

COURT FILE NUMBER

1601 - 12571

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, RSC 1985, c C-36, as amended

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF LIGHTSTREAM RESOURCES LTD, 1863359 ALBERTA LTD, LTS RESOURCES PARTNERSHIP, 1863360 ALBERTA LTD AND BAKKEN RESOURCES PARTNERSHIP

APPLICANTS

LIGHTSTREAM RESOURCES LTD, 1863359 ALBERTA LTD AND 1863360 ALBERTA LTD

PARTIES IN INTEREST

LTS RESOURCES PARTNERSHIP AND BAKKEN RESOURCES PARTNERSHIP

DOCUMENT

**AFFIDAVIT (CCAA INITIAL ORDER)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**BLAKE, CASSELS & GRAYDON LLP**

Barristers and Solicitors

3500 Bankers Hall East

855 – 2<sup>nd</sup> Street SW

Calgary, Alberta T2P 4J8

Attention: Kelly Bourassa / Milly Chow

Telephone No.: 403-260-9697 / 416-863-2594

Email: [kelly.bourassa@blakes.com](mailto:kelly.bourassa@blakes.com) / [milly.chow@blakes.com](mailto:milly.chow@blakes.com)

Fax No.: 403-260-9700

File: 89691/8

**AFFIDAVIT OF PETER D. SCOTT**

**Sworn on September 21, 2016**

I, PETER D. SCOTT, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the Senior Vice President and Chief Financial Officer of Lightstream Resources Ltd. ("**Lightstream**" or "**LTS**"). Lightstream is the parent company to 1863359 Alberta Ltd. ("**1863359**"), 1863360 Alberta Ltd. ("**1863360**" and together with LTS and 1863359, collectively, the "**Applicants**"), LTS Resources Partnership ("**LTS Partnership**") and Bakken Resources Partnership (the "**Bakken Partnership**" and together with LTS Partnership, the "**Partnerships**"). The Applicants and the Partnerships are collectively referred to herein as the "**Lightstream Group**"). I am also a director of 1863359 and 1863360. As such, I have personal knowledge of the matters deposed to in this Affidavit, except where stated to be based upon information, in which case I believe the same to be true.
2. All references to dollar amounts contained herein are to Canadian Dollars unless otherwise stated.

**I. RELIEF REQUESTED**

3. This Affidavit is made in support of an Application by the Applicants for an Order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), among other things:
  - (a) declaring that the Applicants are companies to which the CCAA applies and, although not Applicants, that the Partnerships shall enjoy the protections and authorizations provided by the Initial Order;
  - (b) permitting the Lightstream Group to file with this Honourable Court one or more plans of compromise or arrangement (each a "**Plan**") between the Lightstream Group and its creditors;
  - (c) staying all proceedings and remedies taken or that might be taken in respect of the Lightstream Group or any of their property, except as otherwise set forth in the Initial Order or otherwise permitted by law;

- (d) authorizing the Lightstream Group to carry on business in a manner consistent with the preservation of its property and business;
- (e) appointing FTI Consulting Canada Inc. as monitor (the "**Monitor**") to monitor the property, business and financial affairs of the Lightstream Group in these proceedings;
- (f) granting the Administration Charge, the Credit Card Charge, the Directors' Charge, the KERP Charge, the KEIP Charge and the Financial Advisors' Charge (each as defined below);
- (g) authorizing the Lightstream Group to make payment of pre-filing amounts or to honour cheques issued to providers of goods and services to the Lightstream Group prior to the date of filing that, in consultation with the Monitor, are necessary to facilitate the Lightstream Group's ongoing operations;
- (h) declaring that the First Lien Lenders (as defined below) shall be treated as unaffected in any plan filed by the Lightstream Group under the CCAA, or any proposal filed by the Lightstream Group under the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"), with respect to any indebtedness owing to them under the Credit Agreement (as defined below);
- (i) approving the proposed sale procedures (the "**Sale Procedures**") substantially in the form attached as Appendix "A" to the Initial Order;
- (j) approving LTS' Key Employee Retention Plan ("**KERP**") and Key Employee Incentive Plan ("**KEIP**"), as described herein;
- (k) sealing on the Court file the KERP/KEIP Summary (as defined below); and
- (l) deeming service of the Originating Application for the Initial Order and supporting materials to be good and sufficient.

## II. THE CBCA PROCEEDINGS

4. Prior to the Lightstream Group commencing these proceedings, LTS (along with a newly incorporated subsidiary 9817158 Canada Ltd. ("**ArrangeCo**")) had commenced proceedings under section 192 of the *Canada Business Corporations Act*, RSC 1985, c C-44, as amended, in Court of Queen's Bench of Alberta (the "**Court**") Action Number 1601-08725 (the "**Arrangement Proceedings**") in relation to a proposed plan of arrangement under the provisions of section 192 of the CBCA (the "**Arrangement**") involving: (i) LTS and ArrangeCo; (ii) holders of 9.875% secured second lien notes maturing on June 15, 2019 (the "**Secured Notes**" and the holders, the "**Secured Noteholders**"); (iii) holders of 8.625% unsecured notes maturing on February 1, 2020 (the "**Unsecured Notes**", and the holders, the "**Unsecured Noteholders**"); and (iv) holders of common shares of LTS (the "**Common Shares**", and the holders, "**Shareholders**").
5. I have previously sworn three Affidavits in the Arrangement Proceedings. This Affidavit should be read in conjunction with my previous affidavits sworn and filed with this Honourable Court in the Arrangement Proceedings: (i) on July 12, 2016, in connection with an originating application for a preliminary interim order (the "**Preliminary Interim Order Affidavit**"), which preliminary interim order was granted by the Court on July 13, 2016; (ii) on July 28, 2016, in connection with an application for an interim order (the "**Interim Order Affidavit**"), which interim order was granted by the Court on August 5, 2016; and (iii) on August 26, 2016, in connection with an application to amend the Interim Order (the "**Amended Interim Order Affidavit**"), which amended interim order was granted by the Court on August 29, 2016.
6. A detailed background on the Lightstream Group and the circumstances leading up to the Arrangement Proceedings is fully set out in the Preliminary Interim Order Affidavit and the Interim Order Affidavit. A copy of the Preliminary Interim Order Affidavit, inclusive of certain Exhibits referenced herein, is attached hereto as Exhibit "1". The Interim Order Affidavit and Amended Interim Order Affidavit, without Exhibits, are attached hereto as Exhibits "2" and "3", respectively.

### III. BACKGROUND

7. A complete background of the Lightstream Group's corporate structure is set out in detail in the Preliminary Interim Order Affidavit beginning at paragraph 13. An organization chart of the Lightstream Group (including ArrangeCo) is attached as Exhibit "A" to the Preliminary Interim Order Affidavit.

#### A. The Lightstream Group

8. LTS is a corporation formed pursuant to the *Alberta Business Corporations Act* (Alberta), RSA 2000, c B-9 (the "ABCA"). LTS is the parent corporation of the Lightstream Group. A copy of LTS' certificate of amalgamation is attached as Exhibit "B" to the Preliminary Interim Order Affidavit. LTS is the managing partner of both the LTS Partnership and the Bakken Partnership.

9. 1863359 is a corporation incorporated pursuant to the ABCA, is a wholly-owned subsidiary of LTS and owns 0.01% of LTS Partnership. A copy of 1863359's certificate of incorporation is attached as Exhibit "D" to the Preliminary Interim Order Affidavit.

10. LTS Partnership is a general partnership formed and registered as a general partnership pursuant to the laws of Alberta and is a direct and indirect wholly-owned subsidiary of LTS. LTS owns 99.99% of LTS Partnership and 1863359 owns the remaining 0.01%. A copy of LTS Partnership's partnership registration is attached as Exhibit "E" to the Preliminary Interim Order Affidavit.

11. 1863360 is a corporation incorporated pursuant to the laws of Alberta, is a wholly-owned subsidiary of LTS and owns 0.01% of Bakken Partnership. A copy of 1863360's certificate of incorporation is attached as Exhibit "F" to the Preliminary Interim Order Affidavit.

12. Bakken Partnership is a general partnership formed and registered as a general partnership pursuant the laws of Alberta and is a direct and indirect wholly-owned subsidiary of LTS. LTS owns 99.99% of Bakken Partnership and 1863360 owns the

remaining 0.01%. A copy of Bakken Partnership's partnership registration is attached as Exhibit "G" to the Preliminary Interim Order Affidavit.

**B. Directors and Officers**

13. The officers of LTS are as follows:

<b>Name</b>	<b>Title</b>
John D. Wright	President & Chief Executive Officer
Peter D. Scott	Senior Vice President & Chief Financial Officer
Rene LaPrade	Senior Vice President & Chief Operating Officer
Doreen M. Scheidt	Vice President & Controller
Andrea Hatzinikolas	Corporate Secretary
Annie Belecki	General Counsel
Mary Bulmer	Vice President, Corporate Services
Lawrence Fisher	Vice President, Land
Peter Hawkes	Vice President, Geosciences
Brad Malley	Vice President, Development Services

14. The directors of LTS are:

<b>Name</b>
John D. Wright
Ian S. Brown
Kenneth R. McKinnon
Corey C. Ruttan
W. Brett Wilson
Martin Hislop

15. The board of directors of each of 1863359 and 1863360 is comprised of Annie Belecki, Rene Laprade, John Wright and myself.

**C. Employees**

16. LTS has approximately 297 non-unionized permanent employees, all of whom are employed in Canada. All employees of the Lightstream Group are employed by LTS.
17. LTS does not maintain or contribute to a pension plan for its employees.

#### IV. BUSINESS OF THE LIGHTSTREAM GROUP

18. As set out in more detail in the Preliminary Interim Order Affidavit beginning at paragraph 41, the Lightstream Group is engaged in the exploration, development and production of oil and natural gas reserves in the provinces of Alberta, British Columbia and Saskatchewan, with a focus on light oil.
19. The Lightstream Group's business consists of three business units: (i) the "**Bakken Business Unit**", which is comprised of the Bakken Partnership assets located in southeastern Saskatchewan in the Bakken and Mississippian formations; (ii) the "**Cardium Business Unit**", which is comprised of certain of the LTS Partnership assets in central Alberta, with the majority of the assets in the Cardium formation; and (iii) the "**Alberta/BC Business Unit**" which is comprised of the balance of the LTS Partnership Assets in British Columbia and north-central Alberta, with the majority of the assets in the Swan Hills formation of the Deer Mountain region. LTS holds legal title to the real property interests of the Partnerships.

##### A. Bakken Business Unit

20. The Lightstream Group's interests in the Bakken Business Unit consist of ownership of mineral rights held by the Bakken Partnership.
21. The Bakken Business Unit consists of over 284 gross (253 net) sections of undeveloped land containing 1,014 identified drilling locations, of which 805 are in the Bakken formation and 209 are in the Mississippian formation (collectively, the "**Bakken Locations**"). The Bakken Locations lie within mature oilfields with extensive infrastructure and a majority of them are tied into operated gathering systems and processing facilities with pipeline access.
22. The independent engineering evaluation of the Lightstream Group's crude oil and natural gas reserves prepared by Sproule Associates Limited effective as of December 31, 2015 (the "**Sproule Report**") has assigned reserves to 293 of the Bakken Locations as proved plus probable undeveloped reserves, consisting of 168 proved undeveloped locations and 125 probable undeveloped locations.

23. In 2015, the Bakken Business Unit had average production of 11,765 barrels of oil equivalent ("**boe**") per day ("**boepd**"). During the second quarter of 2016, average production was 8,939 boepd, representing a 6% decrease from first quarter 2016 production and a 24% decrease from second quarter 2015 volumes. This decrease was due to continued attenuation of investment in the Bakken Business Unit given the depressed economic environment and decision by the Lightstream Group to preserve financial flexibility.

**B. Cardium Business Unit**

24. The Lightstream Group's interests in the Cardium Business Unit consist of ownership of mineral rights held by LTS Partnership.
25. The Cardium Business Unit consists of over 433 gross (302 net) sections of land containing 432 identified drilling locations, 397 of which are in the Cardium formation spanning from southwest of Calgary to northwest of Edmonton and 35 are in the Mannville, Falher and Notikewan formations (collectively, the "**Cardium Locations**").
26. The Sproule Report has assigned reserves to 151 of the Cardium Locations as proved plus probable undeveloped reserves, consisting of 90 proved undeveloped locations and 61 probable undeveloped locations. The remaining Cardium Locations are unbooked locations with possible reserves which would be based on well control, seismic data, drilling results and mapping.
27. In 2015, the Cardium Business Unit had average production of 16,569 boepd. During the second quarter of 2016, average production was 14,655 boepd, which is essentially unchanged from first quarter production (14,676 boepd). Second quarter production decreased 16% from second quarter 2015 volumes. This decrease was primarily due to natural declines and reduced new well spending.

**C. Alberta/BC Business Unit**

28. The Lightstream Group's interests in the Alberta/BC Business Unit consist of ownership of mineral rights held by LTS Partnership.



29. The Alberta/BC Business Unit primarily consists of over 599 gross (509 net) undeveloped sections of land in emerging oil and liquid-rich gas focused resource plays containing 120 identified drilling locations, of which 78 are in the Swan Hills formation and 42 are in other areas (collectively, the "**Alberta/BC Locations**"). An additional 214 drilling locations are in the upper Cretaceous and Mannville formations in southern Alberta.
30. The Sproule Report has assigned reserves to 39 of the Alberta/BC Locations as proved plus probable undeveloped reserves, consisting of 15 proved undeveloped locations and 24 probable undeveloped locations. The remaining Alberta/BC Locations are unbooked locations with possible reserves which are based on well control, seismic data, drilling results and mapping.
31. In 2015, the Alberta/BC Business Unit had average production of 3,058 boepd with over half of such production coming from the Swan Hills formation. During the second quarter of 2016, average production was 1,522 boepd, representing a 45% decrease from second quarter 2015 volumes. This decrease was primarily due to downtime from a third party pipeline outage and natural declines given the limited new well spending in the area. The pipeline outage was rectified in early third quarter.

#### **D. Operatorship**

32. Through the foregoing three business units, the Lightstream Group is the operator of, and owns varying working interests in approximately 2,582 oil and natural gas wells (gross), an extensive network of pipelines and gathering systems and numerous facilities (collectively, the "**Wells**").
33. Operation of the Wells requires specialty trade and other qualified, experienced personnel in order to comply with licence requirements and to ensure continued safety. There are important rights and obligations that are assumed by operators, including the provision of fees in exchange for the continued operation of the Wells and associated facilities.

34. The Lightstream Group requires continued operatorship of the Wells, which form a core part of its business and source of revenue, and to preserve its material contracts and operating agreements currently in place.
35. The loss of operatorship by the Lightstream Group of some of its operated properties could negatively impact its licensee liability ratings in Alberta and Saskatchewan, such that the Lightstream Group may be required to post large bonds to remain in compliance with regulatory requirements. Further, the transition to a new operator of the Wells would require a number of positive steps and may entail a lengthy and costly transition period.
36. In the ordinary course, such positive steps may in some cases include:
  - (a) transfer and assignment of operating licences or permits;
  - (b) re-staffing with qualified, experienced personnel;
  - (c) developing emergency response plans and safety protocols and training new personnel with respect thereto;
  - (d) training new personnel with respect to all Wells;
  - (e) transfer of operating books and records;
  - (f) transitioning new operators into an active role; and
  - (g) negotiating and entering into required service arrangements.
37. This process may in some cases take several months.

**E. Bank Accounts and Cash Management**

38. The Lightstream Group's primary account bank is The Toronto-Dominion Bank, at which it maintains Canadian dollar and US dollar accounts. LTS manages a centralized cash management system for all of the entities in the Lightstream Group, whereby LTS lends cash on an unsecured inter-company basis to its subsidiaries as needed.

39. It is anticipated that the Lightstream Group will continue to use the existing cash management system ("**Cash Management System**") and will continue to maintain the bank accounts and arrangements already in place during the CCAA proceedings. This approach will minimize any disruption to business operations as the Lightstream Group seeks to restructure. The Cash Management System includes the necessary accounting controls to enable the Lightstream Group, the Monitor and the Court, to trace funds through the system and ensure that all transactions are adequately documented and readily ascertainable.

## **V. CURRENT CIRCUMSTANCES**

40. LTS prepares its public financial disclosure on a going concern basis in accordance with International Financial Reporting Standards ("**IFRS**"), which assumes that LTS will continue in operation and will be able to realize its assets and discharge its liabilities in the normal course of business. The financial statements are prepared on a consolidated basis in accordance with IFRS.
41. A copy of Lightstream Group's consolidated audited financial statements for the year ended December 31, 2015 is attached as Exhibit "I" to the Preliminary Interim Order Affidavit. A copy of Lightstream Group's consolidated unaudited financial statements for the second quarter of 2016, ended June 30, 2016, are attached hereto as Exhibit "4".

### **A. Assets**

42. Lightstream Group's capital assets include batteries, processing facilities, wellsite production equipment and gathering lines and compressors. A majority of this infrastructure is located in Southeast Saskatchewan and forms part of the Bakken Business Unit.
43. As at June 30, 2016, the Lightstream Group had total Assets with a book value of \$1,679,550,000 consisting of current assets with a book value of \$77,414,000 and non-current assets with a book value of \$1,602,136,000.

44. Current assets include cash, trade and other cash and cash equivalents (\$31,235,000), accounts receivable (\$39,451,000), prepaid expenses (\$6,211,000) and risk management assets (\$517,000).
45. Non-current assets include the Lightstream Group's long-term investments (\$446,000), exploration and evaluation assets (\$168,553,000) and property, plant and equipment assets (\$1,433,137,000).

## **B. Liabilities**

46. As at June 30, 2016, the Lightstream Group had total liabilities of \$1,912,025,000, which is made up of, among other things, \$355,429,000 in respect of the Credit Facility (as defined below), \$845,585,000 in respect of the Secured Notes, \$325,390,000 in respect of Unsecured Notes and \$247,350,000 in respect of decommissioning liabilities.
47. A thorough discussion on each of the liabilities of the Lightstream Group is provided in the Preliminary Interim Order Affidavit beginning at paragraph 70. Some significant liabilities are discussed briefly below.

### *i. Credit Facility*

48. Pursuant to the Third Amended and Restated Credit Agreement dated May 29, 2012, as amended by a consent and first amending agreement made as of July 2, 2015, and as further amended by a second amending agreement made as of December 2, 2015 (collectively, as amended, restated, supplemented, replaced or otherwise modified from time to time, the "**Credit Agreement**"), LTS, as borrower, entered into a credit facility with The Toronto-Dominion Bank, as administration agent (the "**Agent**"), and certain other financial institutions, as lenders (together with the Agent, the "**First Lien Lenders**"), among others. A copy of the Credit Agreement was marked as Exhibit "K" to the Preliminary Interim Order Affidavit but was not attached in accordance with Rule 13.21 of the Alberta *Rules of Court*.
49. The Credit Agreement provided for two tranches of facilities which rank *pari passu* with one another (collectively, the "**Credit Facility**").

50. The terms of the Credit Facility, including the amounts available pursuant to the lending value determination, are described in detail in the Preliminary Interim Order Affidavit beginning at paragraph 71.
51. The Credit Facility is secured by a first priority security interest over substantially all of the property and assets of LTS. The security was granted pursuant to a demand debenture dated February 3, 2015 by LTS in favour of the Agent. A copy of the demand debenture from LTS in favour of the First Lien Lenders is attached hereto as Exhibit "5".
52. The Credit Facility is guaranteed by the other members of the Lightstream Group. A copy of the guarantees from 1863359, LTS Partnership, 1863360 and Bakken Partnership are collectively attached hereto as Exhibit "6" to this my Affidavit.
53. 1863359, LTS Partnership, 1863360 and Bakken Partnership each also executed demand debentures dated February 3, 2015 in favour of the Agent providing a first priority security interest over substantially all of their property and assets. Copies of the demand debentures from 1863359, LTS Partnership, 1863360 and Bakken Partnership in favour of the First Lien Lenders are collectively attached hereto as Exhibit "7" to this my Affidavit.
54. As of September 15, 2016, the aggregate amount of principal outstanding under the Credit Facility was approximately \$371 million (including issued letters of credit but excluding hedging liabilities).
55. As set out in the Preliminary Interim Order Affidavit at paragraph 77, on April 29, 2016, LTS received notice from the Agent (the "**Borrowing Base Shortfall Notice**") advising LTS that, among other things: (i) further to a semi-annual borrowing base redetermination due to have occurred on or before April 30, 2016, the borrowing base was reduced from \$550 million to \$250 million; and (ii) failure to eliminate such borrowing base shortfall within 90 days of such notice (being July 28, 2016) would result in an event of default under the Credit Agreement. A copy of the Borrowing Base Shortfall Notice is attached as Exhibit "L" to the Preliminary Interim Order Affidavit.

56. In addition, as described in greater detail in the Preliminary Interim Order Affidavit, any event of default under the Secured Note Indenture or Unsecured Note Indenture (each as defined below) triggers a cross-default under the Credit Agreement.
57. On September 15, 2016, the Lightstream Group reached an agreement (the "**Second Forbearance Agreement**") with the First Lien Lenders in which the First Lien Lenders have agreed to forbear from exercising their rights and remedies in respect of the above mentioned defaults under the Credit Agreement throughout the Relief Period (as defined in the Second Forbearance Agreement), which in the case of the Lightstream Group's commencement of proceedings under the CCAA, extends to 2:00 pm (Calgary time) on December 31, 2016. A copy of the Second Forbearance Agreement is attached hereto as Exhibit "8".
58. As discussed in detail in the Amended Interim Order Affidavit beginning at paragraph 13, the Lightstream Group has received a revolving facility commitment letter (the "**Commitment Letter**") dated August 26, 2016 from certain lenders, which provides for a new revolving credit facility with an aggregate commitment of \$400 million (the "**Replacement Credit Facility**"). The proceeds from the Replacement Credit Facility will be used to pay out in full, in cash and immediately on closing the obligations owing under the Credit Facility and to fund certain capital expenditures and operating costs of the Lightstream Group should the Secured Noteholders be required to implement the Secured Noteholder Credit Bid (as defined below) under the Sale Procedures. The Commitment Letter contemplates that if a transaction is to be implemented pursuant to CCAA proceedings, the closing shall have occurred by no later than December 31, 2016.
59. The Second Forbearance Agreement requires that the Initial Order declare that the obligations owing to the First Lien Lenders under the Credit Agreement be unaffected by any plan of compromise or arrangement filed by the Lightstream Group under the CCAA.
60. Pursuant to section 2(c) of the Second Forbearance Agreement, the First Lien Lenders have acknowledged and agreed that, notwithstanding any provision of the Intercreditor Credit and Priority Agreement (as defined below) between the First Lien Lenders and the

Secured Noteholders, the Secured Noteholders may immediately pursue the Secured Noteholder Credit Bid in accordance with the Sale Procedures.

*ii. Secured Note Indenture*

61. During the third quarter of 2015, LTS issued a total of US\$650 million of Secured Notes. The Secured Notes were issued pursuant to an indenture dated as of July 2, 2015 (the "**Secured Note Indenture**"), among LTS, as issuer, the other members of the Lightstream Group as guarantors, and Computershare Trust Company of Canada as Canadian trustee and collateral agent (the "**Secured Note Indenture Trustee**"). The Secured Note Indenture was marked as Exhibit "M" to the Preliminary Interim Order Affidavit but was not attached in accordance with Rule 13.21 of the Alberta *Rules of Court*.
62. A discussion of the terms of the Secured Note Indenture is provided in the Preliminary Interim Order Affidavit beginning at paragraph 82.
63. The Secured Notes are secured by a second priority lien over all of Lightstream Group's assets pursuant to demand debentures dated July 2, 2015 from each member of the Lightstream Group in favour of the Secured Note Indenture Trustee. A copy of the demand debentures from the Lightstream Group in favour of the Secured Note Indenture Trustee are attached hereto as Exhibit "9".
64. As discussed in detail in the Preliminary Interim Order Affidavit beginning at paragraph 87, the respective rights, obligations and remedies of the First Lien Lenders and Secured Noteholders are set out in an Intercreditor and Priority Agreement dated as of July 2, 2015 (the "**Intercreditor and Priority Agreement**") between the Agent, the Secured Indenture Trustee and each of the members of the Lightstream Group. The Intercreditor and Priority Agreement was marked as Exhibit "N" to the Preliminary Interim Order Affidavit but was not attached in accordance with Rule 13.21 of the Alberta *Rules of Court*.
65. As set out in greater detail in the Preliminary Interim Order Affidavit, LTS determined not to make the interest payment in the amount of US\$32.1 million payable to the

Secured Noteholders on June 15, 2016. In addition, LTS did not cure the failure to make such interest payment by July 15, 2016 (the last day of the 30-day grace period provided under the Secured Note Indenture), which, subject to the stay of proceedings in the Preliminary Interim Order, caused an event of default under the Secured Note Indenture, which in turn has caused cross-defaults under the Credit Agreement and Unsecured Note Indenture.

66. In response to the foregoing, the Lightstream Group entered into an amended and restated noteholder support agreement dated as of July 12, 2016 (as amended, the "**Support Agreement**") with the members of an *ad hoc* committee of Secured Noteholders (the "**Ad Hoc Committee of Secured Noteholders**") representing approximately 91.5 percent of the total outstanding principal amount of Secured Notes. A redacted copy of the Support Agreement is attached hereto as Exhibit "**10**".
67. As a result of the inability of the Lightstream Group to reach a settlement of outstanding litigation (the "**Unsecured Noteholder Litigation**"), with certain holders of the Unsecured Notes, as discussed further below, the Support Agreement requires that the Lightstream Group take all necessary steps to seek an initial order under the CCAA and commence these CCAA proceedings for the purpose of implementing a sale of all or substantially all of the Lightstream Group's assets or business, including pursuant to the Secured Noteholder Credit Bid in the event that the Sale Procedures do not produce a sale offer that repays the amounts owing to the First Lien Lenders and the Secured Noteholders in full, in cash and immediately on closing.
68. Pursuant to section 6.05 of the Secured Note Indenture, the holders of a majority in principal outstanding amount of the Secured Notes may direct the Secured Note Indenture Trustee to enforce any remedy available to the Secured Note Indenture Trustee. I understand that the members of the *Ad Hoc* Committee of Secured Noteholders will direct the Secured Note Indenture Trustee to pursue the Secured Noteholder Credit Bid, as contemplated by, and in accordance with the terms of, the Sale Procedures.



*iii. Unsecured Note Indenture*

69. As at June 30, 2016, LTS had a total of approximately US\$254 million of issued and outstanding Unsecured Notes pursuant to an indenture dated as of January 30, 2012 (as supplemented by the supplemental indenture dated as of February 25, 2015, collectively, the "**Unsecured Note Indenture**") between LTS (then known as PetroBakken Energy Ltd.), as issuer, 1863359, 1863360, LTS Partnership, Bakken Partnership, U.S. Bank National Association (now Wilmington Trust), as trustee, and Computershare Trust Company of Canada, as Canadian trustee), among others. The Unsecured Note Indenture was marked as Exhibit "Q" to the Preliminary Interim Order Affidavit but was not attached in accordance with Rule 13.21 of the Alberta *Rules of Court*.
70. Each member of the Lightstream Group is party to and has guaranteed the obligations of LTS under the Unsecured Note Indenture. A thorough discussion of the terms of the Unsecured Note Indenture is provided in the Preliminary Interim Order Affidavit beginning at paragraph 94.
71. LTS did not to make the interest payment in the amount of US\$10,951,421.26 due on August 2, 2016 as required by the Unsecured Note Indenture and LTS did not cure the failure to make such interest payment by September 1, 2016 (the last day of the 30-day grace period provided under the Unsecured Note Indenture), which, subject to the stay of proceedings in the Preliminary Interim Order, caused an event of default under the Unsecured Note Indenture, and cross-defaults under the Credit Agreement and Secured Note Indenture.

*iv. Equipment Lessors and Other Security Registrations*

72. Based on searches conducted under the Alberta *Personal Property Security Act*, British Columbia *Personal Property Security Act* and Saskatchewan *Personal Property Security Act* on September 19, 2016 (collectively, the "**PPSA Searches**"), the First Lien Lenders and the Secured Indenture Trustee are the only creditors of the Lightstream Group who have registered security interests, other than (i) secured lenders with security over

specific equipment and vehicles; (ii) Aree Holdings Ltd. who has registered security as lessor over a specific field office in Alberta; and (iii) registrations which are disputed by LTS, as described in the Preliminary Interim Order Affidavit at paragraph 102. Copies of the Alberta, Saskatchewan and British Columbia PPSA searches are attached hereto and marked as Exhibits "11", "12" and "13", respectively.

73. In addition, there are certain builders' liens, which in total quantum are not material, registered against specific property interests of the Lightstream Group, some of which are currently in dispute.

*v. Unsecured Noteholder Litigation*

74. As discussed in detail in the Preliminary Interim Order Affidavit beginning at paragraph 119 and the Interim Order Affidavit beginning at paragraph 69, LTS is party to the Unsecured Noteholder Litigation commenced against it in the Court by Mudrick Capital Management, LP (Court File No. 1501-08782) and by FrontFour Capital Corp. and FrontFour Group LLC (Court File No. 1501-07813). Attached hereto and collectively marked as Exhibit "14" is the Statement of Claim of Mudrick Capital Management, LP and the Statement of Claim of FrontFour Capital Corp. and FrontFour Group LLC.
75. The Support Agreement requires, for the purpose of the Arrangement Proceedings, that LTS settle the Unsecured Noteholder Litigation by September 16, 2016 or, as mentioned above, the Lightstream Group is to commence these CCAA proceedings. On September 19, 2016 LTS issued a press release (the "**September 19 Press Release**") announcing that it had not been able to reach satisfactory settlement with respect to the Unsecured Noteholder Litigation on or before September 16, 2016 and, in accordance with the Support Agreement, the Lightstream Group would be commencing CCAA proceedings. Attached hereto and marked as Exhibit "15" is a copy of the September 19 Press Release.
76. Since prior to the commencement of the Arrangement Proceedings, LTS and its financial advisor, Evercore Capital L.L.C. ("**Evercore**"), have been in discussions with parties to the Unsecured Noteholder Litigation and the *Ad Hoc* Committee of Secured Noteholders

with respect to a potential settlement of the Unsecured Noteholder Litigation. However, as discussed above, no settlement was reached by the deadline of September 16, 2016.

*vi. Other Liabilities*

77. Other liabilities of the Lightstream Group, including decommissioning liabilities, deferred tax liabilities and commodity and foreign exchange hedges are discussed in detail in the Preliminary Interim Order Affidavit beginning at paragraph 104.

**VI. EVENTS LEADING TO THE LIGHTSTREAM GROUP'S CURRENT CIRCUMSTANCES**

**A. Decline in the Oil Industry**

78. The global decline of oil and gas prices has caused the Lightstream Group financial difficulty and liquidity constraints. The severe decline in commodity prices has also led to a significant reduction in the current value of the Lightstream Group's reserves.
79. The impact of the low commodity prices on the Lightstream Group is discussed in more detail in the Preliminary Interim Order Affidavit beginning at paragraph 121.

**B. Strategic Review Process and Other Initiatives**

80. As set out in detail in the Preliminary Interim Order Affidavit beginning at paragraph 124, on December 15, 2014, the Lightstream Group announced its 2015 capital program, as well as certain strategic initiatives, including plans to sell all or parts of its Bakken Business Unit.
81. On May 1, 2016 and May 26, 2016, Evercore and TD Securities Inc. (the "**TD Securities**"), respectively, were engaged by Lightstream as financial and sale advisors to assist the Lightstream Group with its Strategic Review Process (as defined below).
82. On June 1, 2016, the board of directors of LTS engaged RBC Dominion Securities Inc. ("**RBC**" and together with TD Securities and Evercore, the "**Financial Advisors**"), as an independent financial advisor to the board of directors of LTS. Attached hereto and

marked as Exhibits "16", "17" and "18" are copies of the engagement letters with the Financial Advisors.

83. On May 2, 2016, the Lightstream Group announced a decision to initiate a process to explore a range of strategic alternatives (the "**Strategic Review Process**") and commenced the Strategic Review Process with the assistance of Evercore and TD Securities.
84. The Strategic Review Process conducted by the Lightstream Group is discussed in detail in the Preliminary Interim Order Affidavit beginning at paragraph 128.

**C. The Sale Process**

85. On July 13, 2016, the Lightstream Group commenced a sale and investor solicitation process ("**SISP**") with the assistance of TD Securities, as required by the Support Agreement and the forbearance agreement then in place between the Lightstream Group and the First Lien Lenders dated July 12, 2016.
86. In accordance with the Support Agreement and the Second Forbearance Agreement, LTS has continued the SISP throughout the Arrangement Proceedings.
87. To date, TD Securities has contacted more than 600 parties, both domestic and international, including 1,200 individual contacts. Of those over 600 parties contacted, 37 (including 36 strategic parties and 1 financial party) executed a non-disclosure agreement.
88. LTS intends to continue the SISP through these CCAA restructuring proceedings by way of the proposed Sale Procedures attached as Appendix "A" to the proposed form of Initial Order in these proceedings.
89. The Sale Procedures are designed to thoroughly canvas the market to solicit, explore, assess and negotiate possible transactions for the sale of the Lightstream Group or a combination of one or more of its three business units, with a view to the best interests of LTS and its stakeholders.

90. In accordance with the Support Agreement, the Sale Procedures contemplate that the *Ad Hoc* Committee of Secured Noteholders will, subject to the terms and conditions set forth in the Support Agreement, make (or direct) a credit bid of the full amount of claims outstanding in respect of the Secured Notes (the "**Secured Noteholder Credit Bid**") through a newly formed entity ("**CreditBidCo**").
91. As mentioned above, in the event that the Sale Procedures do not produce a sale offer that repays the amounts due to the First Lien Lenders and, provided that the Secured Noteholder Credit Bid has not been terminated in accordance with its terms, the Secured Noteholders in full, in cash and immediately on closing, then the Lightstream Group and the *Ad Hoc* Committee of Secured Noteholders will implement the Secured Noteholder Credit Bid pursuant to which (i) the proceeds from the Replacement Credit Facility will be used to pay out the obligations owing to the First Lien Lenders under the Credit Facility; and (ii) the Secured Noteholders will receive the assets of the Lightstream Group in exchange for the amounts due to the Secured Noteholders under the Secured Note Indenture. The Sale Procedures contemplate that any sale transaction, including the Secured Noteholder Credit Bid, will be completed before December 31, 2016, in accordance with the terms of the Replacement Credit Facility, the Second Forbearance Agreement and the Support Agreement. Therefore, to the extent any stakeholder has any objection to the Sale Procedures, or the Secured Noteholder Credit Bid that may be implemented pursuant to the Sale Procedures in the event that no sale transaction emerges that repays the First Lien Lenders and the Secured Noteholders in full, in cash and immediately on closing, the Lightstream Group will be seeking the Court's assistance to have any and all such objections heard and determined on an expedited basis.
92. It is a requirement under the Support Agreement that the Sale Procedures be approved simultaneously with the Lightstream Group's initial application under the CCAA.
93. Further to the efforts of the Lightstream Group under the Strategic Review Process and the further efforts of TD Securities since launching the SISP in July 2016, the Lightstream Group is advised by TD Securities that the Sale Procedures provide for broad marketing to all potential purchasers. The Sale Procedures offer a fair and

transparent process run by the Lightstream Group under the oversight of the Monitor with the assistance of TD Securities. The Sale Procedures are intended to maximize value for the Lightstream Group and all of its stakeholders.

94. The Sale Procedures contemplate that non-binding indications of interest will be submitted on or before October 21, 2016, and that binding bids will be received by the Lightstream Group on or before November 21, 2016, in each case or such later date or time as the Lightstream Group may determine appropriate in consultation with the First Lien Lenders, the *Ad Hoc* Committee of Second Lien Noteholders and the Monitor.
95. Pursuant to the proposed Sale Procedures, bids submitted in accordance with the Sale Procedures will be reviewed and assessed by the Lightstream Group, in consultation with the Sale Advisor (as defined therein) and the Monitor, on the basis of certain criteria as set out in the Sale Procedures. Under the Sale Procedures, any qualified non-binding indication of interest or qualified binding bid, either on its own or in combination with another qualified non-binding indication of interest or qualified binding bid, as applicable, for one or more of the Lightstream Group's three business units, must be sufficient to repay the indebtedness owing to the First Lien Lenders and, provided that the Secured Noteholder Credit Bid has not been terminated in accordance with its terms, Secured Noteholders in full, in cash and immediately on closing.
96. Pursuant to the Sale Procedures, if it is determined by the Lightstream Group, in consultation with the Sale Advisor and the Monitor, that there are no non-binding indications of interest received by the October 21, 2016 deadline (other than the Secured Noteholder Credit Bid), or if there are no binding bids received by the November 21, 2016 deadline (other than the Secured Noteholder Credit Bid), in each case that would be sufficient to repay (on its own, or in combination with one or more non-overlapping bids for different business units), the indebtedness owing to the First Lien Lenders and, provided that the Secured Noteholder Credit Bid has not been terminated in accordance with its terms, Second Lien Noteholders in full, in cash and immediately on closing, the Secured Noteholder Credit Bid shall be deemed to be the successful bid and the

Lightstream Group may forthwith terminate the Sale Procedures and proceed to implement the Secured Noteholder Credit Bid and seek Court approval of the same.

97. Pursuant to the Sale Procedures, the Support Agreement and the Second Forbearance Agreement, any sale transaction is to close before December 31, 2016.
98. As set out in the Preliminary Interim Order Affidavit beginning at paragraph 124, some of the Lightstream Group's business units have been marketed to potential purchasers since as early as December 2014 as part of the Strategic Review Process. In addition, all assets of the Lightstream Group have been thoroughly marketed since the commencement of the SISP on July 13, 2016. I am advised by the proposed Monitor and TD Securities that considering the extensive marketing process that has already been undertaken with respect to the assets of the Lightstream Group, in the circumstances, the timelines set out in the Sale Procedures are reasonable in the current Canadian oil and gas market.

## **VII. THE APPLICANTS MEET THE CCAA STATUTORY REQUIREMENTS**

### **A. The Applicants are "Companies" under the CCAA**

99. Each of the Applicants is incorporated under the ABCA and, accordingly, each is a "company" to which the CCAA applies.
100. As set out above, the Partnerships are wholly owned by the Applicants and hold the assets of the Lightstream Group. The Partnerships are integrally and closely interrelated to and intertwined with the Applicants such that it is necessary that they are included in the protections and authorizations provided by the proposed Initial Order together with the Applicants.

### **B. The Lightstream Group has Claims Against them in Excess of \$5 Million**

101. As discussed above, the Lightstream Group has claims against it well in excess of \$5 million in the aggregate.

### **C. The Lightstream Group is Insolvent**

102. But for the Second Forbearance Agreement, the Support Agreement and the stay of proceedings granted pursuant to the Arrangement Proceedings, all amounts outstanding in respect of the Credit Facility, the Secured Note Indenture and the Unsecured Note Indenture would become immediately due and owing, and the Lightstream Group does not have sufficient liquidity to pay those amounts.

### **VIII. RELIEF SOUGHT**

103. The immediate objective of the proposed CCAA proceedings is to continue the SISP, though the Solicitation Process (as defined in the Sale Procedures) by way of the Sale Procedures to effect a transaction for all of the Lightstream Group's assets.
104. The Solicitation Process (as defined in the Sale Procedures) will explore all avenues of sale of all or part of the assets of the Lightstream Group with a view to completing a sale or other transaction in the best interests of the Lightstream Group and its stakeholders.
105. On or around July 12, 2016, each of the board of directors of the Applicants resolved to authorize the Lightstream Group to proceed with, among other things, the CCAA proceedings on the terms set forth in the Support Agreement.

#### **A. Stay of Proceedings**

106. The Lightstream Group requires a stay of proceedings to maintain the *status quo* in order to preserve the value of the Lightstream Group and to ensure that no creditor of the Lightstream Group obtains preferred treatment relative to other creditors.

#### **B. Appointment of Monitor**

107. I believe that FTI Consulting Canada Inc. is qualified and competent to act as Monitor under the CCAA proceedings of the Lightstream Group. Attached hereto as Exhibit "19" is a copy of a Consent to Act as Monitor signed by FTI Consulting Canada Inc.



108. I understand that FTI Consulting Canada Inc. will be filing a pre-filing report with this Honourable Court as proposed Monitor in conjunction with the Lightstream Group's request for relief under the CCAA.

**C. Payments During CCAA Proceedings**

109. During the course of these CCAA proceedings, the Lightstream Group intends to make payments for goods and services supplied post-filing as set out in the cash flow projections referred to below and as permitted by the proposed Initial Order.
110. Additionally, the Lightstream Group seeks the Court's approval to make payment of pre-filing amounts or to honour cheques issued to providers of goods and services prior to the date of filing that the Lightstream Group, in consultation with the Monitor, believes are necessary to facilitate the Lightstream Group's ongoing operations and to preserve value in these CCAA proceedings.
111. The payment of pre-filing amounts is crucial for the Lightstream Group to maintain positive relationships with its current goods and services suppliers who are not subject to long-term contracts and who may otherwise increase prices for goods and services provided should these relationships deteriorate. In addition, the Lightstream Group believes that the payment of these pre-filing amounts will ensure the entire business of the Lightstream Group remains intact, which will preserve value for the benefit of the Lightstream Group and its stakeholders.
112. In connection with the Secured Noteholder Credit Bid, the Lightstream Group and CreditBidCo continue to negotiate a form of asset purchase agreement (the "APA") that the Lightstream Group anticipates entering into, subject to all necessary Court approvals, including approval of the Sale Procedures, in advance of the hearing for the Initial Order. The Lightstream Group intends to attach the APA to a further affidavit to file with the Court in advance of the hearing of the Application, which APA will ultimately form the template APA to which qualified binding bids are to be provided pursuant to the Sale Procedures.

113. The APA, as currently drafted, provides that the purchaser shall assume, among other things, all pre-filing liabilities arising from the provision of goods and services to the Lightstream Group. As such, whether paid on an ongoing basis or post-closing, it is contemplated that these pre-filing obligations to goods and services providers will be assumed by CreditBidCo or any other successful purchaser or purchasers pursuant to the Sale Procedures.
114. The projected expenses for pre-filing payments to these goods and services suppliers are reflected in the 13-week cash flow statements described below. The Lightstream Group believes these payments are necessary and in the best interests of the Lightstream Group and its stakeholders.

#### **D. Administration Charge**

115. It is contemplated that the Monitor, counsel to the Monitor, counsel to the Lightstream Group, independent counsel to the Applicants' directors and officers, counsel to the First Lien Lenders, PricewaterhouseCoopers Inc. in its capacity as financial advisor to the First Lien Lenders, and counsel to the *Ad Hoc* Committee of Secured Noteholders, would be granted a first priority Court-ordered charge on the assets, property and undertakings of the Lightstream Group in priority to all other security interests, trusts, liens, charges and encumbrances (the "**Administration Charge**") up to the maximum amount of \$2,000,000 in respect of their respective fees and disbursements. The Lightstream Group believes the Administration Charge is fair and reasonable in the circumstances.
116. The Lightstream Group requires the expertise, knowledge and continuing participation of the proposed beneficiaries of the Administration Charge in order to complete a successful restructuring. The Lightstream Group believes the Administration Charge is necessary to ensure the continued participation of these parties.

#### **E. Credit Card Charge**

117. The Lightstream Group currently uses corporate credit cards (the "**Credit Cards**") provided by HSBC Bank Canada, one of the First Lien Lenders.

118. In order to avoid disruptions to its day-to-day operations, the Lightstream Group wishes to be entitled to the continued use of the Credit Cards during these proceedings, and HSBC Bank Canada has agreed to let them do so should the Lightstream Group continue to make payments on the Credit Cards, including with respect to pre-filing charges.
119. The Lightstream Group is requesting that HSBC Bank Canada be granted a second priority Court-ordered charge on the assets, property and undertakings of the Lightstream Group in priority to all other security interests, trusts, liens, charges and encumbrances but subordinate to the Administration Charge (the "**Credit Card Charge**") up to the maximum amount of \$105,000.
120. The Credit Card Charge is to secure all obligations owed to HSBC Bank Canada relating to the Credit Cards, including principal interest and fees. The Lightstream Group believes the Credit Card Charge is fair and reasonable in the circumstances.

#### **F. Directors' Charge**

121. It is contemplated that the Applicants' directors and officers would be granted a third priority Court-ordered charge on the assets, property and undertakings of the Lightstream Group in priority to all other security interests, trusts, liens, charges and encumbrances, but subordinate to the Administration Charge and the Credit Card Charge (the "**Directors' Charge**") up to the maximum amount of \$2,500,000. The Lightstream Group believes the Directors' Charge is fair and reasonable in the circumstances.
122. A successful restructuring of the Lightstream Group will only be possible with the continued participation of the Applicants' directors and officers. These individuals have specialized expertise and relationships with the Lightstream Group's stakeholders. In addition, the directors and officers have gained significant knowledge of the restructuring proceedings of the Lightstream Group that cannot be easily replicated or replaced.
123. The Applicants' directors and officers have the benefit of insurance policies (the "**D&O Insurance Policies**") in respect of their potential liability. Although the D&O Insurance Policies insure the directors and officers of the Applicants for certain claims that may arise against them in their capacity as directors and/or officers of the Applicants,

coverage is subject to several exclusions and limitations and there is a potential for insufficient coverage in respect of potential director and officer liabilities. The directors and officers of the Applicants have expressed their desire for certainty with respect to potential personal liability if they continue in their current capacities in the context of a CCAA proceeding.

**G. KERP Charge and KEIP Charge**

124. The Lightstream Group seeks the Court's approval of a KERP and a KEIP designed in consultation with the proposed Monitor to retain employees and incentivize executives during this restructuring.
125. Since December 31, 2014, LTS has reduced its staff from 433 employees to less than 300 employees, a reduction of over 30%. The proposed KERP applies to 193 employees of LTS. Without the retention of these employees, the Lightstream Group's ability to successfully maintain its business operations and preserve asset value in these CCAA proceedings would be compromised. The proposed KERP is only payable to beneficiaries thereof if the successful bid pursuant to the Sale Procedures is other than the Secured Noteholder Credit Bid.
126. The KEIP has been designed to incentivize a relatively small number of senior executives of LTS to maximize proceeds of any sale pursuant to the Sale Procedures. The KEIP applies to only nine employees, or about 3% of the total number of employees of LTS. Compensation pursuant to the KEIP is only payable to these senior executives if the successful bid pursuant to the Sale Procedures is other than the Secured Noteholder Credit Bid and if certain sales proceed thresholds are achieved.
127. The beneficiaries of the KEIP are certain senior executives of LTS, who have valuable corporate knowledge that cannot easily be replaced or replicated and/or are engaged in relationships with key clients. In addition, these particular employees have been working diligently for several months to restructure the Lightstream Group to the benefit of all stakeholders. Their continued employment is integral to the Lightstream Group's efforts to maintain its business and improve its financial position, including efforts to source, review and implement a sale, restructuring or recapitalization transaction.

128. Any amounts received by beneficiaries of the KERP or KEIP are to be applied towards any statutory or contractual severance entitlements of those employees and will mitigate any potential claims that may otherwise be brought by those employees.
129. A copy of the spreadsheet that contains details of the key employees, including their annual salaries and the retention payments that are proposed to be offered to them under the KERP and KEIP (the "**KERP/KEIP Summary**") is marked as Exhibit "**20**" hereto, but is not attached due to the confidential and commercially sensitive nature of its contents, the disclosure of which would be very harmful to the Lightstream Group's commercial interests, as well as the privacy interests of LTS' employees. The Lightstream Group is requesting that the KERP/KEIP Summary be sealed on the Court file.
130. It is contemplated that the beneficiaries under the KERP would be granted a fourth priority Court-ordered charge on the assets, property and undertakings of the Lightstream Group in priority to all other charges but subordinate to the Administration Charge, Credit Card Charge and the Directors' Charge and the indebtedness to the Agent and First Lien Lenders under the Credit Agreement (the "**KERP Charge**") up to the maximum amount of \$4,115,250. The Lightstream Group believes the KERP Charge is fair and reasonable in the circumstances.
131. It is contemplated that the beneficiaries under the KEIP would be granted a fifth priority Court-ordered charge on the assets, property and undertakings of the Lightstream Group, in priority to all other charges but subordinate to the Administration Charge, Credit Card Charge, the Directors' Charge, the KERP Charge and the indebtedness to the Agent and First Lien Lenders under the Credit Agreement (the "**KEIP Charge**") up to the maximum amount of \$5,007,417. The Lightstream Group believes the KEIP Charge is fair and reasonable in the circumstances.

#### **H. Financial Advisors' Charge**

132. As mentioned above, the Financial Advisors have been engaged by LTS to assist the Lightstream Group with its Strategic Review Process, the Solicitation Process (as defined in the Sale Procedures) and Sale Procedures and to advise the directors and officers of

LTS in these restructuring proceedings. The Financial Advisors continue to provide services to the Lightstream Group and are crucial to the continued negotiations with the Unsecured Noteholders, the *Ad Hoc* Committee of Secured Noteholders, as well as with the Solicitation Process (as defined in the Sale Procedures) and the Sale Procedures.

133. Additionally, the *Ad Hoc* Committee of Secured Noteholders have engaged BMO Nesbitt Burns Inc. ("**BMO**") as its independent financial advisor, the fees of whom are an obligation of the Lightstream Group pursuant to the terms of the Support Agreement. Attached hereto and marked as Exhibit "**21**" is a copy of the engagement letter with BMO.
134. It is contemplated that, upon the successful completion of the Sale Procedures, the Financial Advisors and BMO will be granted a sixth priority Court-ordered charge on the assets, property and undertakings of the Lightstream Group, in priority to all other charges but subordinate to the Administration Charge, Credit Card Charge, the Directors' Charge, the KERP Charge, the indebtedness to the Agent and First Lien Lenders under the Credit Agreement and the KEIP Charge (the "**Financial Advisors' Charge**") up to the maximum amount of \$19,410,000.
135. The Lightstream Group requires the expertise, knowledge and continuing participation of the proposed beneficiaries of the Financial Advisors' Charge in order to complete a successful restructuring. The Lightstream Group believes the Financial Advisors' Charge is necessary to ensure their continued assistance and participation in the proposed CCAA proceedings.

#### **I. Sealing**

136. As noted above, the KERP/KEIP Summary contains sensitive commercial information, the disclosure of which would be very harmful to the Lightstream Group's commercial interests, as well as the privacy interests of LTS' employees. Accordingly, as part of this application, the Lightstream Group is requesting that Exhibit "**20**" containing the KERP/KEIP Summary be sealed on the Court file.

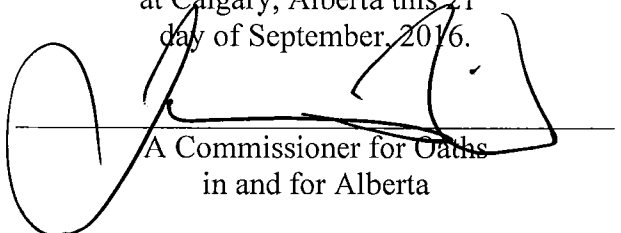
**IX. CASH FLOW PROJECTIONS**

- 137. The Lightstream Group's 13-week cash flow forecast is attached hereto as Exhibit "22". As set out therein, the Lightstream Group's principal uses of cash during the next 13 weeks will consist of the payment of capital expenditures as well as ongoing day-to-day operational expenses including, but not limited to, payroll, transportation and office related expenses and professional fees and disbursements in connection with these CCAA proceedings.
- 138. As at September 20, 2016, the Lightstream Group had approximately \$30 million unrestricted available cash on hand. The Lightstream Group's cash flow forecast projects that, subject to obtaining the relief outlined herein, the Lightstream Group will have sufficient cash to fund their projected costs throughout the cash flow forecasted period of these proceedings.

**X. CONCLUSION**

- 139. I swear this Affidavit in support of an Originating Application for the relief set out in paragraph 3 herein and for no other purpose.

SWORN (OR AFFIRMED) BEFORE ME )  
 at Calgary, Alberta this 21<sup>st</sup> )  
 day of September, 2016. )  
 )  
 )  
 )  
 )  
 )  
 )  
 )  
 )



A Commissioner for Oaths  
 in and for Alberta

**James W. Reid**  
 Barrister & Solicitor



**PETER D. SCOTT**