

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE) TUESDAY, THE 13th
JUSTICE DUNPHY) DAY OF FEBRUARY, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
DUNDEE OIL AND GAS LIMITED

INITIAL ORDER

THIS APPLICATION, made by Dundee Oil and Gas Limited ("DOGL") on its behalf and as general partner on behalf of Dundee Energy Limited Partnership ("DELP", together the "Debtors"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Lucie Presot sworn February 8, 2018 and the Exhibits thereto, and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Debtors, National Bank of Canada, FTI Consulting Canada Inc. ("FTI") in its capacity as the Proposed Monitor (the "Monitor"), and on reading the consent of FTI to act as the Monitor and the Fourth Report of the Proposal Trustee dated February 7, 2018,

13 Feb 2018
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Let this order
issue subject to amendment
& deletion of para 19
& para 33.
[Signature]

SERVICE

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

CONTINUANCE UNDER THE CCAA

2. THIS COURT ORDERS AND DECLARES that DOGL is a company to which the CCAA applies and DELP shall enjoy the benefits of the protection and authorizations provided to DOGL by this Order.

3. THIS COURT ORDERS AND DECLARES that effective February 13, 2018, the Debtors' restructuring proceedings (the "**Proposal Proceedings**") commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (as amended) (the "**BIA**") are hereby taken up and continued under the CCAA and that as of such date, the provisions of Part III of the BIA shall have no further application to the Debtors, save that any and all steps, agreements and procedures validly taken, done or entered into by the Debtors during the Proposal Proceedings shall remain valid and binding notwithstanding the continuation of the Proposal Proceedings and the commencement of the within CCAA proceedings, including, without limitation (a) the sale solicitation process ("**BIA SSP**") approved in the Order of Regional Senior Justice Morawetz dated August 16, 2017, as amended (the "**August 16 Order**"); (b) any assignment of leases or other agreements given or entered into by the Debtors during the Proposal Proceedings as amended from time to time; and (c) any agreements entered into with Nadro Marine Services Limited.

4. THIS COURT ORDERS AND DECLARES that all capitalized terms not otherwise defined in this Order have the meanings attributed to them in the August 16 Order.

5. THIS COURT ORDERS AND DECLARES that, subject to further order of this Court, all orders of the Court granted in the Proposal Proceedings shall continue to be in full force and effect, except to the extent that such orders are inconsistent with the terms of this Order or the CCAA.

6. THIS COURT ORDERS that the Monitor is authorized and directed to continue to carry out and fulfill each provision of the August 16 Order that pertains to the Proposal Trustee including, without limitation, the BIA SSP. The Monitor shall have the benefit of all rights and protections granted to the Proposal Trustee under the August 16 Order in carrying out its terms and, unless the context otherwise requires, all references to "Proposal Trustee" in the August 16 Order shall mean the Monitor from and after the date of this Order, except to the extent inconsistent with the terms of this Order or the CCAA.

PLAN OF ARRANGEMENT

7. THIS COURT ORDERS that the Debtors shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

8. THIS COURT ORDERS that the Debtors shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court and compliance with the terms of the Forbearance Agreement (as defined below) and Cash Flow Statements (as defined in the Forbearance Agreement), the Debtors shall continue to carry on business in a manner consistent with the preservation of their business (the "**Business**") and Property. The Debtors are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by them, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

9. THIS COURT ORDERS that, subject to the terms of the Forbearance Agreement that require the Debtors to comply with the Cash Flow Statements, the Debtors shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in

the ordinary course of business and consistent with existing compensation policies and arrangements; and

- (b) the fees and disbursements of any Assistants retained or employed by the Debtors in respect of these proceedings, at their standard rates and charges.

10. THIS COURT ORDERS that, except as otherwise provided to the contrary herein and subject to the terms of the Forbearance Agreement that require the Debtors to comply with the Cash Flow Statements, the Debtors shall be entitled but not required to pay all reasonable expenses incurred by the Debtors in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Debtors following the date of this Order.

11. THIS COURT ORDERS that the Debtors shall from and after the date of this Order remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Debtors in connection with the sale of goods and services by the Debtors, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior

to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Debtors after the date of this Order.

12. THIS COURT ORDERS that until a real property lease is assigned or disclaimed in accordance with the CCAA, the Debtors shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between either Debtor, as applicable, and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, in accordance with past practice or on the terms pursuant to the lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

13. THIS COURT ORDERS that, except as specifically permitted herein or in the Forbearance Agreement, the Debtors are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Debtors to any of their creditors as of this date except such payments to the Lender; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

14. THIS COURT ORDERS that the Debtors shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as defined below), and with the prior written consent of the Lender, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations,
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deems appropriate; and
- (c) pursue all avenues of refinancing of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing (for greater certainty, an assignment of the Lender's debt and security to another party shall not constitute a material refinancing requiring Court approval),

all of the foregoing to permit the Debtors to proceed with an orderly restructuring of the Business (the "**Restructuring**").

15. THIS COURT ORDERS that, except in the case of offshore mineral leases, the Debtors shall provide each of the relevant landlords with notice of either Debtor's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Debtors' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Debtors, or by further Order of this Court upon application by the Debtors on at least two (2) days notice to such landlord and any such secured creditors. If the Debtors disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Debtors' claim to the fixtures in dispute.

16. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant Debtor and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may

have against the Debtors in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

17. THIS COURT ORDERS that, subject to paragraph 18(v) hereof, until and including March 13, 2018, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Debtors or the Monitor, or affecting the Business or the Property, except with the written consent of the Debtors and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

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

19. THIS COURT ORDERS that DELP shall not be deemed to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

until further order
of this court, ASD

NO INTERFERENCE WITH RIGHTS

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

CONTINUATION OF SERVICES

21. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the 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 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 each of the Debtors and the Monitor, or as may be ordered by this Court. Dundee Corporation shall continue to make available all computer systems and other services provided to the Debtors in accordance with normal practices.

NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

23. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the 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, until a compromise or arrangement in respect of the Debtors, if one is filed, is sanctioned by this Court or is refused by the creditors of the Debtors or this Court.

APPOINTMENT OF MONITOR

24. THIS COURT ORDERS that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Debtors with the powers and obligations set out in the CCAA or set forth herein and that the Debtors and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Debtors pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

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

- (a) monitor the Debtors' receipts and disbursements;
- (b) take all steps necessary to implement the BIA SSP including all steps required to close any sale transaction approved under the BIA SSP, in these proceedings or under the Proposal Proceedings;
- (c) report to the Lender on matters related to the Debtors' Business, Property or the BIA SSP;

- (d) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the BIA SSP and such other matters as may be relevant to the proceedings herein;
- (e) assist the Debtors, to the extent required by the Debtors, in their dissemination, to the Lender and its counsel as required by the Lender of financial and other information as agreed to between the Debtors and the Lender which may be used in these proceedings including reporting on a basis to be agreed with the Lender;
- (f) advise the Debtors in their preparation of the Debtors' cash flow statements and reporting required by the Lender, which information shall be reviewed with the Monitor and delivered to the Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise provided in the Forbearance Agreement or agreed to by the Lender;
- (g) subject to the prior consent of the Lender, advise the Debtors in their development of the Plan and any amendments to the Plan;
- (h) subject to the prior consent of the Lender, assist the Debtors, to the extent required by the Debtors, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (i) 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 that is necessary to adequately assess the Debtors' business and financial affairs or to perform its duties arising under this Order;
- (j) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

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

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

28. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Debtors with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Debtors is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Debtors may agree.

29. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order or the

BIA SSP, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. THIS COURT ORDERS that the Proposal Trustee, counsel to the Proposal Trustee, the Monitor, counsel to the Monitor and counsel to the Debtors shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Debtors as part of the costs of these proceedings. The Debtors are hereby authorized and directed to pay the accounts of the Proposal Trustee, counsel for the Proposal Trustee, the Monitor, counsel to the Monitor and counsel for the Debtors on a weekly basis or on such other basis as agreed between the Debtors and the applicable payee, with the consent of the Lender.

31. THIS COURT ORDERS that the Proposal Trustee, counsel for the Proposal Trustee, the Monitor and counsel to the Monitor shall pass their accounts from time to time, and for this purpose the accounts of the Proposal Trustee, counsel for the Proposal Trustee, the Monitor and counsel to the Monitor are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

FORBEARANCE AGREEMENT

32. THIS COURT ORDERS that paragraphs 17-21 of the August 16 Order approving the Forbearance Agreement as amended by a First Amending Agreement dated as of December 5, 2017, a Second Amending Agreement dated as of December 19, 2017, a Third Amending Agreement and Waiver dated January 24, 2018, as amended and restated pursuant to a Second Amended and Restated Forbearance Agreement dated as of February 13, 2018 (collectively, the “**Forbearance Agreement**”) granting the Proposal DIP Charge (as defined below) and directing the Debtors to comply with the terms of the Forbearance Agreement continue in full force and effect.

~~33. THIS COURT ORDERS that the execution, delivery, entry into, compliance with and performance by the Debtors of the Forbearance Agreement is hereby ratified and approved and the Debtors are hereby directed to comply with and perform the provisions of the Forbearance Agreement and the Credit Agreement.~~

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34. THIS COURT ORDERS AND DECLARES that the payments made by the Debtors pursuant to the August 16 Order, this Order, the Credit Agreement, the Forbearance Agreement, the other Credit Documents or any of the Definitive Documents, and the granting of the Proposal DIP Charge and CCAA DIP Charge (each as defined below), do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

VALIDITY AND PRIORITY OF CHARGES CREATED IN THE PROPOSAL PROCEEDINGS

35. THIS COURT ORDERS that the Directors' Charge (the "**Proposal Directors' Charge**"), Administration Charge (the "**Proposal Administration Charge**"), and DIP Charge (the "**Proposal DIP Charge**"), each granted in the August 16 Order pursuant to paragraphs 12-16 and 20 inclusive, shall continue to be in force and effect in these proceedings pursuant to the CCAA with the priorities provided for in paragraph [44] hereof.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

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

37. THIS COURT ORDERS that the directors and officers of the Debtors shall be entitled to the benefit of and are hereby granted a charge (the "**CCAA Directors' Charge**") on the Property, which charge, together with the Proposal Directors' Charge, shall not exceed an aggregate amount of \$50,000, as security for the indemnity provided in paragraph [36] of this Order. The CCAA Directors' Charge shall have the priority set out in paragraph [44] herein.

38. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the CCAA Directors' Charge, and (b) the Debtors' directors and officers shall only be entitled to the benefit of the CCAA Directors' Charge to the extent that they do not have coverage under

any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph [36] of this Order.

DIP FINANCING

39. THIS COURT ORDERS that, in addition to the existing liens, charges, mortgages and encumbrances in favour of the Lender, as security for all obligations of the Debtors to the Lender relating to advances made to the Debtors under the Credit Agreement and Forbearance Agreement from and after the date of this Order, including the Proposal DIP Charge, the Lender shall be entitled to the benefit of and is hereby granted a charge (the “**CCAA DIP Charge**”) on the Property, which CCAA DIP Charge shall not secure an obligation that exists before this Order is made. The CCAA DIP Charge shall have the priority set out in paragraph [44] hereof.

40. THIS COURT ORDERS that the Debtors are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**CCAA Definitive Documents**” and together with the term “Definitive Documents” as defined in the August 16 Order, the “**Definitive Documents**”), as are contemplated by the Credit Agreement, Forbearance Agreement or as may be reasonably required by the Lender pursuant to the terms thereof, and the Debtors are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the Lender under and pursuant to the Credit Agreement, Forbearance Agreement and the CCAA Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

41. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the CCAA DIP Charge or any of the Definitive Documents;
- (b) upon the earlier of the occurrence of a Termination Event or the last day of the Forbearance Period (in each case as defined in the Forbearance Agreement), the Lender may:
 - (i) immediately cease making advances to the Debtors;

- (ii) set off and/or consolidate any amounts owing by the Lender to the Debtors against the obligations of the Debtors to the Lender under the Credit Agreement, the Forbearance Agreement, any other Credit Documents (as defined in the Credit Agreement) or the Definitive Documents; and
 - (iii) apply to this Court for an order authorizing the Lender to exercise any and all of its rights and remedies against the Debtors or the Property under or pursuant to the Credit Agreement, the Forbearance Agreement, any other Credit Documents (as defined in the Credit Agreement) or the Definitive Documents, the Proposal DIP Charge, the CCAA DIP Charge, or the *Personal Property Security Act* (Ontario) (the “PPSA”) or similar legislation in any other applicable jurisdiction, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver in respect of the Property, or for a bankruptcy order against the Debtors and for the appointment of a trustee in bankruptcy of the Debtors; and
- (c) the foregoing rights and remedies of the Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Debtors or the Property.

42. THIS COURT ORDERS AND DECLARES that the Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Debtors under the CCAA.

CCAA ADMINISTRATION CHARGE

43. THIS COURT ORDERS that the Monitor, counsel to the Monitor and the Debtors’ counsel shall be entitled to the benefit of and are hereby granted a charge (the “**CCAA Administration Charge**”) on the Property, which charge, together with the Proposal Administration Charge, shall not exceed an aggregate amount of \$250,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The CCAA Administration Charge shall have the priority set out in paragraph [44] hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

44. THIS COURT ORDERS that the priorities of the Proposal Directors’ Charge, CCAA Directors’ Charge, Proposal Administration Charge, CCAA Administration Charge, Proposal DIP Charge and CCAA DIP Charge, as among them, shall be as follows:

First (*pari passu*) –the Proposal Administration Charge and the CCAA Administration Charge (to the maximum aggregate amount of \$250,000);

Second (*pari passu*) – the Proposal DIP Charge and the CCAA DIP Charge;

Third – Security granted to the Lender under or pursuant to the Credit Agreement, the Forbearance Agreement and the Credit Documents; and

Fourth (*pari passu*) –the Proposal Directors’ Charge and CCAA Directors’ Charge (to the maximum aggregate amount of \$50,000).

45. THIS COURT ORDERS that the filing, registration or perfection of the CCAA Directors’ Charge, the CCAA Administration Charge and the CCAA DIP Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

46. THIS COURT ORDERS that each of the CCAA Directors’ Charge, the CCAA Administration Charge and the CCAA DIP Charge (all as constituted and defined herein) shall constitute a charge on the Property and, subject to paragraph [44] of this Order, such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for any security that qualifies as a purchase-money security interest pursuant to the PPSA.

47. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Debtors shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the CCAA Directors’ Charge, the CCAA Administration Charge or the CCAA DIP Charge, unless the Debtors also obtain the prior written consent of the Monitor, the Lender and the beneficiaries of the CCAA Directors’ Charge and the CCAA Administration Charge, or further Order of this Court.

48. THIS COURT ORDERS that the CCAA Directors’ Charge, the CCAA Administration Charge, the Credit Agreement, the Forbearance Agreement, the Definitive Documents and the

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

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Forbearance Agreement, Credit Agreement, Credit Documents or any of the Definitive Documents shall create or be deemed to constitute a breach by the Debtors of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, or the execution, delivery or performance of the Forbearance Agreement, Credit Agreement, Credit Documents or any of the Definitive Documents; and
- (c) the payments made by the Debtors pursuant to this Order, the Forbearance Agreement, Credit Agreement, Credit Documents or any of the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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

SERVICE AND NOTICE

50. THIS COURT ORDERS AND DECLARES that, given the noticing procedures established and completed in the Proposal Proceedings, the Monitor shall not be required to (i) publish any notices, (ii) send any notices to known creditors, or (iii) prepare and publish a list showing the names and addresses of those creditors and the estimated amounts of those claims. The Monitor shall upload all documents filed in connection with this Application on the Case Website listed in paragraph [50] hereof.

51. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that the Case Website (the “**Case Website**”) established in the Proposal Proceedings shall be used in these proceedings under the CCAA in accordance with the Protocol, which is accessible at the following URL ‘<<http://cfcanada.fticonsulting.com/Dundee/>>’.

52. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Debtors and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

53. THIS COURT ORDERS that the Debtors or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

54. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Debtors, the Business or the Property.

55. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Debtors, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Debtors and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Debtors and the Monitor and their respective agents in carrying out the terms of this Order.

56. THIS COURT ORDERS that each of the Debtors and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

57. THIS COURT ORDERS that any interested party (including the Debtors, the Lender and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DUNDEE OIL AND GAS LIMITED**

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

INITIAL ORDER

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