam Mass Timber Corporation	BMO Harris Bank	USD	(2447)	General Operating and Intercompany Account (U.S.)
6	Structurlam Mass Timber U.S., Inc.	BMO Harris Bank	USD	(2652)	General Operating Account (U.S.)
7	Structurlam Mass Timber U.S., Inc.	BMO Harris Bank	USD	(9922)	Inactive Debt Service Reserve Account (U.S.)
8	Structurlam Mass Timber Corporation	Bank of Montreal	CAD	(6466)	Credit Card Account (CAD)
9	Structurlam Mass Timber Corporation	BMO Harris Bank	USD	(9968)	Credit Card Account (USD)

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

In re:	)	
	)	Chapter 11
	)	
STRUCTURLAM MASS TIMBER U.S., INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 23-10497 (CTG)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	<b>Re: Docket No. 7</b>

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS TO (A) PAY  
PREPETITION WAGES, SALARIES, OTHER COMPENSATION,  
AND REIMBURSABLE EXPENSES AND (B) CONTINUE CERTAIN  
EMPLOYEE BENEFITS PROGRAMS AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing, but not directing, the Debtors to (i) pay certain prepetition employee wages, salaries, other compensation, reimbursable employee expenses and (ii) continue employee benefits programs in the ordinary course, including payment of certain prepetition obligations related thereto; (b) scheduling a final hearing to consider approval of the Motion on a final basis; and (c) granting related relief; all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors’ headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not defined herein have the meanings given to such terms in the Motion.



the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard any statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on May 19, 2023, at 10:00 a.m. (prevailing Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on May 12, 2023, and shall be served on: (a) the Debtors, 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (b) proposed counsel to the Debtors, Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801, Attn: William E. Chipman, Jr. (chipman@chipmanbrown.com); Robert A. Weber (weber@chipmanbrown.com); Mark L. Desgrosseilliers (desgross@chipmanbrown.com); and Mark Olivere (olivere@chipmanbrown.com); (c) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (Benjamin.A.Hackman@usdoj.gov); (d) counsel to the Prepetition Lender and DIP Lender

(i) Blake, Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa (kelly.bourassa@blakes.com), Christopher Keliher (christopher.keliher@blakes.com), Erik Fleming (erik.fleming@blakes.com), and Austin Beck (Austin.Beck@blakes.com) (ii) Chapman and Cutler LLP, 320 South Canal Street, Chicago, Illinois 60606 (Attn: Stephen R. Tetro II and James P. Sullivan), email: stetro@chapman.com and jsulliva@chapman.com, and (iii) Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: matthew-ward@wbd-us.com; and (e) counsel to any statutory committee appointed in the Chapter 11 Cases.

3. The Debtors are authorized, but not directed, in their sole discretion, to: (a) continue, modify, change, and discontinue the Employee Compensation and Benefits in the ordinary course of business during these Chapter 11 Cases and without the need for further Court approval, subject to applicable law and (b) pay and honor prepetition Employee Obligations in the ordinary course of business, in an amount not to exceed \$863,706 (CAD) and \$207,306 (USD) (excluding Employee claims under Health Insurance Benefits and Workers' Compensation Program) absent further order of this Court; provided that, absent further order of this Court, no amount in excess of the \$15,150 priority cap imposed by section 507(a)(4) of the Bankruptcy Code shall be paid to any Employee on account of Unpaid Compensation or to any Contractor Employee on account of Contractor Fees, unless such amounts above the \$15,150 statutory cap are a result of cash payment for Time-Off Benefits that is required under applicable law.

4. Pursuant to section 362(d) of the Bankruptcy Code, Employees are authorized to proceed with their claims under the Workers' Compensation Program in the appropriate judicial or administrative forum and the Debtors are authorized, but not directed, to continue the Workers'

Compensation Program in the ordinary course. This modification of the automatic stay pertains solely to claims under the Workers' Compensation Program.

5. The Debtors are authorized, but not directed, to forward any unpaid amounts on account of Withholding Obligations to the appropriate third-party recipients or taxing authorities in accordance with the Debtors' prepetition policies and practices.

6. Notwithstanding anything to the contrary contained herein, with respect to the Severance Programs, no payments, absent further Court order, shall be made to or on behalf of any "insider" as that term is defined in section 101(31) of the Bankruptcy Code.

7. Nothing herein shall be deemed to authorize or approve any payment, bonus plan, or severance plan that is subject to section 503(c) of the Bankruptcy Code.

8. Nothing herein shall be deemed to (i) authorize the payment of any amounts in satisfaction of prepetition obligations under the Sales Commission Plan or the Severance Programs or (ii) authorize the Debtors to cash out Time-Off Benefits upon termination of an Employee, unless such payment is required by applicable law.

9. Nothing contained herein is intended or should be construed to create an administrative priority claim on account of the Employee Obligations.

10. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the

Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party in interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim. The relief granted by this Interim Order is not intended to and does not grant the Debtors any authority to use cash collateral of Bank of Montreal or to use proceeds of any postpetition financing provided by Bank of Montreal in any way inconsistent with the provisions of any interim or final order of this Court approving the Debtors' use of cash collateral or authorizing the Debtors to obtain debtor-in-possession financing (a "DIP Order"). For the avoidance of doubt, in case of a conflict between the provisions of this Interim Order and a DIP Order, the provisions of such DIP Order shall control.

11. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

12. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored

as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with Employee Compensation and Benefits Programs.

13. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

14. Notice of the Motion was provided in accordance with Local Rule 9013-1(m)(iii) and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

15. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

16. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

17. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.



Dated: April 26th, 2023  
Wilmington, Delaware

CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

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

In re:

STRUCTURLAM MASS TIMBER U.S., INC., *et al.*,<sup>1</sup>

Debtors.

) Chapter 11

) Case No. 23-10497 (CTG)

) (Jointly Administered)

) **Re: Docket No. 14**

**INTERIM ORDER (I) AUTHORIZING THE PAYMENT OF CERTAIN  
PREPETITION TAXES AND FEES AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing the payment of certain prepetition taxes and fees; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors’ headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not defined herein have the meanings given to such terms in the Motion.



Court having reviewed the Motion and having heard any statements in support of the relief requested therein at a hearing before this Court (the “Hearing”); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.

2. The final hearing (the “Final Hearing”) on the Motion shall be held on May 19, 2023, at 10:00 a.m. (prevailing Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on May 12, 2023, and shall be served on: (a) the Debtors, 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (b) proposed conflicts counsel to the Debtors, Chipman Brown Cicero & Cole, LLP, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801, Attn: William E. Chipman, Jr., Robert A Weber, Mark L. Desgrosseilliers and Mark D. Olivere (chipman@chipmanbrown.com; weber@chipmanbrown.com; desgross@chipmanbrown.com and olivere@chipmanbrown.com) (c) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (Benjamin.A.Hackman@usdoj.gov); (d) counsel to the Prepetition Lender and DIP Lender, (i) Blake, Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa (kelly.bourassa@blakes.com), Christopher Keliher (christopher.keliher@blakes.com), Erik Fleming (erik.fleming@blakes.com), and Austin Beck (Austin.Beck@blakes.com) (ii) Chapman and Cutler LLP, 320 South Canal Street, Chicago, Illinois 60606 (Attn: Stephen R. Tetro II and James P. Sullivan), email: stetro@chapman.com and jsulliva@chapman.com, and (iii) Womble

Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: matthew-ward@wbd-us.com; and (e) counsel to any statutory committee appointed in the Chapter 11 Cases.

3. The Debtors are authorized, but not directed, to: (a) negotiate, pay, and remit the obligations that arose or accrued in the ordinary course of business on account of the Taxes and Fees prior to the Petition Date and that will become due and owing prior to entry of the Final Order in an aggregate interim amount not to exceed \$1,000 (USD) and (b) negotiate and pay Taxes and Fees that arise or accrue in the ordinary course of business on a postpetition basis.

4. Notwithstanding the relief granted in this Interim Order, any payment made by the Debtors pursuant to the authority granted herein shall be subject to and in compliance with any orders entered by the Court approving the Debtors' entry into any postpetition debtor in possession financing facility and any budget in connection therewith and/or authorizing the Debtors' use of cash collateral and any budget in connection therewith.

5. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party in interest that any liens (contractual, common law, statutory, or otherwise) satisfied

pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with the relief granted in this Interim Order.

8. The Debtors are not authorized to pay any amounts on account of past-due taxes.

9. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

10. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such Motion and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

12. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

13. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.



Dated: April 26th, 2023  
Wilmington, Delaware

CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

In re: ) Chapter 11  
 )  
 STRUCTURLAM MASS TIMBER U.S., INC., *et al.*,<sup>1</sup> ) Case No. 23-10497 (CTG)  
 )  
 ) (Jointly Administered)  
 Debtors. )  
 ) **Re: Docket No. 11**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) approving the Debtors’ Proposed Adequate Assurance; (b) prohibiting Utility Providers from altering, refusing, or discontinuing services; (c) approving the Debtors’ proposed procedures for resolving any Additional Assurance Requests; (d) scheduling a final hearing to consider approval of the Motion on a final basis; and (e) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found

The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors' headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not defined herein have the meanings given to such terms in the Motion.

that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard any statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.

a. The final hearing (the "Final Hearing") on the Motion shall be held on May 19, 2023, at 10:00 a.m. (prevailing Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on May 12, 2023 (the "Objection Deadline"), and shall be served on: (a) the Debtors, 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (b) proposed counsel to the Debtors, Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801, Attn: William E. Chipman, Jr. (chipman@chipmanbrown.com); Robert A. Weber (weber@chipmanbrown.com); Mark L. Desgrosseilliers (desgross@chipmanbrown.com); and Mark Olivere (olivere@chipmanbrown.com); (c) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (Benjamin.a.hackman@usdoj.gov); (d) counsel to the Prepetition Lender and DIP Lender,

(i) Blake, Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa (kelly.bourassa@blakes.com), Christopher Keliher (christopher.keliher@blakes.com), Erik Fleming (erik.fleming@blakes.com), and Austin Beck (Austin.Beck@blakes.com), (ii) Chapman and Cutler LLP, 320 South Canal Street, Chicago, Illinois 60606 (Attn: Stephen R. Tetro II and James P. Sullivan), email: stetro@chapman.com and jsulliva@chapman.com, and (iii) Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: matthew-ward@wbd-us.com; and (e) counsel to any statutory committee appointed in the Chapter 11 Cases. If no objections or responses are filed and served by the Objection Deadline, the Court may enter the Final Order without further notice or hearing.

2. Until such time as this Court enters a final order on the Motion or the Court orders otherwise, all Utility Providers are prohibited from altering, refusing, or discontinuing services on account of any unpaid prepetition charges, the commencement of these Chapter 11 Cases, or any perceived inadequacy of the Proposed Adequate Assurance.

3. The following Adequate Assurance Procedures are hereby approved on an interim basis:

- a. The Debtors will serve a copy of the Motion and this Interim Order to each Utility Provider within two business days after entry of this Interim Order.
- b. Subject to paragraphs (f)–(j) herein, the Debtors will deposit the Adequate Assurance Deposit in the Adequate Assurance Account within ten business days after entry of this Interim Order.
- c. The funds in the Adequate Assurance Account shall be held for the benefit of each Utility Provider in the amount set forth for such Utility Provider in the column labeled “Proposed Adequate Assurance” on the Utility Services List attached hereto as Exhibit C.
- d. If an amount relating to Utility Services provided postpetition by a Utility Provider is unpaid, and remains unpaid beyond any applicable grace period, such Utility Provider may request a disbursement from the Adequate

Assurance Account by giving notice to: (i) the Debtors, 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (ii) proposed counsel to the Debtors, Paul Hastings LLP, 1117 South California Avenue, Palo Alto, California 94304, Attn: Todd M. Schwartz (toddschwartz@paulhastings.com), 71 South Wacker Drive, Suite 4500, Chicago, Illinois 60606, Attn: Michael Jones (michaeljones@paulhastings.com) and Angelika S. Glogowski (angelikaglogowski@paulhastings.com); (iii) proposed co-counsel to the Debtors, Potter Anderson & Corroon LLP, 1313 North Market Street, 6th Floor, Wilmington, Delaware 19801, Attn: M. Blake Cleary (bcleary@potteranderson.com), Aaron H. Stulman (astulman@potteranderson.com) and Katelin A. Morales; (iv) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (Benjamin.a.hackman@usdoj.gov); (e) counsel to the Prepetition Lender and DIP Lender, (i) Blake, Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa (kelly.bourassa@blakes.com), Christopher Keliher (christopher.keliher@blakes.com), Erik Fleming (erik.fleming@blakes.com), and Austin Beck (Austin.Beck@blakes.com), (ii) Chapman and Cutler LLP, 320 South Canal Street, Chicago, Illinois 60606 (Attn: Stephen R. Tetro II and James P. Sullivan), email: stetro@chapman.com and jsulliva@chapman.com, and (iii) Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: matthew-ward@wbd-us.com; and (vi) counsel to any statutory committee appointed in these Chapter 11 Cases. The Debtors shall honor such request within five business days after the date the request is received by the Debtors, subject to the ability of the Debtors and any such requesting Utility Provider to resolve any dispute regarding such request without further order of the Court. To the extent a Utility Provider receives a disbursement from the Adequate Assurance Account, the Debtors shall replenish the Adequate Assurance Account in the amount disbursed.

- e. The portion of the Adequate Assurance Deposit attributable to each Utility Provider will be returned to the Debtors on the earlier of (i) reconciliation and payment by the Debtors of the Utility Provider's final invoice in accordance with applicable nonbankruptcy law following the Debtors' termination of Utility Services from such Utility Provider, (ii) the effective date of any Court order directing the dismissal of these Chapter 11 Cases, (iii) the effective date of any Court order directing the conversion of these Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, or (iv) the effective date of any chapter 11 plan confirmed in these Chapter 11 Cases.
- f. Any Utility Provider that (i) objects to the Debtors' Proposed Adequate Assurance or (ii) desires additional assurances of payment in the form of

deposits, prepayments, or otherwise must serve a request for additional assurance (an “Additional Assurance Request”) on the Notice Parties.

- g. Any Additional Assurance Request must: (i) be in writing; (ii) identify the location for which the Utility Services are provided; (iii) summarize the Debtors’ payment history relevant to the affected account(s); (iv) certify the amount that is equal to one-half of the monthly Utility Services the Utility Provider supplied to the Debtors in the Prepetition Utility Period; (v) certify that the Utility Provider does not already hold a deposit equal to or greater than one-half of the monthly Utility Services; (vi) provide evidence that the Debtors have a direct obligation to the Utility Provider; and (vii) explain why the Utility Provider believes the Proposed Adequate Assurance is not sufficient adequate assurance of future payment.
- h. An Additional Assurance Request may be made at any time. If a Utility Provider fails to file and serve an Additional Assurance Request, the Utility Provider shall be (i) deemed to have received “satisfactory” adequate assurance of payment in compliance with section 366 of the Bankruptcy Code and (ii) forbidden from discontinuing, altering, or refusing Utility Services to, or discriminating against, the Debtors on account of any unpaid prepetition charges, or requiring additional assurance of payment other than the Proposed Adequate Assurance.
- i. Upon a Utility Provider’s service of an Additional Assurance Request in accordance with these Adequate Assurance Procedures, the Debtors shall have 21 days from the receipt of such Additional Assurance Request (the “Resolution Period”) to negotiate with the Utility Provider to resolve the Utility Provider’s Additional Assurance Request.
- j. Without further order of the Court, the Debtors may enter into agreements granting additional adequate assurance to a Utility Provider serving an Additional Assurance Request if the Debtors determine that the Additional Assurance Request is reasonable.
- k. If the Debtors determine that the Additional Assurance Request is not reasonable and the Debtors are unable to reach an alternative resolution with the Utility Provider, the Debtors, during or immediately after the Resolution Period, will request a hearing (a “Determination Hearing”) before the Court to determine the adequacy of assurance of payment with respect to that Utility Provider pursuant to section 366(c)(3) of the Bankruptcy Code.
- l. Pending resolution of such dispute at a Determination Hearing, the relevant Utility Provider shall be prohibited from altering, refusing, or discontinuing service to the Debtors on account of: (i) unpaid charges for prepetition services; (ii) a pending Additional Assurance Request; or (iii) any objections filed in response to the Proposed Adequate Assurance.

- m. The Adequate Assurance Deposit deposited into the Adequate Assurance Account on behalf of any Utility Provider (including any additional amount deposited upon request of any applicable Utility Provider), or any portion thereof, shall be returned to the Debtors, less any amounts owed on account of unpaid, postpetition Utility Services, by no later than five business days following the earlier of the date upon which (i) a chapter 11 plan becomes effective after being confirmed in these Chapter 11 Cases, (ii) a Court order dismissing these Chapter 11 Cases becomes effective, (iii) a Court order converting these Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code becomes effective, or (iv) the Debtors provide notice to a Utility Provider that services provided to the Debtors by such Utility Provider will no longer be needed or will be reduced.

4. The Utility Providers are prohibited from requiring additional adequate assurance of payment other than pursuant to the Adequate Assurance Procedures.

5. If the Debtors identify any Utility Provider following the entry of this Interim Order, the Debtors shall (i) cause a copy of this Interim Order, including the Adequate Assurance Procedures, to be served on any subsequently identified Utility Provider and any such Utility Provider shall be bound by the Adequate Assurance Procedures, (ii) file an updated list of Utility Providers, and (iii) increase the amount of Adequate Assurance, as needed. The Debtors will give two weeks' notice before removing any utility from the utilities list. If the Utility Provider objects, then the debtors will request a hearing at the next omnibus date.

6. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights

under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party in interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim. The relief granted by this Interim Order is not intended to and does not grant the Debtors any authority to use cash collateral of Bank of Montreal or to use proceeds of any postpetition financing provided by Bank of Montreal in any way inconsistent with the provisions of any interim or final order of this Court approving the Debtors' use of cash collateral or authorizing the Debtors to obtain debtor-in-possession financing (a "DIP Order"). For the avoidance of doubt, in case of a conflict between the provisions of this Interim Order and a DIP Order, the provisions of such DIP Order shall control.

7. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

8. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Utility Services.

9. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).
10. Notice of the Motion was provided in accordance with Local Rule 9013-1(m)(iii) and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.
11. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.
12. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.
13. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Dated: April 26th, 2023  
Wilmington, Delaware

  
CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

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

In re:

STRUCTURLAM MASS TIMBER U.S., INC., *et al.*,<sup>1</sup>

Debtors.

) Chapter 11

) Case No. 23-10497 (CTG)

) (Jointly Administered)

) Re: Docket No. 10

**INTERIM ORDER (I) AUTHORIZING THE DEBTORS  
TO (A) PAY THEIR OBLIGATIONS UNDER INSURANCE POLICIES  
ENTERED INTO PREPETITION AND (B) RENEW, SUPPLEMENT, MODIFY,  
OR PURCHASE INSURANCE COVERAGE AND (II) GRANTING RELATED RELIEF**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing, but not directing, the Debtors to (i) pay their obligations under the insurance policies entered into prepetition and (ii) renew, supplement, modify, or purchase insurance coverage in the ordinary course; and (b) granting related relief, all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and this Court having found that the Debtors’ notice of the Motion and

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors’ headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Motion.



opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard any statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on May 19, 2023, at 10:00 a.m. (prevailing Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on May 12, 2023 (the "Objection Deadline"), and shall be served on: (a) the Debtors, 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (b) proposed counsel to the Debtors, Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801, Attn: William E. Chipman, Jr. (chipman@chipmanbrown.com); Robert A. Weber (weber@chipmanbrown.com); Mark L. Desgrosseilliers (desgross@chipmanbrown.com); and Mark Olivere (olivere@chipmanbrown.com); (c) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (Benjamin.a.hackman@usdoj.gov); (d) counsel to the Prepetition Lender and DIP Lender, (i) Blake, Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa (kelly.bourassa@blakes.com), Christopher Keliher (christopher.keliher@blakes.com), Erik Fleming (erik.fleming@blakes.com), and Austin

Beck (Austin.Beck@blakes.com), (ii) Chapman and Cutler LLP, 320 South Canal Street, Chicago, Illinois 60606 (Attn: Stephen R. Tetro II and James P. Sullivan), email: stetro@chapman.com and jsulliva@chapman.com, and (iii) Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: matthew-ward@wbd-us.com; and (e) counsel to any statutory committee appointed in the Chapter 11 Cases. If no objections or responses are filed and served by the Objection Deadline, the Court may enter the Final Order without further notice or hearing.

3. The Debtors are authorized, but not directed, on an interim basis to:

- a) continue the Insurance Policies and to pay any prepetition or postpetition obligations under the Insurance Policies, the Insurance Broker Fees, and any other amounts related to the Insurance Policies, including any amounts owed to the Insurance Broker;
- b) renew, amend, supplement, extend, reduce, or purchase insurance policies to the extent that the Debtors determine that such action is in the best interest of their estates;
- c) honor the terms of the Premium Financing Agreements and pay installment payments thereunder; and
- d) enter into, amend, supplement, or extend the Premium Financing Agreements as necessary, in the ordinary course of business consistent with past practices to the extent the Debtors determine that such action is in the best interests of their estates.

4. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request or authorization to assume any agreement, contract, or lease pursuant to section 365 of the

Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party in interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim. The relief granted by this Interim Order is not intended to and does not grant the Debtors any authority to use cash collateral of Bank of Montreal or to use proceeds of any postpetition financing provided by Bank of Montreal in any way inconsistent with the provisions of any interim or final order of this Court approving the Debtors' use of cash collateral or authorizing the Debtors to obtain debtor-in-possession financing (a "DIP Order"). For the avoidance of doubt, in case of a conflict between the provisions of this Interim Order and a DIP Order, the provisions of such DIP Order shall control.

5. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

6. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored

as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Insurance Policies and the Premium Financing Agreements.

7. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

8. Notice of the Motion was provided in accordance with Local Rule 9013-1(m)(iii) and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

9. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

10. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

11. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.



Dated: April 26th, 2023  
Wilmington, Delaware

CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

In re: ) Chapter 11  
STRUCTURLAM MASS TIMBER U.S., INC., *et al.*,<sup>1</sup> ) Case No. 23-10497 (CTG)  
 )  
 ) (Jointly Administered)  
Debtors. )  
 ) **Re: Docket No. 13**

Upon the motion (the “Motion”)<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an interim order (this “Interim Order”): (a) authorizing, but not directing, the Debtors to pay certain prepetition amounts owing to Critical Vendors, Shippers, and 503(b)(9) Claimants (collectively, the “Critical Vendor Claims”) in an amount not to exceed the Interim Order Cap absent further order of the Court; (b) scheduling a final hearing to consider approval of the Motion on a final basis, and (c) granting related relief; all as more fully set forth in the Motion; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2); and this Court having found that venue of this proceeding and the Motion in this district is proper pursuant

<sup>2</sup> Capitalized terms used but not defined herein have the meanings given to such terms in the Motion.

to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Motion and opportunity for a hearing on the Motion were appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and having heard any statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Motion is granted on an interim basis as set forth herein.
2. The final hearing (the "Final Hearing") on the Motion shall be held on May 19, 2023, at 10:00 a.m. (prevailing Eastern Time). Any objections or responses to entry of a final order on the Motion shall be filed on or before 4:00 p.m. (prevailing Eastern Time) on May 12, 2023, and shall be served on: (a) the Debtors, 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (b) British Columbia, Canada V2A 8B5, Attn: Matthew Karmel (mkarmel@structurlam.com); (b) proposed counsel to the Debtors, Chipman Brown Cicero & Cole, LLP, Hercules Plaza, 1313 North Market Street, Suite 5400, Wilmington, Delaware 19801, Attn: William E. Chipman, Jr. (chipman@chipmanbrown.com); Robert A. Weber (weber@chipmanbrown.com); Mark L. Desgrosseilliers (desgross@chipmanbrown.com); and Mark Olivere (olivere@chipmanbrown.com); (c) the Office of the United States Trustee, 844 King Street, Suite 2207, Lockbox 35, Wilmington, Delaware 19801, Attn: Benjamin A. Hackman (benjamin.a.hackman@usdoj.gov); (d) counsel to the Prepetition Lender and DIP Lender, (i) Blake,

Cassels & Graydon LLP, 855 - 2nd Street S.W., Suite 3500, Bankers Hall East Tower, Calgary, Alberta, T2P 4J8, Attn: Kelly Bourassa (kelly.bourassa@blakes.com), Christopher Keliher (christopher.keliher@blakes.com), Erik Fleming (erik.fleming@blakes.com), and Austin Beck (Austin.Beck@blakes.com) (ii) Chapman and Cutler LLP, 320 South Canal Street, Chicago, Illinois 60606 (Attn: Stephen R. Tetro II and James P. Sullivan), email: stetro@chapman.com and jsulliva@chapman.com, and (iii) Womble Bond Dickinson (US) LLP, 1313 North Market Street, Suite 1200, Wilmington, Delaware 19801 (Attn: Matthew P. Ward), email: matthew-ward@wbd-us.com; and (e) counsel to any statutory committee appointed in the Chapter 11 Cases.

3. The Debtors are authorized, but not directed, in their sole discretion, to pay all or part of, and discharge, on a case-by-case basis, Critical Vendor Claims in an aggregate amount not to exceed \$500,000 (CAD) on an interim basis, absent further order of the Court.

4. Nothing herein shall impair or prejudice the Debtors' ability to contest, in their sole discretion, the extent, perfection, priority, validity, or amounts of any claims held by any Shipper, Critical Vendor, or 503(b)(9) Claimant. The Debtors do not concede that any claims satisfied pursuant to this Interim Order are valid, and the Debtors expressly reserve all rights to contest the extent, validity, or perfection or to seek the avoidance of all such liens or the priority of such claims.

5. Notwithstanding the relief granted in this Interim Order and any actions taken pursuant to such relief, nothing in this Interim Order shall be deemed: (a) an admission as to the validity, priority, or amount of any particular claim against a Debtor entity; (b) a waiver of the Debtors' or any other party in interest's right to dispute any particular claim on any grounds; (c) a promise or requirement to pay any particular claim; (d) an implication or admission that any particular claim is of a type specified or defined in this Interim Order or the Motion; (e) a request

or authorization to assume any agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; (f) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; or (g) a concession by the Debtors or any other party in interest that any liens (contractual, common law, statutory, or otherwise) satisfied pursuant to this Interim Order are valid and the Debtors and all other parties in interest expressly reserve their rights to contest the extent, validity, or perfection or to seek avoidance of all such liens. Any payment made pursuant to this Interim Order should not be construed as an admission as to the validity, priority, or amount of any particular claim or a waiver of the Debtors' or any other party in interest's rights to subsequently dispute such claim. The relief granted by this Interim Order is not intended to and does not grant the Debtors any authority to use cash collateral of Bank of Montreal or to use proceeds of any postpetition financing provided by Bank of Montreal in any way inconsistent with the provisions of any interim or final order of this Court approving Court approving the Debtors' use of cash collateral or authorizing the Debtors to obtain debtor-in-possession financing (a "DIP Order"). For the avoidance of doubt, in case of a conflict between the provisions of this Interim Order and a DIP Order, the provisions of such DIP Order shall control.

6. The banks and financial institutions on which checks were drawn or electronic payment requests made in payment of the prepetition obligations approved herein are authorized to receive, process, honor, and pay all such checks and electronic payment requests when presented for payment, and all such banks and financial institutions are authorized to rely on the Debtors' designation of any particular check or electronic payment request as approved by this Interim Order without any duty of further inquiry.

7. The Debtors are authorized to issue postpetition checks, or to effect postpetition fund transfer requests, in replacement of any checks or fund transfer requests that are dishonored as a consequence of these Chapter 11 Cases with respect to prepetition amounts owed in connection with any Critical Vendor Claim or 503(b)(9) Claim.

8. The contents of the Motion satisfy the requirements of Bankruptcy Rule 6003(b).

9. Notice of the Motion was provided in accordance with Local Rule 9013-1(m)(iii) and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order are immediately effective and enforceable upon its entry.

11. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Interim Order in accordance with the Motion.

12. This Court retains jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Interim Order.

Dated: April 26th, 2023  
Wilmington, Delaware



CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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In re:	)	
	)	Chapter 11
	)	
STRUCTURLAM MASS TIMBER U.S., INC., <i>et al.</i> , <sup>1</sup>	)	
	)	Case No. 23-10479 (CTG)
	)	
Debtors.	)	(Jointly Administered)
	)	
	)	Re: Docket No. 15

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**ORDER AUTHORIZING THE DEBTORS TO EMPLOY  
AND RETAIN KURTZMAN CARSON CONSULTANTS LLC AS  
CLAIMS AND NOTICING AGENT EFFECTIVE AS OF THE PETITION DATE**

Upon the application (the "Application")<sup>2</sup> of the above-captioned debtors and debtors in possession (collectively, the "Debtors") for entry of an order (this "Order") for authority to employ and retain Kurtzman Carson Consultants LLC ("KCC") as claims and noticing agent (the "Claims and Noticing Agent") in the Debtors' Chapter 11 Cases effective as of the Petition Date, all as more fully set forth in the Application; and upon the First Day Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and that this Court may enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Application is in the best interests of the Debtors' estates, their creditors, and other parties in interest; and this Court having found that the Debtors' notice of the Application and opportunity for a hearing on the Application were appropriate under the

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number or Canadian business number, as applicable, include: Structurlam Mass Timber U.S., Inc. (6287); Natural Outcomes, LLC (n/a); Structurlam Mass Timber Corporation (5050); and SLP Holdings Ltd. (3114). The location of the Debtors' headquarters is: 2176 Government Street, Penticton, British Columbia, Canada V2A 8B5. The address of the registered agent for Structurlam Mass Timber U.S., Inc. is: 8 The Green, Suite A, Dover, Delaware 19901.

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Application.

circumstances and no other notice need be provided; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is approved as set forth herein.
2. The Debtors are authorized, pursuant to 28 U.S.C. § 156(c) and Local Rule 2002-1(f), to retain KCC, and KCC is appointed as the Claims and Noticing Agent, effective as of the Petition Date, under the terms and conditions of the Services Agreement, attached hereto as **Exhibit 1**. Notwithstanding any terms of the Services Agreement, the Application is approved solely as set forth in this Order.
3. KCC, as the Claims and Noticing Agent, is directed to perform noticing services and to receive, maintain, record, and otherwise administer the proofs of claim filed in these cases (if any), and all related tasks, all as described in the Application (collectively, the "Claims and Noticing Services").
4. KCC shall serve as the custodian of court records and shall be designated as the authorized repository for all proofs of claim filed in these Chapter 11 Cases (if any) and is authorized and directed to maintain official claims registers for each of the Debtors, to provide public access to every proof of claim unless otherwise ordered by the Court and to provide the Clerk with a certified duplicate thereof upon the request of the Clerk.
5. KCC is authorized and directed to provide an electronic interface for filing proofs of claim and to obtain a post office box or address for the receipt of proofs of claim (if necessary).

6. KCC is authorized to take such other action to comply with all duties set forth in the Application.

7. KCC shall maintain records of all services performed, showing dates, categories of services, fees charged, and expenses incurred, and shall serve monthly invoices on the Debtors, the U.S. Trustee, counsel to the Debtors, counsel to any official committee monitoring the expenses of the Debtors, and any party in interest who specifically requests service of the monthly invoices.

8. The parties shall meet and confer in an attempt to resolve any dispute which may arise relating to the Services Agreement or monthly invoices, and the parties may seek resolution of such matter from this Court if resolution is not achieved.

9. Pursuant to section 503(b)(1)(A) of the Bankruptcy Code, the fees and expenses of KCC under this Order shall be an administrative expense of the Debtors' estates.

10. Without further order of this Court, the Debtors are authorized to compensate and reimburse KCC in accordance with the terms and conditions of the Services Agreement and consistent with the DIP order upon KCC's submission to the Debtors of invoices summarizing, in reasonable detail, the services rendered and the reasonable and necessary expenses incurred in connection therewith consistent with the DIP Order and without the necessity for KCC to file an application for compensation or reimbursement with this Court.

11. KCC seeks to first apply its retainer to all prepetition invoices and, thereafter, to have the retainer replenished to the original retainer amount and, thereafter, to hold the retainer under the Services Agreement during the Chapter 11 Cases as security for the payment of fees and expenses consistent with the DIP order incurred under the Services Agreement.

12. The Debtors shall indemnify KCC under the terms of the Services Agreement, as modified pursuant to this Order.

13. KCC shall not be entitled to indemnification, contribution, or reimbursement pursuant to the Services Agreement for services other than the Claims and Noticing Services, as provided under the Services Agreement, unless such services and the indemnification, contribution, or reimbursement therefore is approved by this Court.

14. Notwithstanding anything to the contrary in the Services Agreement, the Debtors shall have no obligation to indemnify KCC, or provide contribution or reimbursement to KCC, for any losses, claims, damages, judgments, liabilities, or expense that are either: (a) judicially determined (the determination having become final) to have arisen from KCC's gross negligence, willful misconduct, or fraud; (b) for a contractual dispute in which the Debtors allege the breach of KCC's contractual obligations, if this Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to *United Artists Theatre Co. v. Walton (In re United Artists Theatre Co.)*, 315 F.3d 217 (3d Cir. 2003); or (c) settled prior to a judicial determination under subsection (a) or (b), but determined by this Court, after notice and a hearing, to be a claim or expense for which KCC should not receive indemnity, contribution, or reimbursement under the terms of the Services Agreement as modified by this Order.

15. Before the earlier of: (a) the entry of an order confirming a chapter 11 plan in these Chapter 11 Cases (that order having become a final order no longer subject to appeal); and (b) the entry of an order closing these Chapter 11 Cases, should KCC believe that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, or reimbursement obligations under the Services Agreement (as modified by this Order), including, without limitation, the advancement of defense costs, KCC must file an application in

this Court, and the Debtors may not pay any such amounts to KCC before the entry of an order by this Court approving such application and the payment requested therein. This paragraph is intended only to specify the period of time under which this Court shall have jurisdiction over any request for fees and expenses by KCC for indemnification, contribution, or reimbursement, and not a provision limiting the duration of the Debtors' obligation to indemnify KCC. All parties in interest shall retain the right to object to any demand by KCC for indemnification, contribution, or reimbursement.

16. In the event KCC is unable to provide the Claims and Noticing Services, KCC will immediately notify the Clerk and the Debtors' counsel and, upon approval of this Court, cause to have all original proofs of claim and computer information turned over to another claims and noticing agent with the advice and consent of the Clerk and the Debtors' counsel.

17. The Debtors may submit a separate retention application, pursuant to section 327 of the Bankruptcy Code or any applicable law, for work that is to be performed by KCC but is not specifically authorized by this Order.

18. Notwithstanding any term in the Services Agreement to the contrary, during the Chapter 11 Cases, KCC's liability will not be limited to the amount paid or billed to the Debtors.

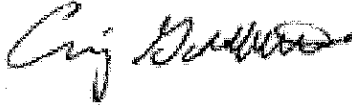
19. KCC shall not cease providing claims processing services during these Chapter 11 Cases for any reason, including nonpayment, without an order of this Court.

20. The Debtors and KCC are authorized to take all steps necessary or appropriate to carry out this Order.

21. In the event of any inconsistency between the Services Agreement, the Application, and this Order, the terms of this Order shall govern.

22. Notice of the Application as provided therein shall be deemed good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

23. Notwithstanding any term in the Services Agreement to the contrary, this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.



Dated: April 26th, 2023  
Wilmington, Delaware

CRAIG T. GOLDBLATT  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

**Services Agreement**



## KCC AGREEMENT FOR SERVICES

This Agreement is entered into as of the 13 day of April 2023, between Sturcturlam Mass Timber Corporation (together with its affiliates and subsidiaries, the "Company"),<sup>1</sup> and Kurtzman Carson Consultants LLC (together with its affiliates and subcontractors, "KCC"). In consideration of the premises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### Terms and Conditions

#### I. SERVICES

A. KCC agrees to provide the Company with consulting services regarding noticing, claims management and reconciliation, plan solicitation, balloting, disbursements and any other services agreed upon by the parties or otherwise required by applicable law, government regulations or court rules or orders.

B. KCC further agrees to provide (i) computer software support and training in the use of the support software, (ii) KCC's standard reports as well as consulting and programming support for the Company requested reports, (iii) program modifications, (iv) data base modifications, and/or (v) other features and services in accordance with the fees outlined in a pricing schedule provided to the Company (the "KCC Fee Structure").

C. Without limiting the generality of the foregoing, KCC may, upon request by the Company, (i) provide a communications plan including, but not limited to, preparation of communications materials, dissemination of information and a call center staffed by KCC and/or (ii) provide confidential on-line workspaces or virtual data rooms and publish documents to such workspaces or data rooms (which publication shall not be deemed to violate the confidentiality provisions of this Agreement).

D. The price listed for each service in the KCC Fee Structure represents a bona fide proposal for such services, which may be accepted in whole or in part. Services will be provided when requested by the Company or required by applicable law, government regulations or court rules or orders. Services are mutually exclusive and are deemed delivered and accepted by the Company when provided by KCC.

E. The Company acknowledges and agrees that KCC will often take direction from the Company's representatives, employees, agents and/or professionals (collectively, the "Company Parties") with respect to the services being provided under this Agreement. The parties agree that KCC may rely upon, and the Company agrees to be bound by, any requests, advice or information provided by the Company Parties to the same extent as if such requests, advice or information were provided by the Company. The Company agrees and understands that KCC shall not provide the Company or any other party with any legal advice.

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<sup>1</sup> The term Company shall include, to the extent applicable, the Company, as debtor and debtor in possession in its chapter 11 case, together with any affiliated debtors and debtors in possession whose chapter 11 cases are jointly administered with the Company's chapter 11 case.



## KCC AGREEMENT FOR SERVICES

### II. PRICES, CHARGES AND PAYMENT

A. KCC agrees to charge and the Company agrees to pay KCC for its services at the rates and prices set by KCC that are in effect as of the date of this Agreement and in accordance with the KCC Fee Structure. KCC's prices are generally adjusted periodically to reflect changes in the business and economic environment and are inclusive of all charges. KCC reserves the right to reasonably increase its prices, charges and rates; provided, however, that if any such increase exceeds 15%, KCC will give thirty (30) days written notice to the Company.

B. In addition to fees and charges for services, the Company agrees to pay KCC's reasonable transportation, lodging, and meal expenses incurred in connection with services provided under this Agreement.

C. In addition to all fees for services and expenses hereunder, the Company shall pay to KCC (i) any fees and charges related to, arising out of, or as a result of any error or omission made by the Company or the Company Parties, as mutually determined by KCC and the Company, and (ii) all taxes that are applicable to this Agreement or that are measured by payments made under this Agreement and are required to be collected by KCC or paid by KCC to a taxing authority.

D. Where the Company requires services that are unusual or beyond the normal business practices of KCC, or are otherwise not provided for in the KCC Fee Structure, the cost of such services shall be charged to the Company at a competitive rate.

E. KCC agrees to submit its invoices to the Company monthly and the Company agrees that the amount invoiced is due and payable upon the Company's receipt of the invoice. KCC's invoices will contain reasonably detailed descriptions of charges for both hourly (fees) and non-hourly (expenses) case specific charges. Where total invoice amounts are expected to exceed \$10,000 in any single month and KCC reasonably believes it will not be paid, KCC may require advance payment from the Company due and payable upon demand and prior to the performance of services hereunder. If any amount is unpaid as of thirty (30) days from the receipt of the invoice, the Company further agrees to pay a late charge, calculated as one and one-half percent (1-1/2%) of the total amount unpaid every thirty (30) days. In the case of a dispute in the invoice amount, the Company shall give written notice to KCC within ten (10) days of receipt of the invoice by the Company. The undisputed portion of the invoice will remain due and payable immediately upon receipt of the invoice. Late charges shall not accrue on any amounts in dispute or any amounts unable to be paid due to Court order or applicable law. Unless otherwise agreed to in writing, the fees for print notice and media publication (including commissions) must be paid at least three (3) days in advance of those fees and expenses being incurred. Certain fees and charges may need to be adjusted due to availability related to the COVID-19 (novel coronavirus) global health issue.

F. In the event that the Company files for protection pursuant to chapter 11 of the United States Bankruptcy Code (a "Chapter 11 Filing"), the parties intend that KCC shall be employed pursuant to 28 U.S.C. § 156(c) to the extent possible and otherwise in accordance with applicable Bankruptcy law and that all amounts due under this Agreement shall, to the extent possible, be paid as administrative expenses of the Company's chapter 11 estate. As soon as practicable following a Chapter 11 Filing (and otherwise in accordance with applicable law and rules and



## KCC AGREEMENT FOR SERVICES

orders of the Bankruptcy Court), the Company shall cause pleadings to be filed with the Bankruptcy Court seeking entry of an order or orders approving this Agreement (the "Retention Order"). The form and substance of the pleadings and the Retention Order shall be reasonably acceptable to KCC. If any Company chapter 11 case converts to a case under chapter 7 of the Bankruptcy Code, KCC will continue to be paid for its services in accordance with the terms of this Agreement. The parties recognize and agree that if there is a conflict between the terms of this Agreement and the terms of the Retention Order, the terms of the Retention Order shall govern during the chapter 11 or other proceeding.

G. To the extent permitted by applicable law, KCC shall receive a retainer in the amount of \$15,000 (the "Retainer") that may be held by KCC as security for the Company's payment obligations under the Agreement. The Retainer is due upon execution of this Agreement. In the event of a Chapter 11 Filing, KCC will first apply the Retainer to all pre-petition invoices, and thereafter, will have the Retainer replenished to the original amount. KCC shall be entitled to hold the Retainer until the termination of the Agreement. Following termination of the Agreement, KCC shall return to the Company any amount of the Retainer that remains following application of the Retainer to the payment of unpaid invoices.

### III. RIGHTS OF OWNERSHIP

A. The parties understand that the software programs and other materials furnished by KCC pursuant to this Agreement and/or developed during the course of this Agreement by KCC are the sole property of KCC. The term "program" shall include, without limitation, data processing programs, specifications, applications, routines, and documentation. The Company agrees not to copy or permit others to copy the source code from the support software or any other programs or materials furnished pursuant to this Agreement.

B. The Company further agrees that any ideas, concepts, know-how or techniques relating to data processing or KCC's performance of its services developed or utilized during the term of this Agreement by KCC shall be the exclusive property of KCC. Fees and expenses paid by the Company do not vest in the Company any rights in such property, it being understood that such property is only being made available for the Company's use during and in connection with the services provided by KCC under this Agreement.

### IV. NON-SOLICITATION

The Company agrees that neither it nor its subsidiaries or other affiliated companies shall directly or indirectly solicit for employment, employ or otherwise retain employees of KCC during the term of this Agreement and for a period of twelve (12) months after termination of this Agreement unless KCC provides prior written consent to such solicitation or retention.

### V. CONFIDENTIALITY

Each of KCC and the Company, on behalf of themselves and their respective employees, agents, professionals and representatives, agrees to keep confidential all non-public records, systems, procedures, software and other information received from the other party in connection with the services provided under this Agreement; provided, however, that if either party reasonably believes that it is required to produce any such information by order of any governmental agency



## KCC AGREEMENT FOR SERVICES

or other regulatory body it may, upon not less than five (5) business days' written notice to the other party, release the required information.

### VI. SUSPENSION OF SERVICE AND TERMINATION

A. This Agreement shall remain in force until terminated or suspended by either party (i) upon thirty (30) days' written notice to the other party or (ii) immediately upon written notice for Cause (defined herein). As used herein, the term "Cause" means (i) gross negligence or willful misconduct of KCC that causes serious and material harm to the Company's reorganization under chapter 11 of the Bankruptcy Code, (ii) the failure of the Company to pay KCC invoices for more than sixty (60) days from the date of invoice, or (iii) the accrual of invoices or unpaid services in excess of the retainer held by KCC where KCC reasonably believes it will not be paid.

B. In the event that this contract is terminated, regardless of the reason for such termination, KCC shall coordinate with the Company and, to the extent applicable, the clerk of the Bankruptcy Court, to maintain an orderly transfer of record keeping functions and KCC shall provide all necessary staff, services and assistance required for an orderly transfer. The Company agrees to pay for such services in accordance with KCC's then existing prices for such services. If such termination occurs following entry of the Retention Order, the Company shall immediately seek entry of an order (in form and substance reasonably acceptable to KCC) that discharges KCC from service and responsibility in the Company's bankruptcy case.

C. Any data, programs, storage media or other materials furnished by the Company to KCC or received by KCC in connection with the services provided under the terms of this Agreement may be retained by KCC until the services provided are paid for, or until this Agreement is terminated with the services paid in full. The Company shall remain liable for all fees and expenses imposed under this Agreement as a result of data or physical media maintained or stored by KCC. KCC shall dispose of the data and media in the manner requested by the Company. The Company agrees to pay KCC for reasonable expenses incurred as a result of the disposition of data or media. If the Company has not utilized KCC's services under this Agreement for a period of at least ninety (90) days, KCC may dispose of the data or media, and be reimbursed by the Company for the expense of such disposition, after giving the Company thirty (30) days' notice. Notwithstanding any term herein to the contrary, following entry of the Retention Order, the disposition of any data or media by KCC shall be in accordance with any applicable instructions from the clerk of the Bankruptcy Court, local Bankruptcy Court rules and orders of the Bankruptcy Court.

### VII. SYSTEM IMPROVEMENTS

KCC strives to provide continuous improvements in the quality of service to its clients. KCC, therefore, reserves the right to make changes in operating procedure, operating systems, programming languages, general purpose library programs, application programs, time period of accessibility, types of terminal and other equipment and the KCC data center serving the Company, so long as any such changes do not materially interfere with ongoing services provided to the Company in connection with the Company's chapter 11 case.



## KCC AGREEMENT FOR SERVICES

### VIII. BANK ACCOUNTS

At the Company's request and subject to Court approval following any chapter 11 filing, KCC may be authorized to establish accounts with financial institutions in the name of and as agent for the Company. To the extent that certain financial products are provided to the Company pursuant to KCC's agreement with financial institutions, KCC may receive compensation from such financial institutions for the services KCC provides pursuant to such agreement.

### IX. LIMITATIONS OF LIABILITY AND INDEMNIFICATION

A. The Company shall indemnify and hold KCC, its affiliates, members, directors, officers, employees, consultants, subcontractors and agents (collectively, the "Indemnified Parties") harmless, to the fullest extent permitted by applicable law, from and against any and all losses, claims, damages, judgments, liabilities and expenses (including reasonable counsel fees and expenses) (collectively, "Losses") resulting from, arising out of or related to KCC's performance under this Agreement. Such indemnification shall exclude Losses resulting from KCC's gross negligence or willful misconduct. Without limiting the generality of the foregoing, Losses include any liabilities resulting from claims by any third-parties against any Indemnified Party. The Company shall notify KCC in writing promptly upon the assertion, threat or commencement of any claim, action, investigation or proceeding that the Company becomes aware of with respect to the services provided by KCC under this Agreement. The Company's indemnification obligations hereunder shall survive the termination of this Agreement.

B. Except as provided herein, KCC's liability to the Company or any person making a claim through or under the Company for any Losses of any kind, even if KCC has been advised of the possibility of such Losses, whether direct or indirect and unless due to gross negligence or willful misconduct of KCC, shall be limited to the total amount billed or billable to the Company for the portion of the particular work which gave rise to the alleged Loss. In no event shall KCC be liable for any indirect, special or consequential damages such as loss of anticipated profits or other economic loss in connection with or arising out of the services provided for in this Agreement. In no event shall KCC's liability to the Company for any Losses, whether direct or indirect, arising out of this Agreement exceed the total amount billed to the Company and actually paid to KCC for the services contemplated under the Agreement; provided, however, that this limitation shall not apply to the Company during any chapter 11 case in which the Company is a debtor.

C. The Company is responsible for the accuracy of the programs, data and information it or any Company Party submits for processing to KCC and for the output of such information. KCC does not verify information provided by the Company and, with respect to the preparation of schedules and statements, all decisions are at the sole discretion and direction of the Company. The Company reviews and approves all schedules and statements filed on behalf of, or by, the Company; KCC bears no responsibility for the accuracy or contents therein. The Company agrees to initiate and maintain backup files that would allow the Company to regenerate or duplicate all programs and data submitted by the Company to KCC.

D. The Company agrees that except as expressly set forth herein, KCC makes no representations or warranties, express or implied, including, but not limited to, any implied or



## KCC AGREEMENT FOR SERVICES

express warranty of merchantability, fitness or adequacy for a particular purpose or use, quality, productiveness or capacity.

### X. FORCE MAJEURE

KCC will not be liable for any delay or failure in performance when such delay or failure arises from circumstances beyond its reasonable control, including without limitation acts of God, acts of government in its sovereign or contractual capacity, acts of public enemy or terrorists, acts of civil or military authority, war, riots, civil strife, terrorism, blockades, sabotage, rationing, embargoes, epidemics, pandemics, outbreaks of infectious diseases or any other public health crises, earthquakes, fire, flood, other natural disaster, quarantine or any other employee restrictions, power shortages or failures, utility or communication failure or delays, labor disputes, strikes, or shortages, supply shortages, equipment failures, or software malfunctions.

### XI. INDEPENDENT CONTRACTORS

The Company and KCC are and shall be independent contractors of each other and no agency, partnership, joint venture or employment relationship shall arise, directly or indirectly, as a result of this Agreement.

### XII. NOTICES

All notices and requests in connection with this Agreement shall be given or made upon the respective parties in writing and shall be deemed as given as of the third day following the day it is deposited in the U.S. Mail, postage pre-paid or on the day it is given if sent by facsimile or electronic mail or on the day after the day it is sent if sent by overnight courier to the appropriate address set forth below:

Kurtzman Carson Consultants LLC  
222 N. Pacific Coast Highway, 3rd Floor  
El Segundo, CA 90245  
Attn: Drake D. Foster  
Tel: (310) 823-9000  
Fax: (310) 823-9133  
E-Mail: dfoster@kccllc.com

Company  
Address  
City, ST Zip  
Attn:  
Tel:  
Fax:

Or to such other address as the party to receive the notice or request so designates by written notice to the other.

### XIII. APPLICABLE LAW

The validity, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

### XIV. ENTIRE AGREEMENT/ MODIFICATIONS

Each party acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms and further agrees that it is the complete and exclusive statement of the agreement



## KCC AGREEMENT FOR SERVICES

between the parties, which supersedes and merges all prior proposals, understandings, other agreements, and communications oral and written between the parties relating to the subject matter of this Agreement. The Company represents that it has the authority to enter into this Agreement, and the Agreement is non-dischargeable under any applicable statute or law. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby. This Agreement may be modified only by a written instrument duly executed by an authorized representative of the Company and an officer of KCC.

### XV. COUNTERPARTS; EFFECTIVENESS

This Agreement may be executed in two or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. This Agreement will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties, which delivery may be made by exchange of copies of the signature page by facsimile or electronic mail.

### XVI. ASSIGNMENT

This Agreement and the rights and duties hereunder shall not be assignable by the parties hereto except upon written consent of the other, with the exception that this Agreement can be assigned without written consent by KCC to a wholly-owned subsidiary or affiliate of KCC.

### XVII. ATTORNEYS' FEES

In the event that any legal action, including an action for declaratory relief, is brought to enforce the performance or interpret the provisions of this Agreement, the parties agree to reimburse the prevailing party's reasonable attorneys' fees, court costs, and all other related expenses, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which the prevailing party may be entitled.

[SIGNATURE PAGE FOLLOWS]



## KCC AGREEMENT FOR SERVICES

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the first date mentioned above.

Kurtzman Carson Consultants LLC

DocuSigned by:  
Evan Gershbein

C7E04A3E0F064D...

BY: Evan Gershbein

DATE: 15-Apr-2023 | 8:56:29 PM EDT

TITLE: EVP, Corporate Restructuring Services

Company

DocuSigned by:

Shawn Turkington

B8FE79D0C861448...

BY: Shawn Turkington

DATE: 4/15/2023

TITLE: Interim Chief Financial Officer

# Fee Structure



## Consulting Services & Rates

### Position

### Hourly Rate

#### Analyst

\$27 - \$45

The Analyst processes incoming mail, including proofs of claim, ballots, creditor correspondence and returned mail. Also assists with the generation of mailing services.

#### Technology/Programming Consultant 2

\$31.50 - \$85.50

The Technology/Programming Consultant assists with complex system requests, including unique claim/ballot reporting and custom website updates.

#### Consultant/Senior Consultant/Director

\$68.50 - \$175.50

The Consultant is the day-to-day contact for mailings, including the preparation and filing of affidavits of service (a critical due process component). He/she also responds to creditor and counsel inquiries, maintains the public access website, identifies actionable pleadings (i.e., claims objections, notices of transfer, withdrawals, etc.) and updates the official claims register. KCC's Consultants average over six years of experience.

The Senior Consultant manages the various data collection processes required by the chapter 11 process. This includes, among other things, compiling the creditor matrix and Schedules/SOFAs (and generating drafts of same for counsel and advisors), reviewing and processing claims, overseeing contract review, overseeing all mailings and generating custom claim and ballot reports. KCC's Senior Consultants average over seven years of experience.

The Director is the primary contact for the company, counsel and other professionals and oversees and supports the entirety of an engagement. KCC's Directors average over twelve years of experience and are generally former practitioners.

#### Securities/Solicitation Consultant

\$184.50

The Securities Director/Solicitation Consultant is the day-to-day contact and acts as advisor on transactions including balloting with treatment election, rights offers, exchange offers and complex plan distributions. This position handles service of related materials to banks, brokers and agents and manages tabulation and audit processes, preparing detailed reporting of results. In addition, the Solicitation Consultant provides support on all voting, tabulation, Schedule and SOFA services and other additional complex consulting tasks.

#### Securities Director/Solicitation Lead

\$193.50

The Solicitation Lead/Securities Director oversees all activities of the group and provides counsel with respect to solicitation and noticing events ensuring that processes employed are effective and practical for securities depositories, bank, brokers, nominees and their agents. In addition, the Solicitation Lead provides counsel on all voting, tabulation, Schedule and SOFA services and other additional complex consulting tasks.

#### Weekend, holidays and overtime

Waived

# Fee Structure



## Printing Services & Noticing Services

Printing	\$0.10 per image (volume discounts apply)
Document folding and inserting	Waived
Envelopes	Varies by size
E-mail noticing	Waived
Fax noticing	\$0.05 per page
Public Securities Events	Varies by Event
Claim Acknowledgement Card	Waived
Insert creditor information into customized documents	Waived
Newspaper and legal notice publishing	Quote prior to publishing

## Claims Administration & Management Expenses

License fee and data storage	\$0.10 per record per month
Database and system access (unlimited users)	Waived
Custom client reports	Waived
Access to KCC CaseView (secure, password protected)	Waived

- Proprietary, secured, password protected portal for unlimited users
- Comprehensive case data, including extensive real-time analytics on claim, solicitation and processing information
- Functionality to run or request customized reports summarizing case analytics

## KCC eServices

Case website set up & hosting	Waived
Automated updates of case docket and claims register	Waived
Online claims filing (ePOC)	Waived

## Document Management/Imaging

Electronic Imaging (scanning & bar coding)	\$0.10 per imaged page
Virtual Data Room	Quote prior to VDR set-up
CD-ROMS (mass document storage)	Varies upon requirements

## Fee Structure



## Call Center Support Services

Case-specific voice-mail box for creditors	Waived
Interactive Voice Response ("IVR")	Set-up and per minute fee waived
Monthly maintenance charge	Waived
Management of Call Center	Standard hourly rates

## Disbursements

Check issuance	Quote prior to printing
W-9 mailing and maintenance of TIN database	See hourly rates and noticing charges

No. \_\_\_\_\_  
Vancouver Registry

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

**AND IN THE MATTER OF SLP HOLDINGS LTD,**  
**STRUCTURLAM MASS TIMBER CORPORATION,**  
**STRUCTURLAM MASS TIMBER U.S., INC.,**  
**NATURAL OUTCOMES, LLC**

**APPLICATION OF SLP HOLDINGS LTD. UNDER**  
**SECTION 46 OF THE *COMPANIES' CREDITORS***  
***ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS**  
**AMENDED**

**PETITIONER**

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**PETITION**

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GOWLING (WLG) CANADA LLP  
Suite 2300  
550 Burrard Street  
Vancouver, BC V6C 2B5  
Tel. 604.891-2778 Fax 604.683.3558

**Attention: Jonathan B. Ross**

File No. V56936/JR