

Clerk's Stamp

Court File Number 1501-02652
Court COURT OF QUEEN'S BENCH OF ALBERTA
Judicial Centre Calgary
Applicant PACER CONSTRUCTION HOLDINGS CORPORATION
Respondents PACER PROMEC ENERGY CORPORATION and PACER PROMEC ENERGY CONSTRUCTION CORPORATION
Document AFFIDAVIT OF JOEL THOMPSON

Address for Service and Contact Information of Party Filing this Document STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Elizabeth Pillon
Tel: 1 (416) 869-5623
E-mail: lpillon@stikeman.com

Geoffrey D. Holub
STIKEMAN ELLIOTT LLP
Barristers & Solicitors
4300 Bankers Hall West,
888-3rd Street S.W.,
Calgary, Canada T2P 5C5
Tel: (403) 266-9022
Fax: (403) 266-9034
E-mail : gholub@stikeman.com

Suzanne Amiel
Tel: 1 (416) 869-6866
Fax: 1 (416) 947-0866
E-mail: samiel@stikeman.com

Lawyers for the Applicant
File No.: 120631.1017

AFFIDAVIT OF JOEL THOMPSON
Sworn on May 6, 2015

I, Joel Thompson, of the City of Calgary, in the Province of Alberta, SWEAR AND SAY THAT:

1. I am the Chief Financial Officer of Pacer Construction Holdings Corporation (“Pacer”). I therefore have personal knowledge of the matters to which I hereinafter depose. Where my affidavit is stated to be based on information I have received from others, I believe that information to be true. All capitalized terms not defined herein are as defined in the Receiver’s First Report dated May 1, 2015 (the “First Report”).

2. I have reviewed the Affidavit of Paul Lafrenière sworn April 29, 2015 (the “Lafrenière Affidavit”), and swear this affidavit in response to the allegations contained therein.

3. Two earlier affidavits were sworn in respect of this matter:

- a. The Affidavit of Richard Pelletier sworn March 6, 2015 (the “Pelletier Affidavit”); and
- b. An affidavit sworn by me on March 10, 2015 (the “First Thompson Affidavit”). The First Thompson Affidavit was served on Promec prior to the return of the initial application for the appointment of the receiver and attempts were made to file the affidavit at that time.

Copies of the Pelletier Affidavit and the First Thompson Affidavit (without attachments) are attached hereto as Exhibits “A” and “B” respectively. Complete copies with exhibits will be made available to the Court at the return of the motion.

4. Given the date of the Lafrenière Affidavit, it would appear that Mr. Lafrenière did not have the benefit of reviewing the final version of the Receiver’s First Report dated May 1, 2015, nor the updated costs and recovery analysis included therein. It also appears that Mr. Lafrenière has not reviewed the Receiver’s recommendations relating to the manner in which future financing will be provided and secured against PPEC’s assets.

5. Pacer and Promec are 50/50 shareholders in PPEC. Promec was to provide the structural and electrical construction expertise on projects and Pacer was to provide the expertise associated with its long history of working in the Alberta oil sands, as well as safety management and quality control systems.¹

Completion of the CNRL Contracts and the Administration of the PPEC Receivership Estate

6. Pacer supports the Receiver's recommendations, as outlined in its First Report, as to the completion of the CNRL Contracts and the administration of the receivership estate. Pacer has supported the Receiver's activities in stabilizing PPEC's operations since its appointment on March 10, 2015, contributing approximately \$10 million pursuant to Receiver's Certificates provided for in the Receivership Order.

7. Pacer is prepared to continue providing the financial assistance required to complete each of the CNRL Contracts and the administration of the estate, on the terms outlined in the Receiver's First Report. That is, the PPEC assets will be separated and financed in two separate pools:

- a. One pool will consist of the CNRL assets and PPEC receivables, including the CNRL Contracts; the Krupp Receivables (with an estimated value of \$7.8 million); and recoveries from other assets. The estimated financing required to recover these assets is \$63 million (the "**General Facility**"); and
- b. The other pool will consist of the Krupp Claims (with an estimated value of \$63 million). The estimated financing required to recover the Krupp Claims is \$5 million (the "**Krupp Facility**").

8. The following general priorities will be observed in the distribution of PPEC's assets:

- a. The Receiver's Borrowings Charge of \$10 million, approved by the Court on March 10, 2015, is to be secured by all of PPEC's assets and to maintain its priority ranking;

¹ Pelletier Affidavit, paras. 13-15.

- b. Recoveries related to the Krupp Claims would be applied against the specific costs of pursuing those claims, the Krupp Facility Charge, and proceeds after that would be applied to the amounts owing by PPEC under the Credit Agreement with National Bank; and
- c. Recoveries from all other PPEC assets would be applied against the General Facility Charge, which would comprise all amounts required to fund the completion of the CNRL Contracts, address outstanding liens and fund the remaining administration of the estate. Any remaining proceeds would be applied to the amounts owing under the Krupp Facility and thereafter the Credit Agreement.

9. Pacer believes that this division of assets, recommended by the Receiver, more than adequately responds to any allegations Promec has raised relating to the allocation of risk within the PPEC estate. In Pacer's view, all of the assets could have remained in one global pool, been financed en bloc, and Promec would not have suffered any adverse result. However for the purposes of implementing the Completion Protocol on the most cost-effective and efficient basis, Pacer was prepared to follow the Receiver's recommendation in isolating the Krupp Claim. Should Promec wish to revisit the allocation of security, then Pacer may also revisit the isolation of the Krupp Claim.

10. As outlined in further detail herein, Promec did not provide any financial assistance to PPEC for the many months preceding the appointment of the Receiver, despite Pacer's repeated requests that it do so. Since the Date of Appointment, Promec has not provided any funds to the Receiver for the completion of the CNRL Contracts, or for the recovery of the Krupp Receivables or Krupp Claims. While refusing to contribute financially, Promec has benefited from the ongoing operations and work performed on the various CNRL Contracts.

11. Had the Receiver abandoned work on the CNRL Contracts as of the Date of Appointment, or at any time thereafter, I would expect that:

- a. there would be no recovery on any of the CNRL Contracts or receivables owing thereunder;

- b. employees would have been terminated from the projects;
- c. source deductions would not be paid;
- d. suppliers would not have been able to recover any amounts owing to them;
- e. liens would have been filed on all of the projects;
- f. lien claims would have been capped at the quantum of any holdbacks currently being held;
- g. equipment lessors may have sought to realize on their security. Guarantees were provided by both Pacer and Promec regarding these obligations;
- h. Promec's guarantee obligations on the CNRL R-100, GRU and BTU Contracts would have been called and enforced; and
- i. Promec's guarantee obligations on the National Bank Credit Agreement would have been called and enforced.

12. The Receiver's recommended Completion Protocol, which Pacer supports, would benefit a number of stakeholders, including Promec, as outlined further below.

13. Promec appears to be requesting a retroactive reallocation of the Receiver's Borrowings Charge, which secures the Receiver's administrative costs as well as the costs of completing the CNRL Contracts, and has been in place since March 10, 2015. Their relief has been described as:

- a. "allocating the security of the Receiver's borrowings to specific assets in the Estate of the debtor, specifically, proceeds of [CNRL] contracts to be performed by the Receiver";² and
- b. "the Receiver's Borrowings Charge ranks in priority over the assets for which the funding is required (rights under the CNRL N5000 Contract), but be subordinated to existing security interests over all other assets."³

² Construction Promec Inc. Application filed May 4, 2015, para. 1(a).

³ Lafrenière Affidavit, para. 74.

14. Pacer opposes Promec's request. Promec is not financing the Receiver's continued administration of the estate or the completion of the CNRL Contracts; nor is Promec financing the recovery of any other value for the estate, including efforts to recover the Krupp Receivables and Krupp Claims. Promec should not be entitled to dictate the terms upon which another party is to provide financing to the Receiver. If Promec wishes to dictate the financing terms, they could provide the \$63 million requested by the Receiver directly to complete the CNRL Projects or \$5million required to pursue the Krupp Claim.

CNRL Contracts

15. There are four projects which the Receiver has been completing during the course of the Receivership Proceedings:

- a. CNRL N5000, a \$40 million project guaranteed by Pacer; its estimated date of completion is July 31st (with "punch list" items completed by August 31, 2015).
- b. CNRL R-100 (called R-51 in the Pelletier Affidavit), a \$30 million project guaranteed by Pacer and Promec; its estimated date of completion is April 30th (with punch list items completed by May 15, 2015);
- c. CNRL BTU, a project guaranteed by Pacer and Promec; the work for this project was substantially completed during the course of the receivership; and
- d. CNRL GRU, a project guaranteed by Pacer and Promec; the work for this project was substantially completed during the course of the receivership.

16. However, I note that while Promec did not guarantee the CNRL N5000 project, it did endorse PPEC entering into this agreement and therefore the obligations to complete the project. Moreover, there was no basis on which to distinguish between the CNRL projects and it was anticipated that Promec would be required to guarantee all the projects. Promec has advised that it was an administrative oversight that their guarantee was not obtained on the N5000 project.

Promec's Failure to Support PPEC's Operations to Date

17. The Pelletier Affidavit and First Thompson Affidavit outline Promec's numerous failures to provide financial and operational assistance to PPEC immediately prior to the appointment of the Receiver, including:

- a. Promec's director appointed to the Board of PPEC resigned and Promec refused to appoint a replacement director, as required by the Shareholder Agreement in place between Promec and Pacer;⁴
- b. Promec failed to contribute to funding required by the Credit Agreement;⁵
- c. Promec has failed to contribute to PPEC's ongoing funding requirements since November 2014. Since November 2014, Pacer has contributed \$9,375,000 in November 2014, and \$12,875,000, and then a further \$15,000,000, in February 2015;⁶
- d. Promec was aware of the funding requirements, and that Pacer was providing the financial assistance, when Promec refused to do so;⁷ and
- e. Promec failed to participate in discussions or efforts to recover on the Krupp Claims or Receivables.⁸

18. Promec guaranteed PPEC's Credit Agreement with National Bank in the amount of approximately \$30,800,000.⁹ Despite that guarantee, Promec has failed to provide any financial contribution towards the Credit Agreement for many months preceding the appointment of the Receiver and since the initiation of the Receivership.

19. Despite its guarantee of the CNRL R-100, BTU and GRU Contracts, Promec has failed to provide financial assistance towards any of these projects for many months preceding the appointment of the Receiver and since the initiation of the Receivership.

⁴ Pelletier Affidavit, paras. 5, 16, 56-58, Exhibits D, T.

⁵ Pelletier Affidavit, paras. 4, 44-45, 50-52, 59-61, Exhibits Q, U, V.

⁶ Pelletier Affidavit, paras. 45, 53, 55, 61; First Thompson Affidavit, paras. 5-8, 13-17, Exhibits A, B.

⁷ Pelletier Affidavit, at paras. 45, 46, 53, 73, Exhibits N, R, W, X; First Thompson Affidavit, paras. 13-17, Exhibits E, F and G.

⁸ First Thompson Affidavit, paras. 9-12, Exhibits A, C, D.

⁹ Pelletier Affidavit, paras. 19-21, 25, 31, Exhibits F, G, J.

20. At paragraph 63 of the Lafrenière Affidavit, it is noted that “Pacer is really advancing amounts to complete a contract that it guaranteed, just like any other guarantor would do when a debtor is insolvent.” And yet, despite repeated requests from Pacer, Promec failed to satisfy its obligations as co-guarantor of the National Bank debt and CNRL R-100, BTU and GRU Contracts and Pacer was therefore required to meet PPEC’s financial obligations alone.

21. In response to National Bank’s demand on Pacer and Promec’s guarantee of the Credit Agreement, Pacer paid the amount of \$26,227,047 in full satisfaction of the indebtedness and other claims owing by PPEC to National Bank. Pacer advised Promec of its intention to honour the guarantee and gave Promec an opportunity to contribute to its payment. Promec declined to do so.¹⁰

22. As a result of Pacer’s earlier contributions to PPEC and its payment of the National Bank debt pursuant to its guarantee thereof, Pacer holds in excess of \$50 million of PPEC’s secured debt. To my knowledge, Promec does not hold any secured debt in PPEC.

23. Promec has attempted to muddy the waters by raising issues relating to PPEC’s use of funds. These allegations were raised and responded to in February 2015. Moreover, these same allegations were before the Court on the application for the appointment of the Receiver. These allegations are inaccurate: Promec was aware of the intended use of funds, as outlined in PPEC’s cashflows which Promec itself shared with National Bank.¹¹

24. The funding of any amounts to TFL Industrial Services Ltd. (“TFL”) or other contractors was required to obtain CNRL progress payments and therefore it was in the best interests of PPEC and its stakeholders that the available funds be used in this fashion. Promec ignores that if the funds had been used for alternative purposes at that time, Pacer and Promec would have been called upon to make the necessary payments to the contractors to continue the work on the projects.

25. Pacer denies the allegations in respect of TFL’s capacity to act as subcontractor on the CNRL Contracts. A variety of factors contributed to the delays experienced with the

¹⁰ Pelletier Affidavit, paras. 64-66, Exhibits Y, Z, AA.

¹¹ First Thompson Affidavit, Exhibit B.

projects prior to the Receiver's involvement, and the delays cannot be attributed solely to any of TFL's actions. TFL acted on the N-51 project which is complete and has also successfully completed its tasks on the N5000 project. Moreover, per the Shareholder Agreement in effect between Pacer and Promec as 50/50 shareholders in PPEC, Pacer was not able to unilaterally appoint a trade subcontractor – decisions of the Board of Directors of PPEC were required to be unanimous. A copy of the Shareholder Agreement is attached hereto as **Exhibit "C"**.

26. If this history is relevant at some future date, a more fulsome response will be provided to complete the Court record on these issues.

Promec's Financial Situation

27. As noted at paragraph 48(a) of the Lafrenière Affidavit, Promec has failed to provide financing to PPEC on the basis that it allegedly did not have the financial capacity to continue funding PPEC.

28. Promec has made it clear to Pacer in the recent past that it does not have the means to satisfy its financing or guarantee obligations in respect of PPEC's operations. If Promec is truly not in a position to assist financially, than it should not be permitted to dictate how other parties are prepared to provide financial assistance to PPEC.

Krupp Contracts

29. Each of the Krupp Contracts was run exclusively by Promec, from the award of the contract to the completion of the work. Mr. Lafrenière assumed the key project management role and was the key decisionmaker on operational issues. The Krupp Contracts generated, before any unresolved claims and change orders, a loss of almost \$42 million.¹² These losses created the financial distress that PPEC suffered upon its commencement of the CNRL Contracts. It should be noted that Promec also had control of PPEC's accounting until late 2014.

30. The Krupp Receivables are estimated at \$7.8 million, while the Krupp Claims are estimated at \$63 million. As Promec is aware, Krupp has refused to pay either amount on

¹² Lafrenière Affidavit, Exhibit G.

account of its alleged counterclaims against PPEC, and it is anticipated that both of the Krupp Receivables and the Krupp Claims will require litigation in order to recover on the funds owing. Indeed, Krupp is also withholding funds in the amount of \$6,702,324.64 from Pacer on account of its alleged claims against PPEC. As such, the suggestion that financing is available in the near term from either the Krupp Receivables or Krupp Claims is unrealistic. In fact, the Receiver has estimated that it will require a \$5 million Krupp Facility to cover the costs of pursuing recovery of the Krupp Receivables and Krupp Claims. I note that Promec has not offered to provide this financing.

31. As noted in the First Thompson Affidavit, Pacer repeatedly requested Promec's assistance regarding the recovery of the Krupp Receivables and Krupp Claims prior to the Receivership. Promec refused to assist without its other pre-conditions being met.¹³

Pacer's Financing of the Receivership, the CNRL Contracts, and the Administration of the Estate to Date

32. As noted at paragraph 65 of the Lafrenière Affidavit, Promec did not object to the appointment of the Receiver. Promec and its experienced insolvency counsel were no doubt aware that the Receiver would require financing to proceed with its appointment.

33. In the almost nine weeks since the Date of Appointment of the Receiver, Pacer alone has financed the administrative and operational costs of the Receivership through Receiver's Certificates totalling \$10 million. Promec has not contributed to those financing costs. These Receiver's Certificates have permitted the Receiver to, *inter alia*, stabilize PPEC's operations; continue the CNRL Contracts, including near-completion on three CNRL Contracts which Promec has guaranteed; meet payroll obligations to over 350 employees of PPEC; meet with CNRL to negotiate change orders and receipt of receivables; evaluate the CNRL Contracts on a going-forward basis; and meet with Krupp and others to consider and pursue the Krupp Claims.

34. Pacer was prepared to fund the Receiver's Certificates up to \$10 million on the condition that it was secured by a first-ranking charge on the estate, subject only to the Receiver's Charge and the security interests of the equipment lessors who did not receive

¹³ First Thompson Affidavit, paras. 9-12, Exhibits C, D.

notice of the Initial Order. Promec was aware of the immediate need for funding for PPEC and specifically asked the Court on the application for the appointment of the Receiver:

“Should the Court authorize the funding of the Receivership, we believe that the Receiver’s Borrowing Charge should rank in priority to any existing charges only in respect to the claims related to the CNRL N5000 Contract and be subordinated to the existing charges on any other assets of PPEC.”¹⁴

The Court did not accede to Promec’s request.

35. Promec did not appeal the Receivership Order granted on March 10, 2015, nor seek to amend the security arrangements at any time since the Receiver was appointed.

36. Had Promec attempted to appeal the Receivership Order, or reverse or reallocate the Receiver’s Borrowings Charge, Pacer would not have funded the estate from March 10, 2015 onwards without further protection being provided by the Court. In this case, payroll and other operational needs would not have been met and the Receiver would not have been in a position to stabilize PPEC’s operations.

37. Pacer is prepared to finance the completion of all the CNRL Contracts on the terms outlined in the Receiver’s First Report. This includes the completion of the CNRL Contracts which Promec guaranteed, and to which it failed to provide any financial assistance.

38. Pacer is also prepared to finance efforts to recover the Krupp Receivables and the Krupp Claims on the terms outlined in the Receiver’s First Report.

39. The Lafrenière Affidavit includes certain historical information regarding the estimated costs of completing the CNRL Contracts. The Court has the benefit of the updated cost-to-complete information in the Receiver’s First Report, as well as the Receiver’s estimated potential recovery on the CNRL Contracts.

40. I note that a number of the exhibits to the Lafrenière Affidavit are marked “without prejudice”. It is not clear on what basis Promec would ignore the without-prejudice character of those documents and seek to introduce the documents onto the Court record on a contested application.

¹⁴ Lafrenière Affidavit, Exhibit A.

41. If there are costs overruns or delays in completing the CNRL Contracts, it is Pacer who will be asked to provide the funds to complete the projects. Promec has not offered and is not being asked for any such funds as a condition of implementing the Completion Protocol.

Quebec Law Arguments

42. Mr. Lafrenière has included references to the Civil Code of Québec in his affidavit. It is not clear why. I am advised by my counsel, Stikeman Elliott LLP, that the alleged effect of the actions of any party on Promec's ultimate responsibility under its guarantee of the Credit Agreement is a matter for another day – the issues of the validity and quantum of Promec's guarantee are not before this Court on this application. While Pacer strongly denies that it has acted improperly in any respect, if the history prior to the commencement of the court-supervised Receivership Proceedings should become relevant in the future, a more fulsome response will be provided to complete the court record.

43. While Mr. Lafrenière references provisions of the Code and legal advice provided by an unnamed counsel, I note that at no time prior to the commencement of the receivership proceedings or in the two months since has Promec sought a court order under these provisions, if such an order would be available in the current circumstances.

The Benefits to the Estate from Continued Funding and the Completion of the CNRL Contracts

44. Promec notes that "other creditors will not see any significant benefit" from completing the CNRL N5000 Contract or other projects. I disagree. As noted in the Receiver's First Report and above, various stakeholders have already benefited from the Receiver's efforts during the receivership and a number of parties will benefit from the completion of the CNRL Contracts in accordance with the Completion Protocol, including:

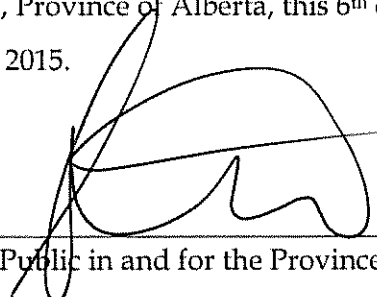
- a. CNRL, through the greater stability of the projects, including sustained, ongoing work on the projects, the minimization of disruptions or delay in the projects' completion, and the elimination of any potential set-off or damages claims;
- b. Stakeholders, through the Receiver's ability to stabilize the projects, reduce operational costs, negotiate the approval of change orders, and facilitate the flow

of funds such that the Receiver estimates potential recovery on the CNRL Contracts at approximately \$26,089,000;

- c. Lienholders and other creditors, as seen by the Receiver's comparison of the results of the Completion Protocol versus abandoning all of the CNRL Contracts, thus foregoing potential net recovery of \$3,573,000, as well as 100% recovery to lien claimants in the amount of approximately \$20 million in favour of no receivables and lien recovery capped at \$9,605,000;
- d. Employees, by the continued employment of 205 employees on the N5000 project, 94 employees on the R-100 project, 20 employees on the BTU project for 4 weeks until its completion, and 5 employees on the GRU project for approximately 3 weeks until its completion;
- e. The government and directors, via the payment of source deductions in the amount of approximately \$2.8 million;
- f. Suppliers and subtrades; and
- g. Equipment lessors.

45. I would also include that Promec has and will continue to benefit from the completion of the CNRL R-100, BTU, and GRU Contracts, in that their guarantee obligations on these projects are reduced with each day that the projects continue to completion. Had the Receiver chosen to abandon these projects at the initiation of the Receivership, Promec's guarantees could have been called upon for each of these projects.

SWORN BEFORE ME at the City of)
Calgary, Province of Alberta, this 6th day)
of May, 2015.)

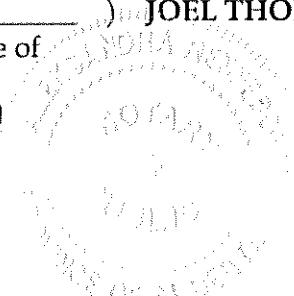


Notary Public in and for the Province of
Alberta

**Aleksandra Rennebohm
Barrister & Solicitor**



JOEL THOMPSON



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Document AFFIDAVIT OF RICHARD PELLETIER

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Address for Service and Contact Information of Party Filing this Document

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
199 Bay Street
Toronto, Canada M5L 1B9

Elizabeth Pillon
Tel: 1 (416) 869-5623
E-mail: lpillon@stikeman.com

Geoffrey D. Holub
STIKEMAN ELLIOTT LLP
Barristers & Solicitors
4300 Bankers Hall West,
888-3rd Street S.W.,
Calgary, Canada T2P 5C5
Tel: (403) 266-9022
Fax: (403) 266-9000
E-mail : gholub@stikeman.com

Suzanne Amiel
Tel: 1 (416) 869-6866
Fax: 1 (416) 947-0866
E-mail: samiel@stikeman.com

Lawyers for the Applicant
File No.: 120631.1017

THIS IS EXHIBIT " A " referred to in the Affidavit of Joel Thompson Sworn before me this 6th day of May 2015

A NOTARY PUBLIC IN AND FOR THE PROVINCE OF ALBERTA

Aleksandra Rennebohm
Barrister & Solicitor



AFFIDAVIT OF RICHARD PELLETIER
Sworn on March 6, 2015

I, Richard Pelletier, of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the President of Pacer Construction Holdings Corporation, the applicant in the within matter. I have held this position since April 2010. I have also been on the Board of Directors of the respondent, Pacer Promec Energy Corporation, since 2013. I have reviewed the relevant contracts, correspondence, financial information, and loan, security, and guarantee documentation in this matter. I have also been party to several of the relevant discussions leading up to this application. As such, I have personal knowledge of the matters to which I hereinafter depose. Where my affidavit is stated to be based on information I have received from others, I believe that information to be true.

I. OVERVIEW

2. This affidavit is sworn in support of an application for an order appointing FTI Consulting Canada Inc. ("FTI") as receiver and manager of all of the assets, undertakings, and properties of the respondents Pacer Promec Energy Corporation ("PPEC") and its wholly-owned subsidiary Pacer Promec Energy Construction Corporation ("PPEC Construction") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), section 13(2) of the *Judicature Act*, R.S.A. 2000, c. J-2, as amended, and section 99(a) of the *Business Corporations Act*, R.S.A. 2000, c. B-9, as amended.

3. In May 2014, the respondent PPEC, a construction company specializing in the oil and gas industry, and National Bank of Canada entered into a Credit Agreement under which the bank agreed to make available a demand revolving credit facility of up to CAD\$30,000,000 (subject to borrowing base requirements), a credit card facility, and a treasury risk facility. National Bank was granted security over all of PPEC's assets to secure PPEC's indebtedness under this agreement. Moreover, PPEC's shareholders, the applicant Pacer Construction Holdings Corporation ("Pacer") and Construction Promec Inc. ("Promec"), guaranteed all of PPEC's obligations under the Credit Agreement.

4. As a result of ongoing losses on its construction contracts, PPEC fell into default under the Credit Agreement in November 2014. National Bank was willing to work with

Pacer, Promec, and PPEC to find a solution to the default that did not entail termination of the Credit Agreement. Pacer accordingly put forward a number of different proposals to Promec to enable an orderly wind down of PPEC outside of an insolvency proceeding. However, Promec declined to cooperate; notably, it refused to advance any funds to address immediate liquidity needs at the financially distressed PPEC.

5. The corporate governance arrangements at PPEC require two directors, a nominee from each of Pacer and Promec. All board decisions must be unanimous. However, on February 12, 2015, the director that Promec had nominated to PPEC's Board of Directors resigned, and, despite Pacer's requests for it to do so, Promec failed to appoint a replacement. As a result, PPEC's ongoing operations and ability to satisfy its remaining major construction contracts were put at risk.

6. Pacer has had no choice but to fund PPEC's operating expenses since November 2014 so that PPEC does not default on its major construction contracts.

7. On February 18, 2015, with no proposal for its repayment forthcoming, National Bank demanded that PPEC pay in full all amounts outstanding under the Credit Agreement, and delivered a Notice of Intention to Enforce Security under section 244 of the BIA. National Bank also called on Pacer and Promec's guarantee of PPEC's obligations under the Credit Agreement.

8. On March 5, 2015, Pacer honoured its guarantee of the Credit Agreement and alone satisfied PPEC's outstanding obligations to National Bank. Pacer was thereby subrogated to the bank's rights under the Credit Agreement and security. In furtherance of its subrogation rights, Pacer also took an assignment of National Bank's general security over PPEC's assets, with all appurtenant rights and remedies.

9. Pacer is entitled to the appointment of a receiver and manager over PPEC's assets under the terms of the assigned security from National Bank. Moreover, the appointment of a receiver and manager over PPEC and PPEC Construction is the just and convenient result for the following reasons:

- i. PPEC and PPEC Construction are insolvent;

- ii. PPEC is facing a serious corporate governance issue;
- iii. PPEC and PPEC Construction require outside financing to enable it to perform PPEC's contractual agreements, and specifically to fund its ongoing construction contracts and payroll obligations;
- iv. A court-appointed receiver will be able to assess the ongoing viability of the construction contracts and, if required, borrow funds from Pacer to fund the completion of the contracts and the receivership proceedings, or seek other alternatives such as the transfer of the contracts to Pacer (or another party) to ensure their completion, while preserving any remaining value at PPEC; and
- v. A court-appointed receiver is also optimally positioned to wind down PPEC in a fair and reasonable manner that balances the interests of all of PPEC's stakeholders in a transparent and court-supervised process.

II. RELEVANT CORPORATE ENTITIES

(a) Pacer Construction Holdings Corporation

10. The applicant Pacer is a company incorporated pursuant to the laws of Alberta and has its registered office in Calgary, Alberta. Pacer is in the business of providing construction and other services to companies in the oil and gas exploration and production industries.

(b) Construction Promec Inc.

11. Promec is a corporation incorporated under the laws of Canada, and has its registered office in Rouyn-Noranda, Quebec. Promec is an electromechanical construction company.

(c) Pacer Promec Energy Corporation and Pacer Promec Energy Construction Corporation

12. The respondent PPEC is a corporation incorporated under the laws of Alberta. Its registered office is located at 200-1040 7th Avenue SW in Calgary, Alberta. PPEC's operations involve the provision of a wide range of civil, mechanical and electrical contracting services

to customers in the oil sands developments of northern Alberta. Attached hereto as Exhibit "A" is a true copy of the corporate profile report for PPEC.

13. Each of Pacer and Promec owns 50% of the issued and outstanding share capital of PPEC.

14. PPEC has its origins in a contractual joint venture ("JV") between a Pacer affiliate and Promec. In April 2013, Pacer Mamisiwin Corporation and Promec created the JV in order to submit a joint proposal in response to a request for proposals issued by Krupp Canada Inc. ("Krupp") for construction of the Kearl Expansion Project. While Pacer provided the expertise associated with its long history of working in the Alberta oil sands, as well as safety management and quality control systems, Promec was to provide the structural and electrical construction expertise. The joint proposal was successful and the JV entered into a construction contract with Krupp (the "Krupp Contract"). PPEC was incorporated in April 2013 to enable Pacer and Promec to carry on this business by submitting proposals in response to other requests for proposals issued by Pacer's existing customers, and, if and when successful, to enter into the resulting construction contracts. The Krupp Contract was assigned to PPEC in June 2014 and the JV has been inactive and/or terminated since that time.

15. PPEC's Articles of Incorporation stipulate that it shall have a minimum of one director and a maximum of eleven directors, and the shareholders have fixed the number of directors at two. True copies of the Articles of Incorporation and the relevant shareholders' resolution are attached hereto as Exhibit "B" and Exhibit "C", respectively.

16. Pacer and Promec are also parties to a unanimous shareholders agreement with respect to PPEC, effective October 17, 2013 (the "Shareholder Agreement"), a true copy of which is attached hereto as Exhibit "D". Article 3.1 of the Shareholder Agreement provides that Pacer and Promec shall each nominate one director to the Board of Directors of PPEC and each are required to fill any vacancy created by their nominated director's departure. Articles 3.4, 3.5, and 6.2 of the Shareholder Agreement provide that PPEC's Board of Directors can only act unanimously. Upon PPEC's incorporation, Pacer nominated myself and Promec nominated Mr. Peter Capkun to the Board of Directors of PPEC.

17. PPEC is the 100% shareholder in a company named Pacer Promec Energy Construction Corporation ("PPEC Construction"), the second respondent in the within application, which is incorporated under the laws of Alberta and has its registered office in Calgary, Alberta. PPEC's financial statements, discussed below, are consolidated with those of PPEC Construction. PPEC Construction has no operations or assets, but employs some of the trade employees working on PPEC's construction contracts and is the vehicle through which these employees are paid. A true copy of PPEC Construction's corporate profile report is in Exhibit A, previously appended hereto.

18. Attached hereto as Exhibit "E" is a corporate chart illustrating the relationship amongst the foregoing corporate entities.

III. THE CREDIT AGREEMENT

19. On May 23, 2014, PPEC (as borrower) and the National Bank of Canada (as lender) entered into a Credit Agreement (the "Credit Agreement"), a true copy of which is attached hereto as Exhibit "F". Pacer and Promec are also parties to the Credit Agreement.

20. Pursuant to the Credit Agreement, National Bank agreed to make available to PPEC the following three credit facilities in the aggregate amount of up to CAD\$30,850,000 (the "Credit Facilities"):

- i. A demand revolving credit facility for general corporate purposes, in a principal amount of the lesser of \$30,000,000 and the Borrowing Base, a fluctuating amount which is defined and calculated in accordance with the terms of the Credit Agreement ("Facility 1");
- ii. A treasury risk management facility to authorize PPEC to incur obligations under hedging contracts with National Bank, and assist it in its hedging strategies, with an aggregate risk content not exceeding \$500,000 ("Facility 2");
and
- iii. A demand MasterCard facility for general corporate purposes for a principal amount not exceeding \$350,000 ("Facility 3").

The interest on prime rate loans borrowed under Facility 1 accrues at a fluctuating rate set by National Bank from time to time, which as of March 6, 2015 is 2.85%, plus the applicable contractual margin of 0.50%. Interest on prime rate loans is payable monthly in arrears.

21. The Credit Facilities are repayable on demand. Furthermore, PPEC is required to make payments as necessary to ensure that the amount outstanding under Facility 1 never exceeds the lesser of the Borrowing Base at any given time and \$30 million.

22. Upon the occurrence and continuation of an event of default, National Bank may terminate PPEC's right to use the Credit Facilities, and demand immediate repayment of the whole or part of the indebtedness of PPEC under the Credit Facilities or any other loan document, including all security documents ("Loan Documents").

23. Events of default under the Credit Agreement include: (i) PPEC's default in the payment of any amount owing under a Loan Document; (ii) the inability of PPEC, Pacer, or Promec to pay its debts generally as they become due; (iii) PPEC's failure to keep or observe its financial covenants set out in the Credit Agreement (described further below); (iv) PPEC, Pacer, or Promec's default in its performance of any of its other obligations under a Loan Document; or (v) any circumstance, event or development which has had a material adverse effect on PPEC's business, operations, or assets, or its ability to repay any amount due or perform any material obligation under a Loan Document ("Material Adverse Change").

24. PPEC's financial covenants under the Credit Agreement require it to maintain a maximum total debt to capitalization ratio of less than 70% until June 30, 2015; a fixed charge coverage ratio of at least 1.75:1.00 on a rolling four quarter basis; and a current ratio of at least 1.15:1.00 (the "Financial Ratio Covenants"). The formulae for calculating these ratios are set out in the definitions section of the Credit Agreement.

25. To secure repayment of the Credit Facilities, PPEC agreed in the Credit Agreement to provide National Bank with a general security agreement creating a first-ranking lien over all of its present and future personal property, and a movable hypothec on the universality of its present and future movable property. Pacer and Promec agreed in the Credit Agreement to each provide a solidary guarantee of PPEC's obligations thereunder, including the obligation to cover any Borrowing Base deficit or overdraft by PPEC.

IV. NATIONAL BANK'S SECURITY

26. In compliance with its obligations under the Credit Agreement, PPEC granted National Bank several forms of security to secure its repayment of the amounts advanced to it under the Credit Agreement.

27. Pursuant to a May 23, 2014 Security Agreement (the "GSA"), PPEC granted National Bank a security interest in all of its present and after-acquired personal property, and a floating charge over all its present or after-acquired property of whatever nature and kind and wherever situate. These security interests secure PPEC's payment and performance of its obligations to National Bank under the Credit Agreement or other Loan Documents, as well as all expenses, costs and charges incurred by or on behalf of National Bank in connection with the GSA, including all reasonable legal fees, court costs, and receiver's remuneration and other expenses. The GSA was registered in the Alberta Personal Property Registry on May 23, 2014 under the registration number 14052332978, and a Land Charge was registered under the registration number 14052332997. True copies of the GSA and proof of its registrations are collectively attached hereto as Exhibit "G".

28. The security created by the GSA becomes enforceable upon the occurrence and continuation of an event of default under the Credit Agreement. Whenever the security is enforceable, National Bank may enforce its rights by (among other things) appointing, by instrument in writing, a receiver or receiver and manager of all or any part of the collateral, or instituting proceedings in any court of competent jurisdiction for the appointment of a receiver of the collateral, pursuant to subsections 3.2(k) and (l) of the GSA.

29. Pursuant to a May 23, 2014 Hypothec on the Universality of Movable Property (the "Hypothec"), PPEC hypothecated to National Bank the universality of its movable property, corporeal or incorporeal, present and future, of any nature whatsoever and wherever situated, for the principal amount of \$48,000,000, with interest at the rate of 25% per annum. The Hypothec secures PPEC's obligations incurred towards National Bank pursuant to the Credit Agreement or other Loan Documents. National Bank may realize on the Hypothec upon the occurrence of an event of default, as defined in the Credit Agreement. The Hypothec was registered in the Quebec Register of Personal and Movable Real Rights on

May 28, 2014 under the registration number 14-0469469-0001. True copies of the Hypothec and proof of its registration are attached hereto as Exhibit "H".

30. PPEC also entered into a Set-Off and Security Agreement with respect to Deposits dated April 9, 2014 (the "Deposit Security Agreement"). The Deposit Security Agreement grants National Bank a security interest and hypothec in sums standing to the credit of account number 559039425261 held by PPEC with National Bank branch 10251, up to the amount of \$150,000, with interest at the rate of 25% per annum, which secures all of PPEC's obligations to National Bank. The hypothec in the amount of \$180,000 was registered in the Quebec Register of Personal and Movable Real Rights on April 15, 2014 under the registration number 14-0311999-0007. The security interest was registered in the Alberta Personal Property Registry on April 17, 2014 under the registration number 14041710023. True copies of the Deposit Security Agreement and its registration are attached hereto as Exhibit "I".

V. PACER AND PROMEC'S GUARANTEE OF THE CREDIT AGREEMENT

31. Under a Guarantee and Subordination Agreement dated May 23, 2014 (the "Guarantee"), Pacer and Promec solidarily and irrevocably, absolutely and unconditionally guaranteed PPEC's obligations to National Bank under the Credit Agreement and other Loan Documents. Pacer and Promec also undertook to cover any of PPEC's Borrowing Base deficit by investing in or making advances to PPEC, for payment over to the Bank, without the Bank having to declare PPEC in default. A true copy of the Guarantee is attached hereto as Exhibit "J".

VI. THE FINANCIAL STATUS OF PPEC AND PPEC CONSTRUCTION (ON A CONSOLIDATED BASIS)

32. PPEC's financial difficulties stem from suffering past and ongoing losses on its construction contracts. The cost estimates used to formulate bids on projects in response to requests for proposals have regularly been exceeded, and PPEC has struggled to find the proper team to manage the projects it has taken on. PPEC has projected aggregate losses of \$63 million on all of the construction contracts it has entered into since its incorporation, which were largely performed over the course of 2014 and early 2015.

33. According to its unaudited financial statements for the year ended December 31, 2014 (which are consolidated with those of PPEC Construction) PPEC made losses of \$48,275,028.66 over the course of those twelve months. Attached hereto as Exhibit "K" is a true copy of PPEC's unaudited financial statements for the year ended December 31, 2014.

(a) PPEC's Assets

34. According to PPEC's most recent unaudited financial statements for the period ended January 31, 2015, it had assets totalling \$68,476,066. That sum consists of current assets of \$32,137,515 in accounts receivable, \$30,228,655 in work in progress, and \$133,204 in prepaid expenses, together totalling \$62,499,375; and capital assets with a net book value of \$5,976,690. PPEC's capital assets are composed in large part of heavy equipment, handling equipment, office trailers, support equipment, and vehicles. Attached hereto as Exhibit "L" is a true copy of PPEC's unaudited financial statements as at January 31, 2015.

(b) PPEC's Liabilities

35. Also as at January 31, 2015, PPEC had current liabilities of \$94,031,745.36, consisting largely of \$59,294,096 in trade accounts payable, \$24,525,424 in bank indebtedness, \$5,235,959 in accrued liabilities, and \$4,240,934 in wage and payroll liabilities. PPEC had long-term liabilities amounting to \$23,929,413, composed almost entirely of funds due to its shareholders.

36. The trade debt is largely owed to suppliers and subcontractors on ongoing or recently completed construction projects. Some of these creditors have liened the construction projects described below for the amounts outstanding.

37. Besides National Bank (and now Pacer), PPEC's secured creditors are equipment lessors and financiers and their collateral is largely the equipment leased and/or financed.

(c) PPEC and PPEC Construction's Employees

38. Not including subcontractors, PPEC and PPEC Construction currently employ approximately 450 office and field employees (the amount of field employees fluctuates according to need on the ongoing projects, however). Office employees are on salary and are paid on a biweekly basis, while direct field employees are paid by the hour on a weekly

basis. Vacation pay is accrued for salaried employees, and is paid out with each pay cheque for employees employed on an hourly basis. None of PPEC or PPEC Construction's employees are unionized, and there is no pension plan in place. PPEC and/or PPEC Construction currently owe approximately \$2.2 million in source deductions, plus interest and applicable penalties. As PPEC Construction has no assets of its own, its payroll obligations are funded by PPEC.

(d) **Current PPEC Contracts**

i. The CNRL Contracts

39. At the present time, PPEC has four remaining contracts on which construction is not complete, all for Canadian Natural Resources Limited (collectively, the "CNRL Contracts").

40. The largest contract involves a \$40 million construction agreement with CNRL, which PPEC entered into effective February 13, 2014 (the "CNRL N5000 Contract"), for the completion of the mechanical and piping work in the Extraction Plant 24 Trains 3-4 North Area of the Horizon Oil Sands near Fort McKay, Alberta. The scope of work includes mobilizing and demobilizing the construction site, procuring all necessities to perform the work, and completing the mechanical and piping work within the polymer building, warm water tank, and several pump houses, and setting of major equipment and modules, along with associated interconnect piping. There are 228 workers (including both employees and subcontractors) working on the CNRL N5000 Contract. The work is approximately six months from completion, but PPEC requires financing to carry out the remainder of the construction.

41. CNRL has also entered into a \$30 million construction agreement with PPEC to perform work on the Extraction Building at the Horizon Oil Sands project (the "CNRL R-51 Contract"), which is currently one to two months from completion. The scope of work for the CNRL R-51 Contract generally consists of the supply, fabrication and erection of structural steel, the supply and installation of insulated cladding and architectural items for the Extraction Building, and the installation of major mechanical equipment, vessels and setting of major HVAC equipment. There are 103 workers (including both employees and subcontractors) working on the CNRL R-51 Contract.

42. PPEC has two other small contracts with CNRL, the CNRL BTU Contract and the CNRL GRU Contract. All that remains on the CNRL BTU Contract is some scaffolding work on the Butane Treating Unit at the Horizon Oil Sands, which is currently one to two weeks from completion and worth approximately CAD\$1.2 million. The CNRL GRU Contract is for work on a gas recovery unit and is one week from completion. Combined, there are 14 workers on these projects.

ii. The Krupp Contract

43. PPEC completed construction and mechanical work on Krupp Canada Inc.'s Kearl Lake Oil Sands Project in December 2014. PPEC is still owed a significant amount of its payment (the "Krupp Receivable"). PPEC has liened the Krupp project for the amounts outstanding.

VII. PPEC'S DEFAULT UNDER THE CREDIT AGREEMENT, AND PACER'S ONGOING SUPPORT OF PPEC

44. On November 7, 2014, National Bank issued and delivered a notice of default to PPEC, as well as to Pacer and Promec, advising that PPEC was in default under the Credit Agreement because it did not meet all three Financial Ratio Covenants set out in section 13 of the Credit Agreement. A true copy of this letter is attached hereto as Exhibit "M". This letter also called on Pacer and Promec to proceed with injections of capital or subordinated debt into PPEC, in accordance with their obligations under the Credit Agreement and the Guarantee, "to enable [PPEC] to continue its normal course operations and remedy the defaults."

45. PPEC requested that its shareholders advance monies to fund its liquidity needs. Pacer responded by advancing up to \$9,375,000 to PPEC by means of a demand promissory note dated November 12, 2014 (the "November Note"), accruing annual interest at 8%, which was used to pay PPEC's payroll, critical suppliers, and operational expenses. Promec refused to sign or guarantee the November Note, or fund these liquidity needs in any way. PPEC's debt to Pacer under the November Note was expressly subordinated by its terms to PPEC's obligations to National Bank under the Credit Agreement. A true copy of the November Note is attached hereto as Exhibit "N".

46. Repayment of the November Note was secured by way of a Security Agreement dated November 12, 2014, whereby PPEC granted Pacer a security interest in all of its present and after-acquired property. This Security Agreement also secured Pacer's expenses, costs and charges (including legal fees, court costs, and receiver's remuneration) incurred in connection with the Security Agreement (the "Secured Obligations"). Once the security becomes enforceable (if and when PPEC fails to repay or perform any of its Secured Obligations), Pacer is entitled by way of remedy pursuant to subsections 3.2(l) and (m) to appoint a receiver and manager over the collateral, or have one appointed by a court of competent jurisdiction. Pacer's security interest, and the exercise by Pacer of any right or remedy thereunder, is however expressly subordinated to the prior payment in full of PPEC's obligations to National Bank under the Credit Agreement. A true copy of the Security Agreement dated November 12, 2014 is attached hereto as Exhibit "O".

47. The funding available from the November Note initially satisfied the Bank's requirements and provided PPEC with the financial assistance to continue its operations in the short term.

48. In the second half of November 2014 through to January 2015, PPEC managed to carry on paying its employees and critical vendors, and completing its construction contracts, largely using payments made to it in the ordinary course of business, in part by CNRL.

49. In early February 2015, however, National Bank expressed its ongoing concern about PPEC's ability to improve the management of its construction contracts and to complete them within the cost forecasts presented to the bank.

50. By email dated February 4, 2015, National Bank, through their counsel, demanded that Pacer and Promec confirm their position in writing with regards to their obligation under the Guarantee to cover any Borrowing Base deficit and any overdrafts by PPEC, by way of equity injection or subordinated debt, without the bank having to declare PPEC's default. A true copy of this email is attached hereto as Exhibit "P".

51. From February 4 to February 5, 2015, exchanges took place between Pacer and Promec with a view to responding to this demand. Pacer wished to place a proposal before

the bank that avoided its termination of PPEC's access to the Credit Facilities; and also continue providing the liquidity support that PPEC required to complete its remaining construction jobs. However, Promec continued to refuse to help fund any of PPEC's activity or pay any new amounts into PPEC.

52. By letter dated February 11, 2015 addressed to PPEC, Pacer, and Promec, National Bank stated that the above defaults had not been cured and were continuing, and insisted that PPEC, Pacer, and Promec communicate their proposal to remedy the existing defaults on or before February 12, 2015. A true copy of this letter is attached hereto as Exhibit "Q".

53. Pacer therefore agreed to advance funds to PPEC, this time in an aggregate principal amount of up to \$12,875,000 (including the amount advanced under the November Note) by means of an amended and restated promissory note dated February 12, 2015 (the "Amended November Note"). PPEC's repayment of the Amended November Note is on substantially the same terms, and is secured in the same fashion, as the original November Note. A true copy of the Amended November Note is attached hereto as Exhibit "R". It should be noted that PPEC's directors and shareholders passed resolutions consenting to the November Note and the Amended November Note, and the associated Security Agreement.

54. The amount currently outstanding on the Amended November Note is CAD\$12,435,726.44. These monies went to funding PPEC's payroll, operational expenses, and critical suppliers, thus ensuring its continued performance of the CNRL Contracts. Promec was at all times aware that this is how PPEC was managing its cash flow, as was National Bank.

55. On February 13, 2015, Pacer put forward another proposal to Promec to attempt to address issues outside formal proceedings, which proposal would have satisfied PPEC's debt to National Bank as well as permitted PPEC to carry on until it completed its construction jobs. Promec rejected this proposed plan on February 15, 2015.

VIII. PROMEC'S NOMINATED DIRECTOR RESIGNS

56. On February 12, 2015, Promec's director nominee Mr. Capkun resigned from the Board of Directors of PPEC. Attached hereto as Exhibit "S" is a true copy of his letter of

resignation. In violation of the Shareholder Agreement, Promec failed to fill the vacancy created by Mr. Capkun's resignation. This resulted in the total incapacitation of PPEC's Board of Directors at a critical time and created a serious corporate governance issue affecting PPEC's viability and its continued performance of the CNRL Contracts.

57. By email dated February 17, 2015, I advised Promec's Vice President of Operations, Mr. Paul Lafrenière, that if Promec continued to fail to nominate a director to PPEC's Board, Pacer would treat the Shareholder Agreement as at an end and I, as the Pacer nominee director, would act in all respects as the validly constituted Board of Directors of PPEC. Promec responded the following day and stated that it was attempting to find an English-speaking director. A copy of this email correspondence is attached hereto as Exhibit "T".

58. However, to this day, Promec has failed to nominate a new director to PPEC's Board. As such, Pacer has had no choice but to treat the Shareholder Agreement as at an end, and I, as Pacer's nominated director, have been forced to assume sole control of PPEC.

IX. THE DEMAND FOR REPAYMENT AND SECTION 244 NOTICE

59. On February 18, 2015, counsel to National Bank wrote to PPEC and advised that the amount outstanding on the Credit Facilities was currently \$26,043,421.37 in principal and interest. It further advised that PPEC was in continuing default under the Credit Agreement as it did not meet the Financial Ratio Covenants in the Credit Agreement; the Borrowing Base deficit was \$12.9 million and Pacer and Promec had failed to cover it; the impact of the deadlock between Pacer and Promec on PPEC's corporate governance constituted a Material Adverse Change; and Pacer and Promec had failed to comply with the Bank's February 4, 2015 formal request made pursuant to the Guarantee. National Bank terminated PPEC's right to use the Credit Facilities and demanded payment of the debt on or before March 2, 2015. Enclosed with the letter of February 18, 2015 was National Bank's Notice of Intention to Enforce Security pursuant to section 244(1) of the BIA. A true copy of this letter and the enclosed section 244 notice are collectively attached hereto as Exhibit "U".

60. Also on February 18, 2015, National Bank called on Pacer and Promec's Guarantee of the Credit Agreement and demanded that Pacer and Promec pay all of PPEC's indebtedness

to National Bank under the Credit Agreement, and specifically the amount of \$26,043,421.37, by February 20, 2015. A true copy of this letter is attached hereto as Exhibit "V".

61. In a further effort to provide financial assistance to PPEC to ensure its ongoing operations, on February 19, 2015, Pacer advanced further funds to PPEC by way of promissory note of that date, in a maximum revolving amount of \$15,000,000 (the "February Note"). PPEC's repayment of amounts borrowed under the February Note is secured pursuant to a security agreement with substantially the same terms as the security agreement securing the November Note and the Amended November Note, as described above. True copies of the February Note and the associated Security Agreement of the same date are attached hereto as Exhibits "W" and "X". Absent this injection of liquidity, PPEC would not have been able to meet its payroll and critical supplier obligations. The amount currently outstanding on the February Note is \$9,480,000. Promec did not contribute to this liquidity injection into PPEC in any way.

X. PPEC'S CURRENT OPERATIONS HAVE BEEN ADVERSELY AFFECTED BY ITS FINANCIAL DISTRESS

62. PPEC's operations, and in particular its performance of the CNRL Contracts, have been affected by the events since November 2014 described above. Office and field employees, as well as suppliers and subcontractors, are increasingly aware of the situation and are unsettled by it. Productivity on the CNRL Contracts has declined, despite the addition of more manpower, which has slowed down cash flow from CNRL. Furthermore, there are communication issues within PPEC. It is imperative that PPEC be stabilized so the CNRL Contracts can be completed without further incident.

XI. PACER HAS HONOURED ITS GUARANTEE OF THE CREDIT AGREEMENT AND STEPPED INTO NATIONAL BANK'S SHOES

63. Having failed to secure a satisfactory resolution with Promec, and in the face of burgeoning instability at PPEC, Pacer took the necessary steps to appoint a receiver over PPEC to ensure its orderly winding-up outside of formal insolvency proceedings. We have moved as quickly as possible to appear before the Court once these steps were taken.

64. On March 5, 2015, Pacer and National Bank entered into a letter agreement whereby Pacer agreed to honour National Bank's call on Pacer's Guarantee of the Credit Agreement in full (the "Letter Agreement"). Under the terms of the Letter Agreement, Pacer agreed to pay the aggregate amount of \$26,227,046.49 in full payment and satisfaction of all indebtedness and other claims owing by PPEC to National Bank under the Credit Agreement and other Loan Documents. A true copy of the Letter Agreement is attached hereto as Exhibit "Y". Pacer made the payment on March 5, 2015.

65. Pacer advised Promec of its intention to honour the Guarantee on March 3, 2015 and gave Promec the opportunity to contribute to the payment on the Guarantee. However, Promec declined to do so. A true copy of this email correspondence is attached hereto as Exhibit "Z".

66. National Bank confirmed in the Letter Agreement that upon receipt of Pacer's payment, Pacer is subrogated to the bank's rights under the Credit Agreement and the other Loan Documents. Furthermore, pursuant to a Confirmation of Assignment Agreement dated March 5, 2015 (the "Assignment Agreement"), National Bank confirmed that, in furtherance of Pacer's subrogation rights, all of the bank's right, title and interest in the Loan Documents, and any of its rights and benefits thereunder, have been assigned and conveyed to Pacer upon payment. A true copy of the Assignment Agreement is attached hereto as Exhibit "AA".

XII. THE APPOINTMENT OF A RECEIVER IS NECESSARY, JUST, AND CONVENIENT

67. Events of default have existed under the Credit Agreement since National Bank issued the first notice of default on November 7, 2014. The full amount of PPEC's indebtedness to National Bank under the Credit Agreement was called, due, and payable as of the bank's demand of February 18, 2015. PPEC has not repaid any amount owing under the Credit Agreement.

68. As a result of Pacer's payment on the Guarantee, all of the amounts that PPEC owes under the Credit Agreement, specifically \$26,227,046.49 (plus interest accruing at the contractual rate), are now due and payable to Pacer. Pacer, as the creditor under the Credit

Agreement, the Amended November Note, and the February Note, is now the primary economic stakeholder in PPEC.

69. PPEC lacks the financial ability to pay the amounts it owes to Pacer and, due to the circumstances described above, its financial condition is unlikely to improve in the short term. Indeed, it is insolvent and increasingly unstable.

70. Pacer holds security over PPEC's assets pursuant to the assigned GSA, as well as the Security Agreements dated November 12, 2014 and February 19, 2015. Each of the GSA and the Security Agreements provides that the lender is entitled to appoint a receiver and manager over the assets of PPEC upon the occurrence of an event of default, or apply to the Court for such appointment.

71. As set out above, PPEC has defaulted under the terms of the Credit Agreement, and therefore Pacer is entitled to enforce the security provided for in the GSA, including by appointing a receiver.

72. The appointment of a receiver is moreover necessary to wind down PPEC and PPEC Construction in a fair and reasonable manner that balances the interests of all of PPEC's stakeholders in a transparent and court-supervised process.

73. The operation of PPEC requires cooperation between Pacer and Promec. Since PPEC's descent into financial distress, Promec has continually refused to cooperate with Pacer in the best interests of PPEC. Pacer has had to financially support PPEC on its own since November 2014. Furthermore, as of Mr. Capkun's resignation on February 13, 2015, and Promec's ongoing failure to nominate his replacement, the Board of Directors of PPEC has been totally incapacitated in the management of the business and operations. As a result, Pacer was forced to treat the Shareholder Agreement as at an end and take unilateral control of PPEC.

74. PPEC's employees are aware of this instability within the company's finances and governance, as are suppliers, and productivity on the CNRL Contracts has been affected, thus jeopardizing PPEC's major assets.

75. Pacer is also seeking to appoint a receiver over PPEC's subsidiary, PPEC Construction. While the GSA and other security does not cover and extend to PPEC Construction, given their role in the overall PPEC organization, it is necessary to ensure stability for the field employees who are paid through this subsidiary. Extending the receivership over PPEC's subsidiary will allow us to do so.

76. The appointment of a receiver is necessary to stabilize the corporate governance of PPEC and PPEC Construction and render it effective once again, as well as stabilize the situation with PPEC's ongoing construction contracts. If appointed, it is expected that the receiver will, among other things, complete the following steps under court supervision:

- i. Receive, preserve, protect and otherwise deal with the assets of PPEC;
- ii. Appoint a project manager, most likely Pacer, to supervise the performance of the CNRL Contracts;
- iii. Evaluate the economic value of the CNRL Contracts to PPEC;
- iv. If lacking in economic viability, potentially transfer those contracts, and any assets required for their performance, to Pacer (or another party) for completion of performance; and
- v. Recover on the Krupp Receivable.

XIII. THE CNRL CONTRACTS IN THE PROPOSED RECEIVERSHIP

77. One of the proposed receiver's initial and most important steps, highlighted at para. 76(ii) above, will be to evaluate the economic viability of the CNRL Contracts and to make recommendations as to how those contracts are best dealt with during the course of the receivership. The manner in which the CNRL Contracts are to be addressed is a critical component of PPEC's wind-down. Pacer anticipates that the proposed actions and potential transfer of the CNRL Contracts out of the receivership proceedings will be the subject of a further hearing in the receivership.

78. CNRL is aware of the difficulties that PPEC is having with its finances and with completion of the projects, and are anticipating a quick resolution to the problems.

79. It is expected that Pacer will be appointed as project manager of the CNRL Contracts while the proposed receiver evaluates those contracts, and determines the best course of action going forward. In consultation with the receiver, Pacer will ensure the continued performance of the CNRL Contracts during that time. As outlined immediately below, Pacer is able and willing to fund the continued performance of the CNRL Contracts within the receivership in this interval.

XIV. FUNDING THE RECEIVERSHIP

80. Pacer, in consultation with the proposed receiver, is assessing PPEC's funding requirements, which will in large part be determined by how the receiver decides to proceed with respect to the CNRL Contracts. The proposed receiver estimates that a minimum of \$5 million per week will be required to sustain PPEC's operations through the short interval until this matter comes back before the Court, almost entirely relating to salaries and employee-related costs. Pacer is prepared to fund the Receiver in respect of those costs under Receiver's Certificates, at the same rate on which it has lent previous amounts under the Amended November Note and February Note, i.e. 8% per annum in interest until the parties return before this Court for further directions.

81. At this time, and given the urgency of the hearing, equipment lessors and financiers who have taken security over PPEC's assets were not served with these materials. Pacer is not seeking to prime their interests in the equipment at this time, in respect of the Receiver's Certificates.

82. To my knowledge, there are no other secured creditors who would be prejudiced by Pacer lending funds to PPEC on an otherwise first-priority secured basis. Since Pacer repaid PPEC's indebtedness to National Bank in full, received assignment of the bank's security, and is secured on its promissory notes, Pacer is the holder of approximately CAD\$50 million in secured debt in PPEC.

XV. FTI IS CAPABLE AND HAS CONSENTED TO ACT AS RECEIVER

83. Pacer seeks to appoint FTI as receiver of PPEC and PPEC Construction. FTI has had an opportunity to review the financial documents of PPEC and PPEC Construction and

accumulated valuable knowledge about PPEC's and PPEC Construction's financial affairs, business, and the performance and value of the CNRL Contracts and the Krupp Contract.

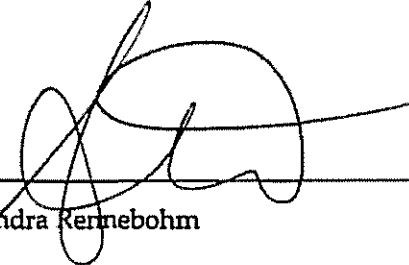
84. I believe that appointing FTI as receiver over all of PPEC's and PPEC Construction's assets, property, and undertakings will provide much-needed stability to the enterprise and allow for its orderly and controlled wind-down.

85. I am advised by my counsel, Stikeman Elliott LLP, that FTI is prepared to act as the receiver and manager of PPEC and PPEC Construction.

XVI. URGENCY OF THE APPLICATION

86. The within application for the appointment of a receiver and manager over PPEC's and PPEC Construction's assets is urgent, such that the full five days' notice of the application could unfortunately not be given. PPEC and PPEC Construction have upcoming payroll payment to direct employees on March 12, 2015 that it will be unable to make. The growing instability created by PPEC's financial situation, as well as its corporate governance issues, is having an adverse effect on PPEC's day-to-day operations. Suppliers and subcontractors are getting nervous. The employees of the company have sensed the instability within PPEC and its Board, and have begun to ask questions about the company's future. Productivity on the CNRL Contracts has been negatively impacted. CNRL itself has expressed its concerns over PPEC's performance of its contracts. Promec's unwillingness to resolve these issues has further contributed to the urgent need to appoint a receiver and manager over PPEC to instil stability and certainty within the company's operations going forward, preserve its value for all current stakeholders, and conduct a controlled and orderly wind-down of its operations.

SWORN (OR AFFIRMED) BEFORE ME at)
Calgary, Alberta, this ^{6th} [Date] day of March,)
2015.)


_____))

Aleksandra Rennebohm)
Aleksandra Rennebohm)
Barrister & Solicitor)


_____)

(Signature)

RICHARD PELLETIER

PRINT NAME AND EXPIRY/LAWYER)
/STUDENT-AT-LAW)

(Print Name)

Clerk's Stamp

Court File Number 1501-02652
 Court COURT OF QUEEN'S BENCH OF ALBERTA
 Judicial Centre Calgary
 Applicant PACER CONSTRUCTION HOLDINGS CORPORATION
 Respondents PACER PROMEC ENERGY CORPORATION and PACER PROMEC ENERGY CONSTRUCTION CORPORATION
 Document AFFIDAVIT OF JOEL THOMPSON

Address for Service and Contact Information of Party Filing this Document

STIKEMAN ELLIOTT LLP
 Barristers & Solicitors
 5300 Commerce Court West
 199 Bay Street
 Toronto, Canada M5L 1B9

Elizabeth Pillon
 Tel: 1 (416) 869-5623
 E-mail: lpillon@stikeman.com

Geoffrey D. Holub
 STIKEMAN ELLIOTT LLP
 Barristers & Solicitors
 4300 Bankers Hall West,
 888-3rd Street S.W.,
 Calgary, Canada T2P 5C5
 Tel: (403) 266-9022
 Fax: (403) 266-9000
 E-mail: gholub@stikeman.com

Suzanne Amiel
 Tel: 1 (416) 869-6866
 Fax: 1 (416) 947-0866
 E-mail: samiel@stikeman.com

Lawyers for the Applicant
 File No.: 120631.1017

THIS IS EXHIBIT " B " referred to in the Affidavit of Joel Thompson
 Sworn before me this 6th day of May 2015.

A NOTARY PUBLIC IN AND FOR THE PROVINCE OF ALBERTA

Aleksandra Rennebohm
 Barrister & Solicitor



AFFIDAVIT OF JOEL THOMPSON
Sworn on March 10, 2015

I, Joel Thompson, of the City of Calgary, Alberta, SWEAR AND SAY THAT:

1. I am the Chief Financial Officer of Pacer Construction Holdings Corporation ("Pacer"), the applicant in the within matter. I have personal knowledge of the matters to which I hereinafter depose. Where my affidavit is stated to be based on information I have received from others, I believe that information to be true.

2. This affidavit is sworn in support of an application for an order appointing FTI Consulting Canada Inc. ("FTI") as receiver and manager of all of the assets, undertakings, and properties of the respondents Pacer Promec Energy Corporation ("PPEC") and its wholly-owned subsidiary Pacer Promec Energy Construction Corporation ("PPEC Construction") pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, section 13(2) of the *Judicature Act*, R.S.A. 2000, c. J-2, and section 99(a) of the *Business Corporations Act*, R.S.A. 2000, c. B-9, each as amended.

3. I understand that Construction Promec Inc ("Promec") intends to appear at the hearing and file an affidavit and make various submissions in respect of the requested receivership order and the funding of the receivership. I swear this affidavit to provide the Court with additional information that may be helpful to it in placing Promec's comments in context.

4. I have not had an opportunity to review in detail or hear all of the allegations which Promec is making. I understand that many of the allegations relate to ancillary issues that have no relevance to the issues regarding the appointment of a Receiver. When and if the issues should be relevant to the Court, Pacer will file necessary responding materials to complete the record.

I. PROMEC'S REFUSAL TO FUND PPEC

5. Promec has had numerous opportunities to assist PPEC in financing its ongoing operations or in conducting an orderly wind-down of its operations. Pacer has made various proposals to Promec which Promec has refused.

6. In response to a February 4, 2015 demand from the National Bank of Canada ("National Bank") for Pacer and Promec to confirm their position in writing with regard to their obligations under the Guarantee and Subordination Agreement dated May 23, 2014, Pacer put forward a proposal to Promec to resolve the issue. The proposal envisioned Pacer and Promec buying PPEC's debt to National Bank under the Credit Agreement dated May 23, 2014, continuing to fund PPEC's short term liquidity needs, and allowing PPEC to complete its remaining jobs and continue the orderly wind-down of its business. Promec rejected this proposal and refused to fund any PPEC activity. A true copy of this email exchange dated February 5, 2015 is attached hereto as Exhibit "A".

7. In response to that refusal, and another demand from National Bank dated February 11, 2015, Pacer put forward another proposal to Promec that addressed some of its concerns. Promec rejected this proposal. A true copy of this email exchange dated February 13 and 15, 2015 is attached hereto as Exhibit "B".

8. These refusals are despite the fact that Promec has guaranteed three of PPEC's ongoing contracts with Canadian Natural Resources Limited, known amongst the companies as the R-51 Contract, the BTU Contract, and the GRU Contract, further described in Richard Pelletier's Affidavit, sworn March 6, 2015.

II. PROMEC'S REFUSAL TO ATTEND DISCUSSIONS WITH KRUPP CANADA

9. Promec has repeatedly refused to partake in discussions with Krupp Canada Inc. ("Krupp") to recover on amounts owing from Krupp to PPEC under a completed construction contract, and tied their assistance to their demands relating to the ongoing funding of PPEC.

10. Also in its email of February 5, 2015, previously attached hereto as Exhibit A, Promec stated that unless its listed demands were met, including that PPEC receivables be applied to pay down its debt to National Bank, it would not partake in any discussions with Krupp.

11. Although Promec eventually attended a meeting with Krupp dated February 12, 2015, Promec refused to participate in further discussions with Krupp. By email dated February 22, 2015, Paul Lafreniere, the Vice President of Operations of Promec, told Richard Pelletier of PPEC and Pacer that it would not come to Calgary to meet Krupp unless it got a

written commitment from Pacer as to the application of PPEC's collections to the bank debt. A true copy of this email exchange is attached hereto as Exhibit "C".

12. Furthermore, by email dated February 24, 2015, Mr. Lafreniere reiterated Promec's refusal to partake in any meeting absent a signed agreement with Pacer. A true copy of this email exchange is attached hereto as Exhibit "D".

III. PROMEC'S AWARENESS OF PACER'S FUNDING TO PPEC AND PPEC'S USE OF THAT FUNDING

13. When it suited them, Promec has been involved in the ongoing operations of PPEC, including discussions regarding PPEC's financial requirements, cashflow situation, and means by which PPEC's funding obligations were to be met. However whenever it suited them, they have repeatedly refused to provide financial assistance, failed to participate in meaningful discussions regarding the future of PPEC, ignored their earlier participation and knowledge of Pacer's funding of PPEC and the use of the funds, and ultimately removed their director from the Board without warning.

14. Despite failing to itself provide any financial assistance to PPEC following National Bank and Pacer's requests that it do so, Promec has at all times been aware that Pacer has been funding PPEC and that PPEC was using those funds to pay employees, critical suppliers, and fund operational expenses - i.e. to finance the completion of its ongoing construction contracts.

15. On November 13, 2015, the director that Promec nominated to the Board of Directors of PPEC, Mr. Peter Capkun, signed a directors' resolution allowing PPEC to borrow \$9,375,000 from Pacer under a secured promissory note. As well, Promec as shareholder of PPEC consented to that resolution. A true copy of that resolution and consent is attached hereto as Exhibit "E".

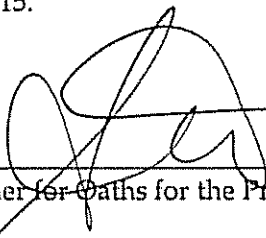
16. On January 31, 2015, Mr. Lafreniere of Promec emailed PPEC's cashflows to National Bank, and its auditor Ernst & Young, for discussion. These cashflows did not show PPEC making any repayment of principal to National Bank, or any reduction in the borrowing base deficit. A true copy of that email and the attached cashflow is attached hereto as Exhibit "F".

17. On February 12, 2015, Mr. Capkun signed another directors' resolution allowing PPEC to borrow an increased amount of \$12,875,000 from Pacer under the November secured promissory note. As well, Promec as shareholder of PPEC consented to that resolution. A true copy of that resolution and consent is attached hereto as Exhibit "G".

FUNDING OF RECEIVER'S COSTS

18. The application for a receiver includes a request to the Receiver to borrow up to \$10 million pending the Receiver's review of the financial circumstances facing PPEC and the status of CNRL contracts. This represents a proposed 2 week time period. We believe that this time is necessary to permit the Receiver the time to stabilize the company, consider next options and prepare necessary updates for the Court. Pacer is prepared to finance this amount pursuant to the Receiver's certificates, which provide a first ranking charge. Promec, having failed to provide funding itself when repeatedly requested to do so, should not be permitted to dictate on what basis the lights can be kept on for PPEC and its stakeholders and on what basis the Receiver should participate in this process.

SWORN BEFORE ME at the City of)
Calgary, Province of Alberta, this 10th day)
of March, 2015.)

)
_____)
Commissioner for Oaths for the Province)
of Alberta)

Aleksandra Rennebohm
Barrister & Solicitor

)
_____))

JOEL THOMPSON

UNANIMOUS SHAREHOLDER AGREEMENT

THIS IS EXHIBIT " C "
referred to in the Affidavit of

..... Joel Thompson

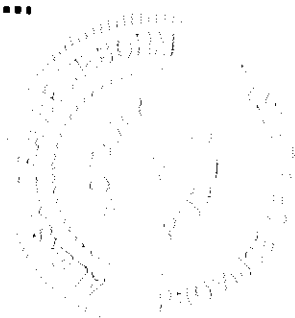
Sworn before me this 6th

day of May 20 15

.....

A NOTARY PUBLIC IN AND
FOR THE PROVINCE OF ALBERTA

Aleksandra Rennebohm
Barrister & Solicitor



PACER PROMEC ENERGY CORPORATION

SHAREHOLDERS AGREEMENT

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THIS SHAREHOLDERS AGREEMENT made effective as of the 17 day of OCTOBER, 2013.

AMONG:

PACER CONSTRUCTION HOLDINGS CORP., a corporation incorporated under the laws of Alberta and having its head office in Calgary, Alberta ("Pacer")

- and -

CONSTRUCTION PROMEC INC., a corporation incorporated under the laws of Canada and having its head office in Rouyn-Noranda, Quebec ("Promec")

- and -

PACER PROMEC ENERGY CORPORATION, a corporation incorporated under the laws of Alberta and having its head office in Calgary, Alberta (the "Corporation")

SHAREHOLDERS AGREEMENT

WHEREAS:

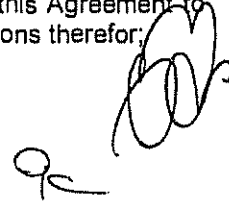
- A. The parties desire to set out their rights, duties and obligations and to determine various contractual arrangements between the parties as described herein;
- B. The main intent with respect to this Agreement which follows is to promote good governance of the Group by setting down rules which will avoid, on the one hand, the occurrence of events prejudicial to the Group and, on the other hand, will enable, as the case may be, the remedying of certain problem situations which may jeopardize the latter;
- C. The secondary intent is to protect the financial value of the investment of each of the Shareholders and to enable the realization of this value in a timely manner and under the best possible conditions, in light of the circumstances;
- D. The Shareholders agree that this Agreement shall enjoy a liberal construction or interpretation, where required, in order to promote compliance with their intent, in accordance with the order of priority indicated.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the covenants and agreements of each of the parties hereto, and other good and valuable consideration, the parties hereto covenant and agree together as follows:

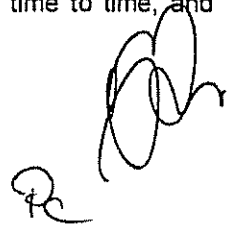
ARTICLE I - INTERPRETATION

1.1 DEFINITIONS

- (a) "Act" means the *Business Corporations Act*, Revised Statutes of Alberta, 2000, c. B-9 as amended from time to time and every statute that may be substituted therefor, and in the case of any such amendment and substitution, any reference in this Agreement to the Act shall be read as referring to the amended or substituted provisions therefor;



- (b) **"Advance"** means, with respect to each Shareholder, all advances by such Shareholder to the Corporation as and by way of loan or as otherwise provided in this Agreement, whether or not such loans are then due and payable;
- (c) **"Affiliate"** means:
 - (i) with respect to a corporation, any legal entity Controlling, Controlled by or under common Control of such corporation, with the concept of Control in such context meaning the possession, directly or indirectly, of the power to direct the management and policies of another, whether through the ownership of voting securities, by contract or otherwise; and
 - (ii) any partnership, firm, association, organization, syndicate, body corporate or other entity which the Board approves as being an Affiliate for the purposes of this Agreement;
- (d) **"Agreement"** means this Shareholders Agreement and all schedules, if any, attached to this Agreement, in each case as they may be supplemented or amended from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement;
- (e) **"Arm's Length"** has the meaning prescribed in the ITA;
- (f) **"body corporate"** means a company, corporation or other body corporate wherever or however incorporated;
- (g) **"Business Day"** means any day, other than a Saturday or Sunday, on which the principal commercial banks in the City of Calgary in the Province of Alberta are open for commercial banking business during normal banking hours;
- (h) **"Common Share"** means at any time common share in the capital of the Corporation which is issued and outstanding at such time;
- (i) **"Common Shareholder"** means a Shareholder who owns Common Shares;
- (j) **"Control"** means, in relation to a particular body corporate:
 - (i) the right to exercise the majority of the votes which may be cast at a general meeting of the shareholders of the body corporate, when held together with,
 - (ii) the right to elect or appoint, directly or indirectly, a majority of the directors of the body corporate or such other persons who have the right to manage or supervise the management of the affairs and business of that body corporate;
- (k) **"Corporation"** means Pacer Promec Energy Corporation and includes any successor to Pacer Promec Energy Corporation resulting from any amalgamation, merger, arrangement or other reorganization of or including Pacer Promec Energy Corporation or any continuance under the laws of another jurisdiction;
- (l) **"Corporation's Articles"** means the Articles of Incorporation of the Corporation filed the 11th day of April, 2013, as may be amended or restated from time to time, and includes any articles of amalgamation;

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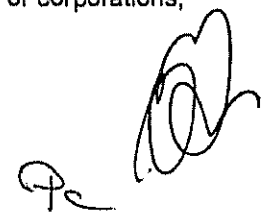
- (m) **"Directors"** or **"Board"** or **"Board of Directors"** means the directors or the board of directors who are, or which is, from time to time in accordance with the terms of this Agreement, duly elected or appointed as directors or as the board of directors of the Corporation;
- (n) **"Fair Market Value"** means the price determined in an open and unrestricted market between informed and prudent parties, acting at arm's length and under no compulsion to act, expressed in terms of money or money's worth;
- (o) **"fiscal year"** means the fiscal year of the Corporation as established by the Board from time to time;
- (p) **"Group"** means the Corporation and any other business or venture associated or affiliated with the Corporation in which it holds more than fifty (50%) percent of the voting rights;
- (q) **"Interest"** means all right, title and interest of a Shareholder in and to any Shares owned by a Shareholder and the Shareholder's Account of such Shareholder;
- (r) **"ITA"** shall refer to the *Income Tax Act*, R.S.C. 1985 (5th Suppl.) c.1 together with the regulations promulgated thereunder, as amended or supplemented from time to time, including any proposed amendment to such legislation announced by way of notice of ways and means motion or press release from time to time by the Minister of Finance of Canada or other Minister charged with the administration of the Tax Act, which announcement confirm such proposed amendment, when enacted, shall have retroactive effect to a date prior to the date of its enactment;
- (s) **"Parties"** or **"Party"** means the Corporation and the other parties to this Agreement and includes any person who may hereafter execute a participation agreement or counter-part of this Agreement upon becoming a Shareholder;
- (t) **"Preferred Shares"** means the Shares, if any, that are, pursuant to the terms and privileges attached to them under the Corporation's Articles:
 - (i) redeemable or retractable at the option of the holder or of the Corporation or both; and
 - (ii) entitled to a preference to dividends or to monies or other assets or a winding up over other classes of Shares;
- (u) **"Prime Rate"** means the commercial lending rate of interest, expressed as an annual rate, which the Corporation's principal bankers quote in Calgary, Alberta as the reference rate of interest from time to time (commonly known as "prime") for the purpose of determining the rate of interest that it charges to its commercial customers for loans in Canadian funds, as it may be on the date a determination of the Prime Rate is to be made under this Agreement;

A handwritten signature in black ink, consisting of a stylized, cursive name that appears to be 'P.C.' followed by a large, loopy flourish.

- (v) **"Principal"** means an individual or group of Individuals who ultimately, directly or indirectly Controls a corporate Shareholder, and in the case of the initial Parties to this Agreement, the following individuals or groups in relation to the following corporate Shareholders:

Principal	Corporate Shareholder
Peter Capkun	Promec
Richard Pelletier	Pacer

- (w) **"Proportionate Share"** means a percentage (separately calculated for each Purchaser) based on the number of Common Shares held by a Purchaser as the numerator and the aggregate number of Common Shares held by all Purchasers as the denominator;
- (x) **"Purchaser"** means a Shareholder that has elected to purchase or who is required to purchase the whole or any part of the Interest of another Shareholder or Shareholders as provided in this Agreement;
- (y) **"Redemption Amount"** means the Redemption Amount for a class or series of Preferred Shares as set out in the Corporation's Articles, prescribed in this Agreement or prescribed by the Board at the time of the issuance of the Preferred Shares in question;
- (z) **"Secretary"** means the Secretary of the Corporation and if there is no Secretary, or the Secretary refuses to act, then the President of the Corporation;
- (aa) **"Share Value"** means the value of the Shares (on a class by class or series by series basis) as set in the Valuation Notice or by a Valuation, as the case may be;
- (bb) **"Shareholder"** means any person who is a holder of Shares at the relevant time;
- (cc) **"Shareholder's Account"** means, with respect to a Shareholder, all outstanding Advances, loans and obligations owing at the relevant time by the Corporation to such Shareholder, as evidenced on the books, records and accounts of the Corporation, whether or not such Advances, loans or obligations are then due and payable, less all amounts owing by such Shareholder to the Corporation, whether or not such amounts are then due and payable, and shall include all amounts outstanding to the credit of such Shareholder in the Shareholder's Account of such Shareholder;
- (dd) **"Shares"** means shares of any class or series in a class in the share capital of the Corporation, and:
- (i) any shares or securities resulting from any conversion, change, subdivision, redivision, consolidation or reclassifications of the Shares of any class;
 - (ii) any shares or securities resulting from any reorganization of the share capital of the Corporation affecting the Shares of any class;
 - (iii) any shares or securities issued to replace the Shares of any class upon the amalgamation of the Corporation with any other corporation or corporations;

Handwritten signature and initials, possibly 'PC' and a large scribble.

- (iv) any shares or securities resulting from the distribution of any Shares of any class of the Corporation or the distribution of assets of the corporation to holders of Shares of any class; and
- (v) any shares or securities that are received by the shareholders in conjunction with any redemption by the Corporation of the Shares of any class;
- (ee) "Subsidiary" shall have the meaning provided in the Act as it applies to a particular body corporate; and
- (ff) "Vendor" means a Shareholder who is required to sell the whole or any part of his Interest to a Purchaser as provided for in this Agreement.

1.2 SECTIONS AND HEADINGS

The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular article, section or other portion hereof and include any agreement or instrument supplemental or ancillary hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to articles and sections are to articles and sections of this Agreement.

1.3 CONSTRUCTION

Words importing the singular number only shall include the plural and vice versa, words importing the masculine gender shall include the feminine and neuter genders and vice versa and wording importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations and vice versa.

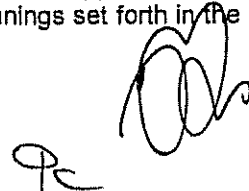
1.4 ACCOUNTING PRINCIPLES

Wherever in this Agreement reference is made to generally accepted accounting principles, such reference shall be deemed to be the generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which such calculation is made or required to be made in accordance with generally accepted accounting principles.

1.5 CERTAIN RULES OF INTERPRETATION

In this Agreement:

- (a) Unless otherwise specified, all amounts referred to in the Agreement are in Canadian currency. Unless otherwise indicated in the text, the amounts stated in the Agreement shall not be construed as including the Goods and Services Tax, the Provincial Sales Tax and any other tax that may be levied on such amounts by public authorities during the term of the Agreement;
- (b) In addition to Section 1.1, any other capitalized words or phrases in this Agreement in quotations or parenthesis or both shall be defined words for all purposes of this Agreement, and shall be given their meanings by the language immediately preceding or following the capitalized word in quotations or parenthesis or both, or as the surrounding context otherwise requires. All other words shall, where applicable and unless there is something inconsistent in the context, have the meanings set forth in the



Act or in the *Interpretation Act* (Alberta) if defined in that legislation; failing which the words shall have the meaning given to them at common law;

- (c) Whenever a provision of this Agreement requires an approval or consent by a party to this Agreement and notification of that approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent;
- (d) Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day;
- (e) Whenever any payment to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, that payment will be made or action taken on the next Business Day following that day;
- (f) Any reference to a corporate entity includes, and is also a reference to, any corporate entity that is a successor to such entity;
- (g) Where the words "including" or "includes" appear in this Agreement, they mean "including (or includes) without limitation".

ARTICLE II - IMPLEMENTATION OF AGREEMENT

2.1 EFFECT OF AGREEMENT

Each of the Parties shall vote or cause to be voted the Shares owned by him in such a way so as to fully implement the terms and conditions of this Agreement and shall, if any Director for any reason refuses to exercise his discretion in accordance with the terms of this Agreement, forthwith take such steps as are necessary to remove each such Director.

2.2 DEEMED CONSENT

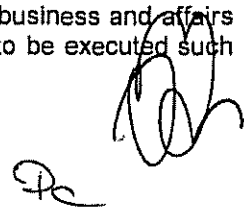
Each of the Parties shall be deemed to have consented to any transfer of Shares made in accordance with this Agreement and each hereby waives any right or restriction on transfer contained in the Corporation's Articles or By-laws of the Corporation that are necessary in order to give effect to any such transfer.

2.3 CONFLICT

In the event of any conflict between the provisions of this Agreement, and the Corporation's Articles and By-laws of the Corporation, the provisions of this Agreement shall govern. Each of the Parties shall vote or cause to be voted the Shares owned by him so as to cause the Corporation's Articles or By-laws, or both, as the case may be, to be amended to resolve any such conflict in favour of the provisions of this Agreement.

2.4 NOTICE TO CORPORATION

The Corporation, by its execution hereof, hereby acknowledges that it has actual notice of the terms of this Agreement, consents thereto, and hereby covenants with each of the Parties that it will at all times during the continuance hereof be governed by this Agreement in carrying out its business and affairs and accordingly, shall give or cause to be given such notices, execute or cause to be executed such



deeds, transfers and documents and do or cause to be done all such acts, matters and things as may from time to time be necessary or conducive to carrying out the terms and intent hereof.

2.5 CUMULATIVE RIGHTS

All rights referred to in the Agreement are cumulative and not mutually exclusive. Any waiver of the enforcement of a right granted by one of the Shareholders for the benefit of another in the Agreement shall, under no circumstances, be interpreted or construed as a waiver of the enforcement of any other right granted hereunder unless, as a matter of exception, the wording of a provision of the Agreement requires such interpretation or construction.

ARTICLE III – DIRECTORS AND OFFICERS

3.1 BOARD OF DIRECTORS

The Board of Directors of the Corporation shall consist of two (2) Directors only. Each of Pacer and Promec shall nominate an individual to the Board and may replace their nominee at any time by prior written notice to the other Shareholder. If any vacancy occurs on the Board, such vacancy shall be filled by a person nominated by the Shareholder, the retirement or death of whose nominee created the vacancy. The initial nominee to the Board of Directors of each of Pacer and Promec are as follows:

Nominee of Pacer	Peter Capkun
Nominee of Promec	Richard Pelletier

3.2 RESIGNATION OF DIRECTORS

Forthwith upon a Common Shareholder ceasing to hold Shares, such Common Shareholder and, if such Shareholder has a nominee elected or appointed as a Director of the Corporation, such Common Shareholder or its nominee, as the case may be, shall forthwith be deemed to have resigned as a Director of the Corporation, without any right of compensation as a result thereof and such Common Shareholder shall take such action as may be necessary to ensure the resignation of its nominee.

3.3 MEETINGS OF THE BOARD

- (a) Any Director may, in accordance with this Section 3.3, call a meeting of the Board. At least two days prior written notice shall be given to the other Director of each meeting of the Board unless the giving of such notice is waived by the Director before, during or after the meeting. Attendance at the meeting by a Director shall be deemed to be a waiver of the giving of such notice. The notice of meeting shall set out in reasonable detail the business to be considered at such meeting and no other business shall be transacted at such meeting without the consent of all of the Directors.
- (b) Meetings of the Board may be held by telephone conference and the parties specifically consent to the validity of meetings so held provided the requirements relating to quorum and notice are complied with.

3.4 VOTING

In order to be valid and effective, a decision of the Board of Directors must be approved either by a resolution passed by the unanimous vote of the Directors at a duly constituted meeting of the Board of Directors or by a resolution signed by all of the Directors.



3.5 NO CASTING VOTE

In the case of an equality of votes at a meeting of the Board of Directors of the Corporation, no person shall have a second or casting vote in addition to his original vote.

3.6 QUORUM AT DIRECTORS MEETINGS

The majority of the number of Directors comprising the Board of Directors from time to time shall constitute a quorum at any meeting of the Directors and, notwithstanding any vacancy among the Directors; a quorum of Directors may exercise all of the powers of the Directors. If a quorum of a duly called meeting is not present within one (1) hour of the commencement of a meeting, then the Directors present may not transact any business and the meeting shall be adjourned to a fixed time and place. A notice of the adjourned meeting shall be promptly given by the Corporation to all Directors, specifying the time and place of the re-scheduled meeting. Quorum at any adjourned meeting of Directors shall be a majority of the number of Directors comprising the Board of Directors, and if a quorum is not present within one (1) hour of the commencement of a meeting, then the Directors present may not transact any business.

3.7 DIRECTORS' BORROWING POWER

No delegation shall be permitted by the Directors of any of the powers referred to in Section 103 of the Act, which such Directors retain subject only to the limitations, if any, in this Agreement.

3.8 DIRECTORS' AUTHORITY

Subject only to the provisions of this Agreement and the Act, the Board shall manage the business and affairs of the Corporation. Where the decision, consent or approval of the Board is required, such decision is to be made in accordance with the principles of applicable law and in the Board's sole and unfettered discretion.

3.9 OFFICERS

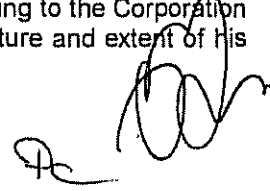
The officers of the Corporation shall consist of those persons appointed by the Board. Until such time as otherwise unanimously agreed by the Board, the President of the Corporation and each Subsidiary shall be Paolo Cattelan. During the term of such appointment hereunder, each officer shall devote such of his time, attention and ability to the business and affairs of the Corporation and each Subsidiary as will enable him to carry out his duties, and each such officer shall well and faithfully serve the Corporation and each Subsidiary during the continuance of his appointment, shall act in accordance with such norms of personal conduct as are generally accepted as proper standards for an individual occupying his position and shall use his best efforts to promote the interests of the Corporation.

3.10 OFFICERS' TERM OF OFFICE

Subject to Section 3.9, each officer appointed by the Board shall hold office until his successor is appointed; provided however that the Board may at any time, in their discretion, remove any officer of the Corporation.

3.11 CONFLICT OF INTEREST

- (a) A director of any member of the Group who is a party to, or is a director or officer of or has a material interest in any person who is a party to a material contract or proposed material contract with a member of the Group shall disclose in writing to the Corporation or request to have entered in the minutes of the Directors the nature and extent of his

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interest at the time and in the manner provided by the Act. A Director shall disclose to the Board any interest he has, or may have, or proposes to have, whether direct or indirect, in any contract, trust, dealing or arrangement proposed with a member of the Group.

- (b) If, and only if, a director has disclosed his interest in accordance with Section 3.11(a) hereof, such director may contract with a member of the Group on any terms and conditions whatsoever and no such contract shall be void or voidable, or be subject to any constructive or resulting trust, or duty to account, by reason only of his position as director of a member of the Group, or by reason of any other conflict between his interests as director, and his position with respect to such contract.

3.12 BUSINESS OPPORTUNITIES

The Shareholders recognize that the business opportunities presented to the Group by third parties shall become the exclusive property of the Group. The Shareholders agree to not divert a business opportunity for their personal benefit, without having previously received authorization from the Directors.

ARTICLE IV - SHAREHOLDERS

4.1 SPECIAL MEETINGS

The Directors may call a special meeting of Shareholders, or any class thereof, at any time and shall do so on the request of a Director.

4.2 PERSONS ENTITLED TO BE PRESENT

The only persons entitled to be present at a meeting of a class of the Shareholders shall be those entitled to vote thereat, the Directors, the officers and the Corporation's legal and accounting advisors. Any other persons may be admitted only on the invitation of a Director or with the consent of the meeting.

4.3 VOTING AT SHAREHOLDERS' MEETINGS

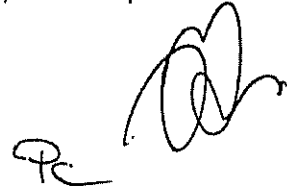
At any meeting of Shareholders every question shall be determined by written resolution signed by all of the Common Shareholders.

4.4 QUORUM AT SHAREHOLDERS' MEETINGS

4.4.1 A quorum for the transaction of business at any meeting of Shareholders shall be the holders of all of the Shares entitled to vote thereat, present in person or by proxy.

4.4.2 If a quorum is present at the opening of a meeting, the Shareholders present or represented by proxy may proceed with the business of the meeting notwithstanding that a quorum is not present throughout the meeting.

4.4.3 If a quorum is not present within one (1) hour of the opening of a meeting of Shareholders, the Shareholders present or represented by proxy may adjourn the meeting to a fixed time and place but may not transact any other business. A notice of the adjourned meeting shall be promptly given by the Corporation to all the Common Shareholders and those Shareholders entitled to vote at such meeting, specifying the time and place of the re-scheduled meeting. Quorum at any adjourned meeting of Shareholders shall be the holders of all of the Shares entitled to vote thereat, and if a quorum is not



present within one (1) hour of the commencement of a meeting, then the Shareholders present may not transact any business at such meeting.

4.5 CASTING VOTE AT SHAREHOLDERS' MEETINGS

In the case of an equality of votes either upon a show of hands or upon a ballot, the chairman of the meeting shall not be entitled to a second or casting vote.

ARTICLE V - CORPORATE ACTIONS

5.1 NO WIND UP

Without limitation to any restrictions or other prerequisites in this regard contained in the Act:

- (a) The Corporation shall not wind up, liquidate or dissolve or commence any proceedings for the purpose of doing so; and
- (b) No Party shall commence any proceedings;
 - (i) upon the grounds that he has been subjected to oppressive or unfairly prejudicial conduct or that his interests have been unfairly disregarded; or
 - (ii) under the just and equitable rule; or
 - (iii) upon any other grounds whatsoever other than proven fraud commence legal proceedings (other than legal proceedings to enforce the provisions of this Agreement);

for the purpose of:

- (A) causing the Corporation to wind up, liquidate or dissolve; or
- (B) compelling the purchase or repurchase of the Shares of a Shareholder by the Corporation or by any other Shareholder;

unless such action is previously approved or authorized unanimously by the Common Shareholders, it being understood and agreed that the provisions of this Agreement and the remedies herein provided are intended to be exhaustive.

5.2 SMALL BUSINESS DEDUCTION

In the event that the Corporation is deemed to be associated with any other corporation in which a Shareholder is a shareholder by virtue of this Agreement or the shareholdings of that Shareholder in the Corporation then the Shareholders agree that all appropriate forms and elections will be filed to ensure that, unless otherwise mutually agreed by the Common Shareholders holding a minimum of 66 2/3% of the Common Shares, the Corporation or its nominee has allocated to it, in each taxation year, the amounts necessary with respect to its business limit to enable the Corporation or its nominee to take 50% of the small business deduction available in such taxation year, as those terms are used in the ITA.

5.3 INDEMNITY FOR DIRECTORS AND OFFICERS

Subject to the limitations set forth in the Act, but in addition to any existing provisions which may be contained in the constituting documents of the Corporation from time to time, the Corporation shall indemnify a Director or officer, a former Director or officer or any person who acts or has acted at the

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Corporation's request as a director or officer of a body corporate of which the corporation is or was a Shareholder or creditor, and his or her heirs, successors, administrators, assigns and other personal representatives at law, against all damages, charges and expenses, including any amount paid to settle any action or satisfy any judgment, reasonably incurred by him or her in respect to any civil, criminal or administrative action or proceeding to which he or she was made a party by reason of being or having been a Director or officer or such body corporate and any costs related thereto, including legal costs and disbursements on a solicitor and his own client full indemnity basis, if:

- (a) he or she acted honestly and in good faith with a view to the best interests of the Corporation or of such body corporate; and
- (b) in the case of any criminal or administrative action or proceeding, he or she had reasonable grounds to believe that his or her conduct was lawful.

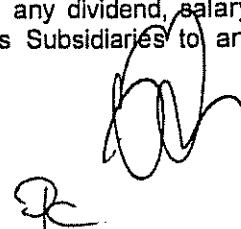
The Corporation shall also indemnify such person in such other circumstances as the Act permits or requires. Nothing in this Section shall limit the right of any person entitled to claim any indemnity apart from the provisions of this Section.

ARTICLE VI – RESTRICTIONS ON CORPORATE ACTION

6.1 RESTRICTIONS

No action will be taken by the Corporation or its directors or officers with respect to any of the following matters unless such action is previously approved or authorized by all of Common Shareholders:

- (a) the sale, lease, transfer, mortgage, pledge or other disposition or any series of related dispositions **out of the ordinary course of the business** of the Corporation:
 - (i) of any assets or group of related assets of the Corporation, or any of its Subsidiaries, having a Fair Market Value in the aggregate or greater than \$10,000.00; or
 - (ii) of any assets of the business of a Subsidiary of the Corporation;
- (b) the issue, allotment, redemption or purchase for cancellation of any shares in the capital of the Corporation or any of its Subsidiaries, or the granting of options, warrants or other rights of purchase, exchange or conversion attached to securities of the Corporation or any of its Subsidiaries to acquire any shares in the capital of the Corporation or any of its Subsidiaries;
- (c) the redemption, repurchase or retirement for value of any shares or other securities of the Corporation, except under the provisions of this Agreement or unless the Corporation offers to redeem, repurchase or retire all of the issued and outstanding shares or securities of such class or, in case a part only of such shares or securities is to be redeemed, repurchased or retired, the Corporation offers to redeem, repurchase or retire such shares or securities on a pro rata basis;
- (d) any change in the authorized signing officers of the Corporation or any of its Subsidiaries in respect of legal documents or transactions with any bank or other financial institution;
- (e) the declaration or payment of, or agreement to declare or pay, any dividend, salary, bonus, fees or other amount by the Corporation or any of its Subsidiaries to any Shareholder or Affiliate of a Shareholder;

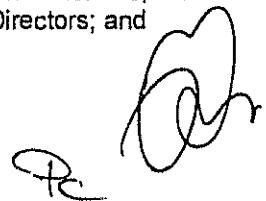


- (f) the consolidation, merger or amalgamation of the Corporation or any of its Subsidiaries with any other corporation, association, partnership or legal entity;
- (g) any amendment to the Articles or by-laws of the Corporation or its Subsidiaries;
- (h) except for transactions between this Corporation and its Subsidiaries, any loan to, or guarantee or indemnity on behalf of or any investment in any Shareholder or other person, firm or corporation, other than investments in certificates of deposit or guaranteed investment certificates created and issued by a Canadian chartered bank or in bonds or obligations have a maturity of not more than one year following the date of the investment;
- (i) the appointment of auditors of the Corporation and its Subsidiaries and any change thereof, and the utilization of any accounting procedures or statement presentation that has not been recommended by the auditors of the Corporation;
- (j) any borrowing by the Corporation or any of its Subsidiaries in excess of \$10,000;
- (k) the sale, lease, transfer, mortgage, pledge or other disposition of all or substantially all of the undertaking of the Corporation or of any Subsidiary;
- (l) the winding-up or liquidation of the Corporation or any of its Subsidiaries, the institution of proceedings to be adjudicated a bankrupt or insolvent under the *Bankruptcy and Insolvency Act* (Canada), the consenting to the institution of such proceedings against the Corporation or any of its Subsidiaries, the consenting to the institution of bankruptcy or insolvency proceedings against the Corporation or any of its Subsidiaries under the *Bankruptcy and Insolvency Act* (Canada) or any other analogous laws, the consenting to the filing of any such petition or to the appointment of a receiver or receiver-manager of the property of the Corporation or any of its Subsidiaries, the making of a general assignment for the benefit of creditors, the filing of a proposal to settle payments of creditors' liabilities under the *Companies' Creditors Arrangement Act*, the admission in writing of the insolvency of the Corporation or any of its Subsidiaries, or the taking of any corporate action in furtherance of any of the aforesaid purposes; or
- (m) the entering into by the Corporation of any contract with any Shareholder or any person who does not deal at arm's length with any Shareholder.

6.2 DECISIONS OF DIRECTORS

Subject to Section 6.1, each action or motion of the Directors shall require the unanimous consent of the Directors, except that unless otherwise approved by the Directors in accordance with the terms of this Agreement, funds of the Corporation shall be applied in the following manner and descending order of priority:

- (a) in payment of all proper operating costs and expenses of the Group, including without limitation, amounts payable as remuneration to officers and management of a member of the Group, and a reasonable reserve for working capital;
- (b) In payment of principal and interest when due under any credit arrangement in order of the priority of any security held by such lender, but excluding all Shareholder loans;
- (c) in repayment of the principal amount of loans advanced by Shareholders, and repayment of interest, if any, agreed to be paid on such loans by the Directors; and

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- (d) in payment of distributions to the Shareholders.

6.3 SUBSIDIARIES

- (a) The Corporation shall vote any shares in the capital of each Subsidiary so as to:
 - (i) set the number of directors for each Subsidiary at two (2);
 - (ii) elect a nominee of each Common Shareholder as director of each Subsidiary;
 - (iii) allow a Common Shareholder to replace their nominee to the board of directors of a Subsidiary upon written notice of such replacement being requested; and
 - (iv) ensure that the bylaws of each Subsidiary include the provisions equivalent to Sections 3.3 to 3.10 inclusive and Article IV.
- (b) Each of the Common Shareholders shall:
 - (i) ensure that each director nominated to the board of directors of a Subsidiary shall comply with the terms of Sections 6.1, 6.2 and 6.3(a) in relation to that Subsidiary; and
 - (ii) shall remove any director who contravenes Sections 6.1 or 6.2.

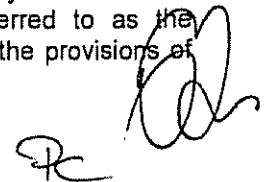
ARTICLE VII - TRANSFER AND ASSIGNMENT OF SHARES

7.1 PROHIBITIONS

- (a) Each of the Shareholders covenants that it will not sell, assign, transfer, pledge, mortgage, charge, create a security interest in, hypothecate, enter into any agreement or option, right or privilege capable of becoming an agreement or option, to or otherwise dispose of, encumber or deal with any of the Shares, Advances or securities convertible into Shares beneficially owned by him or it, except in accordance with the terms of this Agreement, or except with the prior written consent of all of the Common Shareholders. For greater certainty, but without limiting the foregoing, each of the Shareholders shall be bound by the provisions of this Agreement in respect of any Shares which may be acquired by such Shareholder after the date hereof.
- (b) Notwithstanding anything herein contained, every transfer of all or a portion of the Shares held by a Shareholder, and any issue of Shares, in addition to the requirements of this Article VII, shall be subject to the condition that the proposed transferee, or holder, if not already bound by this Agreement, shall first enter into an agreement in compliance with Section 7.2 hereof, in a form satisfactory to the Common Shareholders, to be bound by this Agreement.
- (c) Except with the prior written consent of the Board, no fractional interests in Shares may be transferred by a Shareholder.

7.2 NEW SHAREHOLDERS

Notwithstanding any other provision of this Agreement, any sale, transfer, assignment, disposition or issue of Shares that is permitted under this Agreement (any such sale, transfer, assignment, disposition or issue being hereinafter in this Section referred to as a "Transaction") by a Shareholder or the Corporation at any time to any person (hereinafter in this Section referred to as the "Transferee") who is not bound by this Agreement at such time shall be subject to the provisions of



this Section. The Transaction shall not be permitted and shall not be completed unless, at or prior to the time of completion, the Transaction complies with Section 7.1 and the Transferee becomes bound by this Agreement in the manner set forth in this Section.

The Transferee shall become bound by this Agreement by delivering an original executed copy of an agreement in a form and content acceptable to the Board and the Common Shareholders which provides, inter alia that such Transferee shall become a party to this Agreement to the Corporation and the Shareholders. Upon the later of the Transferee becoming bound by this Agreement and the Transferee becoming a holder of Shares, the Transferee shall be a Shareholder for purposes of this Agreement and shall be entitled to the rights and benefits of a Shareholder hereunder and shall be subject to the obligations, restrictions and duties of a Shareholder hereunder.

7.3 OBLIGATION TO REGISTER

Any transfer of Shares made in accordance with and pursuant to the provisions of this Agreement shall be recorded on the books and records of the Corporation upon surrender of the certificates representing the Shares being transferred and new certificates shall be issued to the transferees and, except as otherwise specifically required herein, no resolution or consent of the Shareholders shall be required in connection therewith.

7.4 SAFE-KEEPING

Each of the Shareholders agrees that the Corporation shall hold the certificates representing the Shares on behalf of each Shareholder with such certificates to be held at the registered office of the Corporation and shall not be released to any person, including a Shareholder, without the prior written consent of the Board.

7.5 CONTRAVENTION

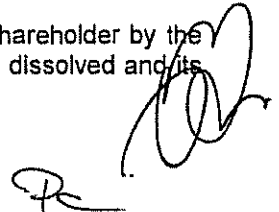
Each Shareholder acknowledges, covenants and agrees that violation of the restrictions set forth in this Agreement will constitute an injury and damage to the other Shareholders which would be impossible to measure monetarily and as a result, the Corporation, in addition to all of its other remedies in law and in equity, and whether pursuant to the terms of this Agreement or otherwise, is entitled to a decree or order restraining any sale, transfer or other disposition of Shares contrary to the terms of this Agreement and any Shareholder who has made or who intends to make a sale, transfer or other disposition of its Shares contrary to the terms of this Agreement will consent to such decree or order and will not plead in defence thereto that there would be other adequate remedies at law.

ARTICLE VIII - OPTION TO PURCHASE

8.1 DISPOSITION

For the purpose of this Article, "Disposition" means where the following occurs in relation to a corporate Shareholder, namely:

- (a) proceedings are instituted for the dissolution or winding-up of any such corporate Shareholder;
- (b) such corporate Shareholder is petitioned into bankruptcy or makes an assignment for the benefit of its creditors;
- (c) a certificate of dissolution is issued with respect to such corporate Shareholder by the Registrar of Corporations or such corporate Shareholder is otherwise dissolved and its corporate status terminated; or

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- (d) such corporate Shareholder's Shares or Shareholder Advances are seized or attached in any way for the payment of any judgment or order and such seizure or attachment is not released or stayed within thirty (30) days.

8.2 DISPOSITION OF SHAREHOLDER ADVANCE

For all purposes of this Article VIII, each whole dollar of each Shareholder's Advance shall be regarded as a Share of a class distinct from the other Shares and the term "Share" shall be read accordingly.

8.3 DISPOSITION OPTION

Immediately prior to the Disposition by any Shareholder (the "Vendor") of the whole or any part of its Interest (the date of Disposition being the "Effective Date"), the Vendor shall be deemed to have agreed to give to all other Shareholders (in this Article VIII called the "Offerees") an option to purchase all of the Vendor's Shares in accordance with this Article and no rights in respect of the whole or any part of the Vendor's Shares shall pass to any person whatsoever except subject to the rights of the Offerees pursuant to this Article.

8.4 NOTICE OF ELECTION

Upon becoming aware that a Disposition is about to be made, the Secretary shall (and any Shareholder may) forthwith give the Offerees notice of the Disposition (the "Disposition Notice") and, from immediately prior to the happening of the Disposition, the Offerees shall have the right, but not the obligation, to purchase the whole or any part of the Vendor's Shares at the Purchase Price (as hereinafter defined).

8.5 EXERCISE OF OPTION

To exercise the right granted pursuant to this Article to acquire the Vendor's Shares about to be the subject of a Disposition, an Offeree shall not later than ninety (90) days after the Secretary or Shareholder gives all Offerees the Disposition Notice (the "Exercise Period") give to the Secretary a written notice (the "Buy/Sell Notice") of its election. Any Offeree who fails to issue a Buy/Sell Notice within the Exercise Period shall be deemed to have waived, absolutely, his right to participate in the purchase of the Vendor's Shares pursuant to this Article VIII. Notwithstanding the foregoing, if the events causing a Disposition have been cured within ninety (90) days after the date the Disposition Notice is delivered to the Offerees, then the Disposition shall be deemed to have not occurred and any Buy/Sell Notice shall be void *ab initio*.

8.6 BINDING AGREEMENT

Upon the delivery of a Buy/Sell Notice by a Purchaser to the Secretary there shall thereby be constituted a binding agreement of purchase and sale between the Purchaser, as purchaser, and the Vendor, as vendor, of that Purchaser's Proportionate Share of the Vendor's Shares at and for the Purchase Price (as hereinafter defined). The Purchaser and Vendor shall take all reasonable steps to close the said sale, which closing shall take place on the ninetieth (90th) day following the expiry of the Exercise Period (the "Closing Date").

8.7 PURCHASE PRICE

For the purposes of this Article VIII, the term "Purchase Price" shall mean and shall be the amount determined on a per Share basis which is either:

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- (a) determined by written agreement (on a per Share basis) between the Vendor (or his duly authorized representative) and the Purchaser; or
- (b) in the absence of such agreement within thirty (30) days of the end of the Exercise Period (such date called the "**Commencement Date**"), the Share Value of the Vendor's Shares as at the Effective Date.

The Purchase Price, as agreed upon by the Remaining Shareholders and the Withdrawing Shareholder, or the Share Value as determined by the Valuators pursuant to Article XIII shall be final and binding on all parties.

8.8 PAYMENT OF PURCHASE PRICE

Subject to the provisions in this Section 8.8 relating to the payment of the Purchase Price for the Vendor's Shares and Shareholders Advances, the provisions of Article XIV shall apply *mutatis mutandis* to the closing of the purchase and sale described herein. The Purchase Price shall be paid in six (6) equal consecutive monthly installments (or earlier at the option of the Purchaser) commencing on the first day of the month following the Closing Date and continuing on the first day of each month thereafter until the Purchase Price is paid with interest at the Prime Rate on the then current outstanding balance from the Closing Date until the date of payment.

ARTICLE IX --- SHOTGUN BUY/SELL ARRANGEMENTS

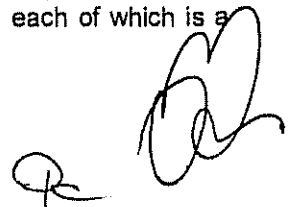
9.1 NOTICE OF PURCHASE OR SALE

- (a) At any time and from time to time any one or more of the Shareholders (such one or more Shareholders being hereinafter in this Article individually referred to as an "**Offeror**" and collectively referred to as the "**Offerors**") may deliver to all but not less than all other Shareholders (such one or more other Shareholders being hereinafter in this Article individually referred to as an "**Offeree**" and collectively referred to as the "**Offerees**") a notice of purchase or sale (any such notice being hereinafter in this Article referred to as the "**Notice of Purchase or Sale**").
- (b) For all purposes of this Article IX, each whole dollar of each Shareholder's Advance shall be regarded as a Share of a class distinct from the other Shares and the term "**Share**" shall be read accordingly.
- (c) Notwithstanding anything to the contrary in this Agreement, neither a Notice of Purchase or Sale nor any Purchase Agreement resulting from a Notice of Purchase and Sale shall be subject to the provisions of Article X or Article XI.

9.2 CONTENTS OF NOTICE OF PURCHASE OR SALE

The Notice of Purchase or Sale shall be effective only if:

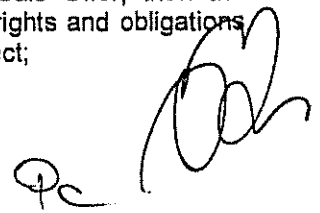
- (a) it specifies a date (the "**Notice Date**") that is no more than 10 days after the Notice of Purchase and Sale is sent to the Offerees which shall be designated or shown in the Notice of Purchase or Sale as the Notice Date;
- (b) it contains an offer (the "**Purchase Offer**") made by the Offerors to purchase from the Offerees at the applicable Offer Price per Share, as hereinafter defined, all but not less than all of the Offeree's Shares (collectively the "**Offeree Shares**") each of which is a Share held by one or more of the Offerees;

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- (c) it contains an offer (the "**Sale Offer**") made by the Offerors to sell to the Offerees at the applicable Offer Price per Share, as hereinafter defined, all but not less than all of the Offeror's Shares (collectively the "**Offeror Shares**");
- (d) it stipulates, with respect to each particular class of Shares outstanding, the price per Share (such price per Share for a Share of a particular class being referred to as the "**Offer Price per Share**" for a share of such class) at which:
 - (i) the Offerors are offering to purchase the Offeree Shares of such class; and
 - (ii) the Offerors are offering to sell the Offeror Shares of such class;

and the Offer Price per Share for a Share of such class shall be the same amount per Share of such class in each case, and for purposes of this Section, in the case of any class of Shares which are issuable in series, each series of Shares shall be deemed to be a separate class of Shares, and provided that the Offer Price per Share in respect to a Shareholder's Advance shall not exceed one hundred cents per dollar of such Shareholder's Advance;

- (e) it stipulates that either one of the Purchase Offer or the Sale Offer may be accepted by an Offeree at any time within the sixty (60) days immediately following the Notice Date;
- (f) it provides that the aggregate purchase price for the Shares which are to be sold pursuant to the agreement (the "**Purchase Agreement**") resulting from the acceptance of the Purchase Offer or the Sale Offer (including deemed acceptance pursuant to Section 9.4) shall be paid by one or more certified cheques or bank drafts at the time of closing the purchase and sale of Shares;
- (g) it stipulates the date of closing for the purchase and sale of the Shares (the "**Closing Date**") which are to be sold pursuant to the Purchase Agreement and such date is a Business Day that is not less than seventy five (75) days and not more than ninety (90) days after the Notice Date;
- (h) it stipulates the place at which the closing of the purchase and sale of the Shares which are to be sold pursuant to the Purchase Agreement is to be the registered office of the Corporation;
- (i) it provides that at the time of closing, the one or more Shareholders whose Shares are to be sold pursuant to the Purchase Agreement shall deliver to the one or more Shareholders purchasing such Shares one or more share certificates representing such Shares in the aggregate and each being duly endorsed in blank by the registered holder thereof;
- (j) the Purchase Offer and the Sale Offer are each capable of being accepted by an Offeree by executing one copy of the Notice of Purchase or Sale and indicating thereon whichever of the Purchase Offer and the Sale Offer is being accepted and sending it to an Offeror at an address stipulated in the Notice of Purchase or Sale by registered mail, postage prepaid, on or before the sixtieth (60th) day immediately following the Notice Date;
- (k) it provides that if any one or more Offerees duly accept the Sale Offer, then the Purchase Offer shall automatically become void and any and all rights and obligations respecting the Purchase Offer shall cease to be of any force or effect;



- (l) it provides that if two or more Shareholders (any such Shareholder being referred to as a "Buyer") become obligated to purchase Shares (the Shares which are to be purchased pursuant to the Purchase Agreement being in the aggregate sometimes referred to as the "Subject Shares") pursuant to the Purchase Agreement, then each Buyer shall be obligated to purchase the Subject Shares in accordance with their Proportionate Share, subject to any agreement to the contrary reached by all Buyers (the "Reallocation Agreement") and not less than ten (10) days prior to the date (as determined in accordance with this Agreement) on which the purchase and sale of the Subject Shares is to be completed a duplicate original executed copy of the Reallocation Agreement is delivered to each Shareholder that is to sell Subject Shares pursuant to the Purchase Agreement, then the number of Subject Shares of the particular class (and series, if applicable) which each Buyer shall be obligated to purchase shall be changed to give effect to the Reallocation Agreement and provided further that this subparagraph shall only be applicable in relation to a Notice of Purchase or Sale if there is more than one Offeror or more than one Offeree;
- (m) to provide that the obligation of each person that is an Offeror or an Offeree to purchase or sell Shares in accordance with the Purchase Agreement is subject to the condition that the sale of all Shares which are to be sold pursuant to the Purchase Agreement, either by or to such person, be completed concurrently, it being understood that each such person shall be entitled to waive such condition as between such person and any other one or more Offerors or Offerees and that each Offeror and each Offeree is obligated to act in a reasonable and cooperative manner so as to facilitate the concurrent completion of the purchase and sale of all such Shares;
- (n) it is delivered in triplicate to each Offeree;
- (o) the provisions of Article XIV of this Agreement shall be applicable in relation to the purchase and sale of Shares contemplated in the Purchase Agreement;
- (p) it stipulates that the Notice of Purchase or Sale is irrevocable except with the written consent of all the Offerees.

9.3 DELIVERY OF A NOTICE OF PURCHASE OR SALE

- (a) Where there is more than one Offeror:
 - (i) the Notice of Purchase or Sale shall specify a single address for service upon which the Notice of Purchase or Sale and other notices under this Section may be served upon the Offeror; and
 - (ii) the Notice of Purchase or Sale shall specify the numbers or proportions of each of the Offeree's Shares that each of the Offerors shall be purchasing (and who shall be purchasing from whom) in the event that the Offeror becomes obligated to purchase the Shares of all of the Offerees pursuant to this Article IX.
- (b) A Notice of Purchase or Sale shall be delivered by one or more Offerors delivering the Notice of Purchase or Sale to each Offeree, so that the Notice of Purchase or Sale shall have been delivered to each Offeree in the period (the "Notice Delivery Period") from and including the fifth day before the Notice Date to and including the second day after the Notice Date. If all Offerees are not served within such seven (7) day period, then the Notice of Purchase or Sale shall be void and of no effect.



- (c) Where any Notice of Purchase or Sale is served upon an Offeree (the "First Notice"), any subsequent Notice of Purchase or Sale shall be void and of no force and effect unless it is served after the Closing Date of the First Notice.

9.4 ACCEPTANCE OF THE PURCHASE OFFER OR SALE OFFER

If an effective Notice of Purchase or Sale is delivered to an Offeree and the Offeree:

- (a) does not duly accept the Purchase Offer and also does not duly accept the Sale Offer in the manner provided for in the Notice of Purchase or Sale; or
- (b) accepts or purports to accept both the Purchase Offer and the Sale Offer in the manner provided for in the Notice of Purchase or Sale;


then in either case the Offeree shall be conclusively deemed to have duly accepted the Purchase Offer, and not the Sale Offer, in the manner provided for in the Notice of Purchase or Sale, and the Purchase Agreement referable to the Notice of Purchase or Sale shall be effective in the same manner as if the Offeree shall have duly accepted the Purchase Offer.

9.5 MISCELLANEOUS

- (a) The Corporation shall, as soon as is reasonably possible following service of an effective Notice of Purchase or Sale, provide to the Offerees copies of such financial statements, month end reports, banking records, loan balances and other documents and information as may be reasonably requested by the Offerees from time to time, for the purposes of enabling the Offerees:
 - (i) seeking bank financing or other financial assistance to investigate and enable the purchase of the Offerors' Shares; and
 - (ii) to better estimate the fair value of the Corporation and its assets.
- (b) Once the Offerees have elected (or have been deemed to have elected) under a Notice of Purchase or Sale, the Offerors and Offerees thereunder, may by unanimous agreement in writing, vary the terms of purchase and sale between them and the consent or agreement of the other parties to this Agreement shall not be required. Notwithstanding the foregoing, Section 9.1 and subsections 9.2(d), 9.2(f), 9.2(h), 9.2(i), 9.2(k), 9.2(m), 9.2(o) and 9.2(p) and Sections 9.5 and 9.6 may not be waived or varied without the consent of all Shareholders.
- (c) In the event of a death Disposition, a Notice of Purchase or Sale may not be served under this Article IX until such time as the purchase and sale of Shares under Article VIII has closed or the process commenced thereunder has otherwise been brought to an end.

9.6 DATE FOR COMPLETION OF THE PURCHASE AND SALE

The provisions of Article XIV shall apply mutatis mutandis to the closing of the purchase and sale described herein. The date (the "Closing Date") on which the purchase and sale of the Shares which are to be sold pursuant to the Purchase Agreement shall be completed shall be the date of closing stipulated in the applicable Notice of Purchase or Sale, unless the Closing Date is changed to a different date in accordance with the provisions of this Section. The one or more Shareholders that are to purchase Shares pursuant to the Purchase Agreement shall be entitled to change the Closing Date

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up to two (2) times, by a written notice (a "Closing Date Change Notice"), to a date (the "Designated Date") designated in such Closing Date Change Notice, provided that:



- (a) such Closing Date Change Notice is given to each Shareholder that is to sell Shares pursuant to the Purchase Agreement not less than ten (10) days before the Designated Date; and
- (b) the Designated Date is not more than one hundred twenty (120) days after the Notice Date designated or shown in the applicable Notice of Purchase or Sale.

ARTICLE X - RIGHT OF FIRST REFUSAL

10.1 TRIGGERING NOTICE

If a Common Shareholder (the "Target Shareholder") shall receive a bona fide offer from an Arm's Length party (the "Third Party") to purchase some or all of its Shares (the "Target Shares") which the Target Shareholder wishes to accept, he shall forthwith offer by written notice (the "First Refusal Offer") to the other Common Shareholder (the "Continuing Shareholder") the right to purchase, receive or otherwise acquire the Target Shares on substantially the same terms as the offer from the Third Party. The First Refusal Offer shall include:

- (a) reasonable particulars as to the identity and background of all of the individual or individuals who are the principals of the Third Party together with a copy of the offer from the Third Party;
- (b) the name of the Target Shareholder and the number and class of Target Shares that are available for sale pursuant to the First Refusal Offer;
- (c) the period of time that a Continuing Shareholder shall have to accept the First Refusal Offer (the "First Refusal Period"); provided that such First Refusal Period shall be no less than thirty (30) days;
- (d) the date of closing which shall not be less than fifteen (15) days and not more than ninety (90) days after the end of the First Refusal Period;
- (e) that each Continuing Shareholder is entitled to purchase the Target Shares pro rata using a fraction which has as its denominator the number of Common Shares held by all Continuing Shareholders and which has as its numerator the number of Common Shares held by such Continuing Shareholder;
- (f) the place of closing which shall be in Calgary, Alberta;
- (g) the purchase price per Share for the Target Shares;
- (h) the manner of payment of the purchase price for the Target Shares;
- (i) the amount of the Shareholder's Account of the Target Shareholder and whether or not a Purchaser shall be obligated to assume a portion of that Shareholder's Account;
- (j) a provision that it is capable of being accepted by a Continuing Shareholder by executing one copy of the First Refusal Offer and delivering it to the Corporation within the First Refusal Period;

- (k) a representation from the Target Shareholder that the First Refusal Offer is a bona fide offer to purchase or acquire the Target Shares and that the Target Shareholder is at arm's length to the Third Party; and
- (l) any other terms and conditions upon which the Target Shares and, possibly, the Shareholder's Account are being offered.

The First Refusal Offer shall constitute an offer to the Continuing Shareholders by the Target Shareholder to sell the Target Shares in accordance with the First Refusal Offer and otherwise in accordance with this Article X.

10.2 ACCEPTANCE OF OFFER

Within the First Refusal Period, any Continuing Shareholder may, by delivering written notice of acceptance thereof (a "ROFR Acceptance") to the Target Shareholder, agree to purchase the Target Shares in his Proportionate Share on the terms contained in the First Refusal Offer. A Continuing Shareholder that fails to provide a ROFR Acceptance to the Target Shareholder prior to the expiry of the First Refusal Period shall be deemed to have rejected the First Refusal Offer. If the First Refusal Offer has been partially accepted by some but not all of the Continuing Shareholders before expiration of the First Refusal Period, then the Target Shareholder shall be required to immediately make a similar written offer to the Continuing Shareholder which accepted the First Refusal Offer to sell the remaining Target Shares on the same basis as the First Refusal Offer except that the number of Target Shares shall equal the remaining number of Target Shares.

10.3 CLOSING OF TRANSACTION

The transaction of purchase and sale between the Target Shareholder and each Purchaser shall take place in accordance with the terms specified in the First Refusal Offer, as per section 10.1. At the time specified in the First Refusal Offer, the Target Shareholder shall deliver duly endorsed transfer(s) of the Target Shares, with good title thereto, free and clear of any lien, claim, encumbrance, equity or charge whatsoever, against payment by a Purchaser of the applicable purchase price.

10.4 SALE TO THIRD PARTY

If every Continuing Shareholder rejects or is deemed to have rejected the First Refusal Offer, then the Target Shareholder shall be free for a period of sixty (60) days after expiry of the First Refusal Period to sell the Target Shares to the Third Party, provided:

- (a) he offers to sell and completes the sale of the Target Shares on the terms and conditions set out in his First Refusal Offer; and
- (b) the purchaser of the Target Shares becomes bound by the terms of this Agreement in the manner provided in Section 7.2.

10.5 EXPIRY OF THIRD PARTY OFFER

If the Target Shareholder has not completed the sale of all of the Target Shares within sixty (60) days after expiry of the First Refusal Period, he shall immediately thereafter cease to be a Target Shareholder and be required thereafter to comply again with the terms of this Article X with respect to any unsold Target Shares.

10.6 CONDITIONS OF OFFER

Each of the Shareholders covenants and agrees that he shall not:



- (a) accept any offer for the purchase of his Shares the consideration for which would be of such a unique nature that the parties would be unable to determine a cash equivalent alternative;
- (b) accept any offer to purchase his Shares from a party or parties with whom he is not dealing at Arm's Length;
- (c) accept any offer that is not subject to the terms of this Article X and Article XI;
- (d) accept any offer to purchase his Shares which is not a bona fide offer; and
- (e) accept any offer to purchase his shares which does not include an offer to purchase his Preferred Shares.

ARTICLE XI - RIGHT TO COME ALONG (PIGGYBACK RIGHT)

11.1 NOTICE OF PROPOSED SALE

If any one or more Common Shareholders (hereinafter in this Article XI called the "Vendor") proposes to sell, transfer or assign any of his Shares to the Third Party (as defined in Article X), pursuant to the "First Refusal Offer" (as defined in Article X) then the Vendor shall, but only after full compliance with Article X and within ten (10) days after the expiry of the "First Refusal Period" (as defined in Article X) provide written notice thereof to each of the other Common Shareholders and to the Secretary of the Corporation (such notice being hereinafter called the "Option Notice"), which Option Notice shall be signed by the Vendor and shall include the same terms as required for the First Refusal Offer.

11.2 EXERCISE OF PIGGYBACK OPTION


Upon receipt of an Option Notice, each of the other Common Shareholders shall thereupon have an option (hereinafter called the "Piggyback Rights Option") to exercise his Piggyback Rights as provided in Section 11.4, which Piggyback Rights Option shall be exercised by a Common Shareholder delivering to the Vendor and the Secretary of the Corporation written notice of its exercise of its Piggyback Rights Option, which written notice shall be delivered in the manner contemplated by this Agreement on or before that date which is ten (10) days next following the date of receipt of the Option Notice by the Common Shareholder (such period being called the "Option Period").

11.3 FAILURE TO EXERCISE PIGGYBACK OPTION

If a Common Shareholder shall fail to exercise his Piggyback Rights Option as contemplated by Section 11.2 within the Option Period, then such Common Shareholder shall be deemed to have waived, absolutely, any further Piggyback Rights in relation to the transaction that is the subject matter of the Option Notice.

11.4 PIGGYBACK RIGHTS OF COMMON SHAREHOLDERS

If a Common Shareholder delivers to the Vendor, within the Option Period, written notice that such Common Shareholder wishes to exercise its Piggyback Rights Option, then such Common Shareholder (hereinafter called the "Piggyback Shareholder") shall be entitled to require that the same percentage of Shares from the Piggyback Shareholder as are being sold by the Vendor shall be sold with and as part of the Target Shares (the right and entitlement of the Shareholder as hereinbefore described being herein referred to as such Shareholder's "Piggyback Rights").

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11.5 REJECTION OR NON-COMPLIANCE

If the Vendor and the Piggyback Shareholders shall be entitled to proceed with the sale, transfer or assignment of the Target Shares to the Third Party and such sale, transfer or assignment shall not have been concluded within sixty (60) days from the expiry of the Option Period, then the Piggyback Shareholders' right to complete such sale pursuant to this Article XI shall terminate. Notwithstanding anything herein to the contrary, the Third Party shall not be entitled to purchase any Shares until such time as the provisions of Section 7.2 are complied with.

ARTICLE XII - CORPORATE FINANCING

12.1 TERMS OF SHAREHOLDERS' ADVANCES

In the event the Shareholders shall advance funds to the Corporation, all funds so advanced shall be deemed to be a Shareholder's Advance by each such Shareholder and shall be evidenced by a promissory note issued by the Corporation in favour of such Shareholder or book entry in the Corporation's ledgers setting forth:

- (a) the principal amount of each such Advance;
- (b) the rate of interest payable thereon, which rate shall be Bank of Montreal's Prime Rate plus 1% unless a different rate is established by the Board or this Agreement;
- (c) the terms of repayment which shall be as established by the Board at the time the promissory note is issued by the Corporation,

(such promissory notes being hereinafter referred to as the "Notes").

12.2 REPAYMENT OF SHAREHOLDERS ADVANCES

Except for Notes issued having specified and fixed terms of repayment, all repayments of or on account of Shareholder's Advances, including all Advances evidenced by Notes payable in accordance with this Agreement, and, if applicable, interest thereon, shall be made by the Corporation to Shareholders pro rata in the proportion that the amount that each Shareholder's Account at such time bears to all Shareholder's Accounts then outstanding and no Shareholder shall have the right to demand payment of its Advance except in accordance with the terms of this Agreement.

12.3 SUBORDINATION

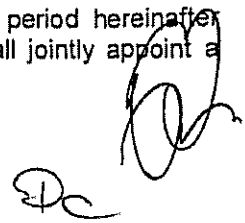
Each of the Shareholders agrees that they shall, at the request of the Directors, subordinate their respective Shareholder's Account and Notes in favour of any bank or lending institution providing financing to the Corporation.

ARTICLE XIII – VALUATION

13.1 VALUATION METHOD

A determination of the Share Value of the Vendor's Shares shall be made in accordance with the terms and conditions set forth in this Article XIII (such terms and conditions and the process set forth being herein referred to as the "Valuation"):

- (a) Within thirty (30) days following the Commencement Date (such period hereinafter called the "Valuation Period"), the Purchaser and the Vendor shall jointly appoint a

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Canadian chartered business valuator (the "Valuator") and the Valuator shall prepare a valuation in writing of the Share Value of the Vendor's Shares;

- (b) If the Purchaser and the Vendor fail to agree on the appointment of a Valuator within the thirty (30) days following the Commencement Date, either of the Purchaser or Vendor may apply to a Justice of the Court of Queen's Bench of Alberta for the appointment of a Valuator and the valuation determined by such Valuator shall be the Share Value of the Vendor's Shares;
- (c) The costs related to the Valuator will be paid by the Vendor and the Purchaser, provided that if the Vendor fails to fund such amount, the Purchaser or Corporation may do so and the costs so funded may be deducted from any amount payable to the Vendor;
- (d) In determining the Share Value of the Vendor's Shares which are the subject matter of the valuation, the Valuator shall be governed by the provisions of Section 13.2 and this 13.1;
- (e) The Valuation Period may be extended to a maximum of ninety (90) days from the Commencement Date with the written consent of both Common Shareholders; and
- (f) The Valuator shall be instructed to provide a specific amount as to the Share Value of the Vendor's Shares and not a range.

13.2 TERMS OF REFERENCE

In determining the Share Value of a Shareholder's Shares, the Valuator in conducting his valuation shall:

- (a) have regard to the highest price that would be available for all assets of the Corporation in an open and unrestricted market between informed and prudent parties acting at Arm's Length and under no compulsion to act and with the Corporation deemed to be a going concern;
- (b) have regard to any tax consequences arising out of the tax cost to the Corporation of realization of the Corporation's assets and the tax costs of the distribution of any earnings or surplus of the Corporation, except in circumstances where the Valuator determines that a discount for part or all of such taxes is not appropriate;
- (c) have regard to the liabilities of the Corporation which:
 - (i) shall not be adjusted or restated except in accordance with generally accepted accounting principles; and
 - (ii) shall be derived from the books and records of the Corporation;
- (d) have regard to the annual earnings of the Corporation for up to but not more than the preceding five (5) fiscal years which shall be based upon the financial statements of the Corporation;
- (e) have submitted to him such financial records and other information concerning the Corporation as he may reasonably require;
- (f) not take into account the fact that the Shares in question constitutes a majority or minority interest;

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- (g) have the right to appoint chartered business valuers, experts, consultants and auditors as he, in his sole discretion, may consider necessary or advisable;
- (h) subject only to the provisions of this Agreement, be the master of his own procedure;
- (i) communicate the results of his determination by a report in writing (hereinafter referred to as the "Valuation Report") and deliver same to the Common Shareholders and the Corporation;
- (j) not take into account any life insurance or death benefit proceeds received or receivable on the death of a Shareholder;
- (k) the Share Value for each series or class of Preferred Shares shall be the lesser of (i) its respective Redemption Amount; and (ii) the amount which the holder of such Preferred Share would be entitled to receive upon the winding-up or dissolution of the Corporation assuming that upon such winding-up or dissolution, the assets of the Corporation are disposed of for proceeds of disposition equal to their Fair Market Value; and
- (l) in the event that the Valuator determines a range of values for any class or series of Shares, the Share Value shall be the average (in relation to that class or series) between the range applicable to that class or series.

13.3 VALUATION BINDING

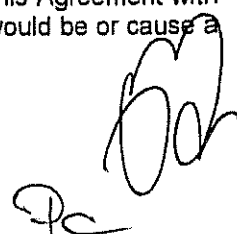
The Parties hereto acknowledge, covenant and agree that they will not apply, nor will they have the right to apply, by any means, to any Court to challenge any findings, determinations, issues of fact or valuations as determined by the Valuator in relation to the conduct of, or the subject matter of, or the results of a Valuation of Shares and the determination and Valuation Report of the Valuator shall be final, conclusive and binding upon all of the Parties for all purposes as in this Agreement provided.

ARTICLE XIV - COMPREHENSIVE PROCEDURE ON CLOSING

14.1 DEFINITIONS

In this Article, unless there is something in the subject matter or context inconsistent therewith:

- (a) "Buyer" means, in relation to a Sale, a person including the Corporation that is to purchase Shares pursuant to the Sale, and "Buyers", in relation to a Sale, means the one or more persons each of which is a Buyer in relation to the Sale and shall include a Purchaser or Purchasers as provided above;
- (b) "Closing Time" means, in relation to a Sale, the time of completing the Sale;
- (c) "Encumbrance" means and includes any mortgage, charge, pledge, security interest, lien, encumbrance, action, claim, demand, equity or adverse claim of any nature whatsoever or howsoever arising;
- (d) "Permitted Encumbrance" means at any time, in relation to any Sale of Shares, an Encumbrance which is provided for or arises under:
 - (i) this Agreement, unless there is a then continuing breach of this Agreement with respect to such Encumbrance or the completion of the Sale would be or cause a breach of this Agreement with respect to such Encumbrance;

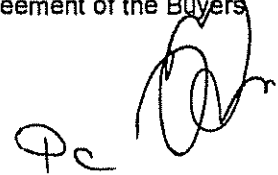
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- (ii) the Corporation's Articles unless there is a then continuing breach of the Corporation's Articles or completion of the Sale would be or cause a breach of this Agreement with respect to such Encumbrance; or
 - (iii) any agreement, instrument or document which secures an obligation of the Corporation or any Subsidiary of the Corporation but only in relation to such obligations;
- (e) **"Sale"**:
- (i) in reference to Article VIII, Article X, or Article XI, means and refers to a purchase and sale of Shares as provided for in such applicable Article;
 - (ii) and where this Agreement or the application thereof contemplates a particular purchase or sale of Shares by one or more persons to one or more persons in particular circumstances and pursuant to or referable to any of such Articles hereof, then such purchases and sales of Shares shall be deemed to be a single "Sale" unless otherwise provided for herein;
- (f) **"Seller"** means, in relation to a Sale, a person that is to sell Shares pursuant to the Sale, and **"Sellers"** means, in relation to a Sale, the one or more persons each of which is a Seller in relation to the Sale; and
- (g) **"Seller's Shares"** means, in relation to a Sale, the Shares which are the subject matter of the Sale.

14.2 APPLICATION AND TERMS AND CONDITIONS

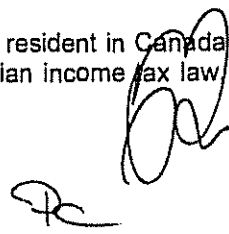
Except as otherwise in this Article provided, and except to the extent that they may be inconsistent with any applicable provisions of any Article hereof, the following provisions of this Article shall apply to any Sale:

- (a) **Share Split.** In order to avoid, as far as practical, the purchase and sale of fractional shares, the Parties to this Agreement agree to authorize a share split of all the existing Shares, in such amounts as they may agree; provided that if the parties are unable to agree, then any purchase and sale of Shares hereunder shall continue under the terms hereof but be rounded to the nearest whole number.
- (b) **Closing Date and Place.** The Sale shall be completed on the date and at the place determined in accordance with the provisions of this paragraph:
 - (i) the Sale shall be completed on the date and at the place which are in accordance with the applicable provisions of this Agreement;
 - (ii) if the date for the completion of the Sale is not fixed or determined in accordance with any other provision of this Agreement or by mutual agreement of the Buyers and the Sellers, then the Sale shall be completed on the earliest Business Day which is designated by the Buyers by written notice given to the Sellers not less than ten (10) Business Days, and not more than thirty (30) Business Days, prior to the date so designated;
 - (iii) if a place for the completion of the Sale is not fixed or designated in accordance with any other provision of this Agreement or by mutual agreement of the Buyers



and the Sellers, then the Sale shall be completed at the registered office of the Corporation.

- (c) **Closing Arrangements.** At or before the Closing Time, each Seller that is to sell Seller's Shares to a Buyer shall deliver the following to the Buyer, namely:
- (i) one or more certificates representing such Seller's Shares which shall be duly endorsed in blank for transfer by the person in whose name such certificate shall have been issued and all such endorsements shall be guaranteed by a Canadian chartered bank or a representative thereof;
 - (ii) such other documents as are to be delivered to the Buyer in connection with the completion of the Sale as provided for in this Agreement or any other document binding on such Seller in relation to such Sale;
 - (iii) such documents as the Buyer or the Corporation may reasonably require to entitle the Buyer to require the Corporation to register the transfer of such Shares to the Buyer and to entitle the Buyer to become the registered holder of such Shares;
 - (iv) such documents as the Buyer may reasonably require to confirm that such Seller's Shares are not subject to any Encumbrance except for Permitted Encumbrances;
 - (v) if any of such Seller's Shares were held by a deceased Shareholder immediately before a deceased Shareholder's death, such documents as the Buyer or the Corporation may reasonably require to evidence that the Seller of such Shares has the right to sell and transfer such Shares to the Buyer so that the Buyer acquires good and marketable title thereto free and clear of any Encumbrances except for Permitted Encumbrances; and
 - (vi) if in connection with the Sale any indebtedness owing by the Corporation to such Seller is being sold by such Seller to the Buyer, an assignment by which such indebtedness as the Buyer is purchasing (and any security for or applicable in relation to the payment of such indebtedness) is assigned to the Buyer, which assignment shall:
 - (A) be dated the date of the completion of the Sale; and
 - (B) be executed by such Seller; and
 - (C) be in such form as is approved by the Board, such approval not to be unreasonably withheld or delayed.
- (d) **Residence of Seller.** At the Closing Time each Seller shall execute and deliver to each Buyer a certificate bearing that day's date wherein such Seller certifies, as being true, at such time a statement which is one (and not the other) of the statements contemplated in subparagraphs (a) and (b) below, namely:
- (i) a statement to the effect that on that date such Seller is resident in Canada for purposes of the ITA; or
 - (ii) a statement to the effect that on that date such Seller is not resident in Canada for purposes of the ITA but for purposes of applying Canadian income tax law.



including any tax treaties or conventions to which Canada is a party, such Seller is resident in some other jurisdiction which shall be identified by name in the statement.

- (e) **Guarantees.** If immediately after the completion of the Sale no Shares are held by a particular Seller, then the following provisions shall apply:
- (i) at the Closing Time the Buyers shall deliver to the Seller one or more instruments to release and discharge the Seller from all guarantees. If the Buyers are unable to obtain an instrument to release and discharge a Seller from any guarantees, then the provisions of the first sentence of this subparagraph shall not apply, and subparagraph (ii) shall apply, in respect to such guarantees;
 - (ii) with respect to a Guarantee Agreement to which this subparagraph applies, at the Closing Time the Buyers shall deliver to the Seller one or more agreements in a form satisfactory to the Seller, acting reasonably, pursuant to which the Buyers and the Corporation agree, jointly and severally, to indemnify, hold harmless and defend the Seller from and against any and all claims which may be made against the Seller in respect to any one or more of such guarantee and all costs and expenses relating to any such claim.
- (f) **Resignations.** Except as may be otherwise agreed by the Board, if immediately after the completion of the Sale, no Shares are held by a particular Seller, then that Seller shall deliver to the Buyers resignations made by each and every person that is a nominee of the Seller and is a director of the Corporation or any Subsidiary of the Corporation, and each such resignation shall be executed by the person by whom it is made and shall evidence the resignation of such person from all positions as a director of the Corporation and its Subsidiaries.
- (g) **Title to Seller's Shares.** At the Closing Time each Seller that is to sell Seller's Shares to a Buyer shall transfer and deliver to the Buyer a good and marketable title to such Seller's Shares free and clear of all Encumbrances except for Permitted Encumbrances.
- (h) **Satisfaction of Purchase Price.** At the Closing Time each Buyer shall satisfy the Purchase Price for the Seller's Shares to be purchased by such Buyer from a Seller and shall do so in the following manner:
- (i) as to any amount required to be withheld and remitted to any government or governmental authority or official thereof in respect to the Sale of such Seller's Shares pursuant to any legislation properly applicable to such Sale, by sending to such government, governmental authority or official a cheque payable to such government, governmental authority or official, as the case may be, for such amount;
 - (ii) as to the balance of such Purchase Price, by satisfying the same in the manner provided for in any applicable provisions of this Agreement and any other documents which are binding on the Buyer and the Seller in relation to such Sale, and if there are no other such applicable provisions, the balance of such purchase price shall be satisfied by delivering to the Seller one or more certified cheques or bank drafts made payable to the Seller in an aggregate amount equal to such balance.

Any amount satisfied as provided for in subparagraph (i) of Section 14.2(h) shall be applied on account of amounts payable in respect to the Purchase Price in the same

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order as such amounts would otherwise become payable. This paragraph shall only be applicable with respect to a Sale to the extent that the terms otherwise applicable to the Sale in accordance with or as contemplated by this Agreement do not provide for the payment or satisfaction of the applicable purchase price.

- (i) **Reallocation Agreement.** Where there is more than one Buyer, the Buyers shall purchase the Seller's Shares in accordance with the terms of the applicable provision of this Agreement; provided that the Buyers may not less than ten (10) days prior to the date on which the purchase and sale of the Seller's Shares is to be completed, deliver to the Seller a duplicate originally executed agreement (the "**Reallocation Agreement**") setting out the proportion of the Seller's Shares to be acquired by all Buyers, whereupon the number of Seller's Shares which each Buyer shall be obligated to purchase shall be changed to give effect to the Reallocation Agreement.

14.3 SECURITY

The parties agree that so long as any installment of the Purchase Price payable by any Buyer for Shares remains payable to the Seller, the Buyer shall as additional security for such indebtedness execute and deliver in favour of the Seller in a form satisfactory to the Seller's solicitors, acting reasonably, a pledge of the Buyer's Shares.

ARTICLE XV – ARBITRATION

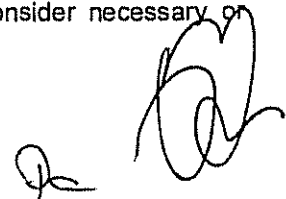
15.1 DISPUTE OR DISAGREEMENT

If there is a dispute or disagreement under this Agreement that is not resolved by the Common Shareholders, other than a dispute as to the Purchase Price, any Common Shareholder or Common Shareholders (the "**Appellant**") may notify the Corporation and the other Shareholder of its desire to have the matter resolved by arbitration, and unless within ten (10) days following such notice the matter is resolved, the dispute shall be submitted to arbitration.

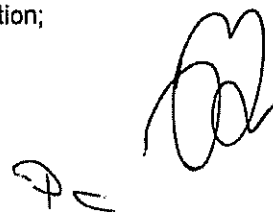
15.2 APPOINTMENT OF ARBITRATOR

In an arbitration pursuant to Section 15.1:

- (a) The Appellant and the other Shareholder shall appoint a single arbitrator (the "**Arbitrator**") who shall have such technical and other qualifications as may be reasonably necessary to enable the Arbitrator to properly adjudicate upon the matter;
- (b) The Appellant and the other Shareholder shall be deemed to have failed to concur in the appointment of a single arbitrator if the arbitrator is not appointed within fifteen (15) days after the service by one party upon the other party of a notice requesting that it concur in such appointment. Either party to the proposed arbitration shall then be entitled to apply to a Justice of the Court of Queen's Bench of Alberta who shall have jurisdiction to appoint an arbitrator;
- (c) The Arbitrator shall determine the issue or issues of fact calling for determination by the arbitration proceeding, which shall include any necessary interpretation of the provisions of this Agreement;
- (d) The Arbitrator shall have the right to appoint chartered business valuers, experts, consultants and auditors as they in their sole discretion may consider necessary or advisable;

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- (e) Subject only to the provisions of this Agreement, the Arbitrator shall be the master of its own procedure;
- (f) The decision of the Arbitrator shall be in writing and shall be delivered to all of the parties to the dispute;
- (g) The decision of the Arbitrator shall be final and binding on the parties;
- (h) All expenses of the arbitration, including the costs and expenses of the arbitrator and costs associated with the appointment thereof shall be shared and borne jointly and equally by the parties to that arbitration. Subject to any award by an arbitrator, each party to the Arbitration shall bear its individual costs to participate in and represent its position at the arbitration;
- (i) The arbitration shall be conducted in Calgary, Alberta and, except as modified in this Article, in accordance with the *Arbitration Act (Alberta)* as amended from time to time;
- (j) In the event of the failure, refusal or inability of the Arbitrator to act, a new arbitrator shall be appointed in his stead, which appointment shall be made in the same manner as hereinbefore provided for the appointment of the Arbitrator so failing, refusing or unable to act;
- (k) It shall be a condition of the appointment of any Arbitrator that the Arbitrator shall maintain in strict confidence all documents, the transcripts of the proceedings and other materials and all information disclosed by or on behalf of the parties in the arbitration and shall not use the same or allow the same to be used for any purpose collateral to the arbitration and, at the request of the party that provided any documents or other printed materials, shall return all originals and any copies of such documents and printed materials. The Arbitrator shall be responsible for ensuring that his or her officers, employees, representatives and consultants comply with this obligation of confidentiality;
- (l) The Parties to this Agreement acknowledge, covenant and agree that they will not apply, nor will they have the right to apply, by any means, to any Court to challenge any findings, determinations or issues of fact as determined by the Arbitrator nor will they appeal or have the right to appeal to any Court with respect to any findings, determinations or awards resulting from the arbitration process, all of which shall be final, conclusive and binding for all purposes;
- (m) As provided above, each party to the arbitration shall bear its own costs of an arbitration; provided that if court proceedings to stay litigation or compel arbitration are necessary, the party who unsuccessfully opposes such proceedings shall pay all associated costs in connection with such court proceedings and the arbitration tribunal may award all other costs of an arbitration;
- (n) In order to prevent irreparable harm, the Arbitrator shall have the power to grant temporary or permanent injunctive or other equitable relief;
- (o) Prior to the appointment of an Arbitrator a party may, notwithstanding any other provision of this Agreement, seek temporary injunctive relief from any court of competent jurisdiction; provided that the party seeking such relief shall (if arbitration has not already been commenced) simultaneously commence arbitration;

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- (p) The obligation to arbitrate any claim shall extend to the successors, assigns and beneficiaries of the parties, and the parties shall use their best efforts to cause the obligation to arbitrate any claim to extend to any officer, director, employee, shareholder, agent, trustee, affiliate, or Subsidiary;
- (q) The terms hereof shall not limit any obligations of a party to defend, indemnify or hold harmless another party against court proceedings or other claims, losses, damages or expenses; and
- (r) If any part of the arbitration agreement constituted by this Section 15.2 is held to be unenforceable, it shall be severed and shall not affect either the duty to arbitrate or any other part of this provision.

ARTICLE XVI - GENERAL

16.1 ENDORSEMENT ON SHARE CERTIFICATES

Any and all certificates representing Shares now or hereafter owned by the Shareholders during the currency of this Agreement (whether such Shares are issued initially or with respect to a transfer or otherwise) shall have endorsed thereon in bold type the following legend:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE PROVISIONS OF A UNANIMOUS SHAREHOLDERS AGREEMENT AND SUCH SHARES ARE NOT TRANSFERABLE ON THE BOOKS OF THE CORPORATION EXCEPT IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF SUCH AGREEMENT."

16.2 APPOINTMENT OF AGENT

The Secretary is hereby appointed as agent for the Parties hereto to effect any transfer of Shares of the Corporation in accordance with the terms hereof.

16.3 CONSENTING AGREEMENT

Wherever in this Agreement the unanimous consent of the Shareholders is required, any written agreement or Shareholders' resolution signed by all of the Shareholders, shall constitute the formal written consent of the Shareholders for all purposes as contemplated or required hereunder.

16.4 NON-COMPETITION

Each Shareholder and its Principals shall not, without the prior written consent of the other Parties for a period commencing on the date of this Agreement and ending three years after the Shareholder sells all of its Shares in accordance with this Agreement and neither the Shareholder nor its Principals (if applicable) is a director, officer or employee of the Corporation:

- (a) within the Provinces of British Columbia, Alberta, Saskatchewan and Manitoba, directly or indirectly, in any manner whatsoever including either individually, in partnership, jointly or in conjunction with any other Person, or as employee, consultant, independent contractor, principal, agent, director, officer, owner or shareholder:
 - (i) be engaged in any undertaking or business;

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- (ii) have any financial or other interest (including an interest by way of royalty or other compensation arrangements) in or in respect of the business of any Person which carries on an undertaking or business;
- (iii) advise, lend money to, guarantee the debts or obligations of or give security on behalf of any Person which carries on an undertaking or business; or
- (iv) permit its name to be used or employed by any Person engaged or concerned with or interested in any aspect of an undertaking or business;

that is in whole or in part the same as or substantially similar to or competitive with the business of the Corporation as carried on during the period commencing on the date of this Agreement and ending on the date that the Shareholder sells all of its Shares in accordance with this Agreement and neither the Shareholder nor its Principal (if applicable) is a director, officer or employee of the Corporation.

Notwithstanding the foregoing, a passive equity investment by the Shareholder or a Principal (if applicable) and/or any of their respective Affiliates in any Person which carries on a business that is in whole or in part the same as or substantially similar to or competitive with the business of the Corporation as carried on as of the date of this Agreement and whose equity securities are listed on a recognized stock exchange, where the equity investment does not in the aggregate exceed 5% of the issued equity shares of that Person, shall not be a breach or contravention of this Agreement.

For the purposes of this section, a business is substantially similar to the business of the Corporation if the business resembles (but is not necessarily identical to) the business of the Corporation or fundamental aspects of the business of the Corporation, in one or more (but not necessarily all) material, relevant or significant respects, and/or has a general nature or character related to that of the business of the Corporation.

16.5 NON-SOLICITATION

Each Shareholder and its Principals shall not, directly or indirectly, either for a period commencing on the date of this Agreement and ending on the date on which the Shareholder sells all of its Shares in accordance with this Agreement and neither the Shareholder nor its Principals is a director, officer or employee of the Corporation (the "Shareholder Period") or:

- (b) for a period of three years after the Shareholder Period, hire, employ or otherwise contract with, interfere with, solicit, entice away or otherwise obtain the withdrawal from the Corporation of, any employee or consultant of the Corporation;
- (c) for a period of three years after the Shareholder Period, solicit orders for any products or services which compete with or are substantially similar to products or services offered or in development by the Corporation during the Shareholder Period from customers or clients of the Corporation with whom the Shareholder or Principal dealt during the Shareholder Period;
- (d) for a period of three years after the Shareholder Period, solicit or accept business from any customers or clients of the Corporation with whom the Shareholder or Principal dealt during the Shareholder Period;
- (e) for a period of three years after the Shareholder Period, become associated, directly or indirectly with any customer or client of the Corporation or undertake any discussion with any such customer or client with the aim of encouraging that Person to alter or terminate

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its relationship with the Corporation or to otherwise cease dealing with the Corporation;
and

- (f) for a period of three after the Shareholder Period, make negative or disparaging statements regarding the Corporation.

16.6 PAST SHAREHOLDERS

Any Shareholder who has disposed of all of its Shares and his Principals shall no longer be bound by any of the provisions of this Agreement other than:

- (a) those relating to the payment of the Purchase Price for Shares previously purchased by such Shareholder pursuant to the provisions of this Agreement;
- (b) the provisions in respect of the payment of any unpaid Purchase Price or Advance until such time as the unpaid Purchase Price or Advance is repaid in full;
- (c) the provisions of this Agreement dealing with liability for any guarantee or indemnity granted by any such Shareholder in respect to any event occurring prior to the date of the disposition of all that Shareholder's Shares; and
- (d) sections 16.4 and 16.5 until the time periods contained in said sections have expired.

16.7 TIME OF THE ESSENCE

Where a specific time period is imposed on the Board, the Corporation or another party under this Agreement, the Board may extend such time period to such date as the Board determines appropriate, acting reasonably. Time shall be of the essence of this Agreement and every part hereof, and no extension or variation of this Agreement shall operate as a waiver of this provision.

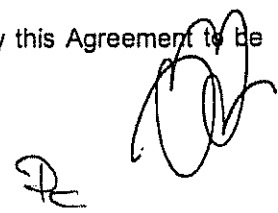
16.8 NON-WAIVER

No provision of this Agreement shall be deemed to be waived unless such waiver is in writing. Any waiver of any default committed by any of the Parties hereto in the observance of the performance of any part of this Agreement shall not extend to or be taken in any manner to affect any other default. Any Party which is entitled to any right or benefit under this Agreement may, and shall be entitled and have the right to, waive any term or condition relating to the application of this Agreement in relation to any matter or transaction provided that any such waiver shall only be effective if it is in writing signed by such Party and delivered to the Corporation, the Common Shareholders and the Party to whom such waiver is directed. If a particular Party waives any term or condition relating to the application of this Agreement in relation to any matter or transactions, as aforesaid, then in relation to the specific matter or transaction which is the subject matter of such waiver, each person that is then a Party or that subsequently becomes a Party shall be entitled to rely upon such waiver in the same manner and to the same extent as if such waiver had been directed and delivered to such person by the particular Party.

16.9 NOTICES

The provisions of this Section apply to any notice, consent, agreement, offer or other communication (any such notice, offer or communication being referred to in this Section as a "Notice") contemplated or provided for in this Agreement:

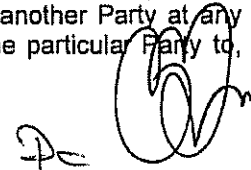
- (a) **Manner of Giving Notice.** Any Notice required or permitted by this Agreement to be given or sent or delivered to, or received by, a person:



- (i) shall be in writing;
- (ii) shall be addressed to such person at such person's Notice Address;
- (iii) shall be given to such person:
 - (A) by delivery, including delivery by courier, to such person;
 - (B) by prepaid registered or certified mail, return receipt requested, mailed in Canada in an envelope addressed to such person's Notice Address; or
 - (C) by transmission by telecopier or e-mail to such person at such person's telecopier number to the attention of such person's telecopier address or to such person's e-mail address;
- (iv) shall, if being given to the Corporation, also be given to each Shareholder other than the Shareholder giving such Notice;
- (v) shall be given as follows:
 - (A) if to the Corporation or the Secretary, at the then registered office of the Corporation;
 - (B) if to a Shareholder, at the address of such Shareholder last appearing on the records of the Corporation;

(herein called such Party's "Notice Address").

- (b) **Deemed Delivery.** Any Notice given to a person as aforesaid:
 - (i) if given by delivery (other than by mail), shall be deemed to have been given, sent and delivered to, and received by, such person on the day on which it is so delivered;
 - (ii) if given by mail, shall be deemed to have been given, sent and delivered to, and received by, such person on the day on which it is delivered as evidenced by a receipt, acknowledgment or other document issued by a postal authority; and
 - (iii) if given by transmission by telecopier or by e-mail, shall be deemed to have been given, sent and delivered to, and received by, such person on the first Business Day after the recipient confirms receipt of such transmission.
- (c) **Receipt of Notice.** If at any time a Party receives a Notice which is not given, sent or delivered in accordance with any applicable provisions of this Agreement, such Notice shall be deemed to have been given, sent or delivered to, and received by, such Party at such time as it is received but otherwise in accordance with this Section and all other applicable provisions of this Agreement.
- (d) **Notices Deemed to be Given to Transferees of Shares.** Any Notice which at any time is actually given or sent or delivered to or received by, any particular Shareholder shall be deemed to have at the same time been given, sent and delivered to, and received by, each person that is a Principal of the particular Shareholder or acquires any Shares from the Shareholder after such time. For purposes of this Section, any Notice which is given by a particular Party to, and actually received by, another Party at any time shall be deemed to have at the same time been given by the particular Party to,

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and actually received by each person that is a Principal of that other Party or acquires any Shares from that other Party after such time.

16.10 AMENDMENT

This Agreement may be amended at any time and from time to time only upon the unanimous written agreement of the Shareholders and the Corporation.

16.11 DURATION OF AGREEMENT

Save and except as otherwise herein provided, this Agreement shall continue and remain in force until:

- (a) The dissolution or bankruptcy of the Corporation, whereupon this Agreement shall forthwith and without more cease and determine;
- (b) The written agreement of all of the Shareholders to terminate this Agreement; or
- (c) The acquisition by one person of legal and beneficial ownership of all Shares.

16.12 ENUREMENT

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

16.13 GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta.

16.14 SEVERANCE CLAUSE

If any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable, in any respect, such invalidity, illegality or unenforceability shall not affect any of the provisions of this Agreement but this Agreement shall be construed as if such invalid, illegal or unenforceable provision or provisions had never been contained therein.

16.15 EXECUTION

This Agreement may be executed in any number of counterparts by any one or more of the Parties. Each executed counterpart shall be deemed to be an original and such counterparts shall together constitute one and the same Agreement.

16.16 SUPERSEDING AGREEMENT

This Agreement supersedes all former understandings and agreements relating to the subject matter of this Agreement and all such understandings and agreements are hereby declared to be of no further force or effect.

16.17 UNANIMOUS SHAREHOLDERS AGREEMENT AND APPLICATION OF THE ACT

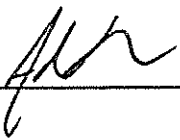
This Agreement shall be construed as a unanimous shareholders agreement in relation to the Act. The provisions of Section 146 of the Act shall apply to this Agreement.

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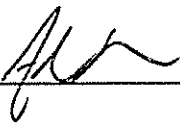
IN WITNESS WHEREOF the parties have caused to be executed this Agreement all as of the day and year first above written.

EACH OF THE PARTIES ACKNOWLEDGES THAT HE HAS HAD AN OPPORTUNITY TO HAVE THIS AGREEMENT REVIEWED BY INDEPENDENT LEGAL COUNSEL.

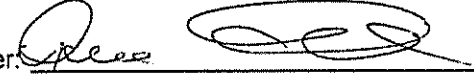


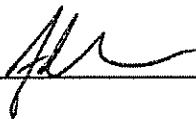
PACER CONSTRUCTION HOLDINGS CORPORATION

Per: 
Richard Pelletier, P.Eng.
President & CEO





CONSTRUCTION PROMEC INC.

Per: 
PIERRE CAPRON
PRESIDENT & CEO



PACER PROMEC ENERGY CORPORATION

Per:  DIRECTOR

DIRECTOR

[SIGNATURE PAGE FOR PACER PROMEC ENERGY CORPORATION
UNANIMOUS SHAREHOLDERS AGREEMENT
MADE EFFECTIVE AS OF THE 17 DAY OF OCTOBER 2013]

**FIRST AMENDMENT
TO
PACER PROMEC ENERGY CORPORATION SHAREHOLDERS AGREEMENT**

First Amendment to Shareholders Agreement (this "Amendment"), dated as of June 25, 2014, by and among PACER CONSTRUCTION HOLDINGS CORP., a corporation incorporated under the laws of Canada and having its head office in Calgary, Alberta ("Pacer"), CONSTRUCTION PROMEC INC., a corporation incorporated under the laws of Canada and having its head office in Rouyn-Noranda, Quebec ("Promec"), and PACER PROMEC ENERGY CORPORATION, a corporation incorporated under the laws of Alberta and having its head office in Calgary, Alberta (the "Corporation"), amending that certain Shareholders Agreement, dated as of October 17, 2013, by and among Pacer, Promec and the Corporation (the "Shareholders Agreement").

WHEREAS:

A. Pacer intends to enter into a Share Purchase Agreement dated on or about the date hereof with MasTec, Inc., a corporation incorporated under the laws of the State of Florida, USA ("MasTec"), and the other parties named therein (the "Purchase Agreement").

B. Pacer, Promec and the Corporation desire that the Shareholders Agreement be amended as set forth herein.

NOW THEREFORE THIS AMENDMENT WITNESSETH THAT in consideration of the foregoing premises and recitals and in consideration of the covenants and agreements of each of the parties hereto, and other good and valuable consideration the receipt of which is hereby acknowledged, the parties hereto covenant and agree together as follows:

1. Amendment to Non-Competition. Section 16.4 of the Shareholders Agreement is amended by adding as the ultimate paragraph thereof the following:

"Notwithstanding the foregoing, this Section 16.4 shall not apply to (i) MasTec or any of its Affiliates (other than Pacer) or any Principal of MasTec or any of its Affiliates (other than the direct Principal of Pacer)."

2. Amendment to Non-Solicitation. Paragraphs (e) and (f) of Section 16.5 of the Shareholders Agreement are revised to be designated paragraphs (d) and (e), respectively, and the pre-amble to Section 16.5 and paragraphs 16.5(b), (c) and (d) of the Shareholders Agreement are deleted in their entirety and replaced with the following:

"16.5 Non-Solicitation

Each Shareholder and its direct Principals shall not, directly or indirectly, for a period commencing on the date of this Agreement and ending on the date on which the Shareholder sells all of its Shares in accordance with this Agreement and neither the Shareholder, nor its direct Principals is a director, officer or employee of the Corporation (the "Shareholder Period") and:

- (a) for a period of three years after the Shareholder Period, hire, employ or otherwise contract with, interfere with, solicit, entice away for otherwise obtain the withdrawal from the Corporation of, any employee or consultant of the Corporation; provided, however, that the foregoing shall not apply to (i) soliciting any employee or consultant whose employment or engagement by the Corporation shall have been terminated by the Corporation for a period of at least six months prior to such person's employment or engagement by such Shareholder or such Principal, it being understood that for purposes of this Agreement, advertisements published or disseminated in generally available media not targeted at particular persons shall not be deemed to be a solicitation and (ii) any consulting firm providing consulting services to the Corporation the engagement of which by Pacer or any of its Affiliates would not prevent such firm from fulfilling its obligations to the Corporation and provided that the individual consultants employed by such firm who are providing services to the Corporation do not provide services to such Shareholder or such Principal;
- (b) for a period of three years after the Shareholder Period, solicit orders for any products or services from customers or clients of the Corporation with whom the Shareholder or such Principal dealt during the Shareholder Period if such provision of such products or services to such customers or clients of the Corporation by such Shareholder or such Principal would constitute a breach of Section 16.4 of this Agreement;
- (c) for a period of three years after the Shareholder Period, solicit or accept business from any customers or clients of the Corporation with whom such Shareholder or such Principal dealt during the Shareholder Period if engaging in such business with such customers or clients of the Corporation by such Shareholder or such Principal would constitute a breach of Section 16.4 of this Agreement;"

3. Amendment to Directors. Section 3.1 of the Shareholders Agreement is amended by adding after the words "Richard Pelletier" a new paragraph that reads as follows:

"In the event Richard Pelletier no longer acts as a director of the Corporation, Pacer shall appoint an individual who:

- (a) is the Chief Executive Officer, President or Chief Financial Officer of Pacer or the Chief Executive Officer, President or Chief Financial Officer of MasTec, Inc.;
- (b) is not a director or officer of any corporation that is an Affiliate of Pacer or that is an Affiliate of MasTec, Inc. carrying on business in the Provinces of Manitoba, Saskatchewan, Alberta and British Columbia (any such subsidiary a "MasTec Canada Subsidiary"); and

(c) enters into a Confidentiality Agreement with the Corporation, in a form reasonably satisfactory to the Corporation, pursuant to which such individual shall agree to not, directly or indirectly, provide to any MasTec Canada Subsidiary, or any director, officer, employee or consultant thereof, any confidential or proprietary pricing or cost data of the Corporation.

In the event Pacer desires to appoint an individual who does not meet the aforementioned requirements, Pacer may not do so without the prior written consent of Promec, which consent may be withheld."

4. Effectiveness. Sections 1, 2 and 3 of this Amendment shall be automatically effective upon the closing of the share purchase contemplated by the Purchase Agreement.

5. Representations and Warranties. Each of Pacer, Promec and the Corporation represents and warrants to, and agrees with, each other that this Amendment has been duly authorized by all necessary action on its part, has been duly executed by a duly authorized officer or representative, and constitutes legal, valid and binding obligations, enforceable in accordance with its terms thereof, subject to applicable bankruptcy or insolvency laws generally affecting of limiting the enforcement of creditors rights. Except as expressly amended by this Amendment, the Shareholders Agreement remains in full force and effect.

6. Counterparts. This Amendment may be executed in any number of counterparts which, when taken together, shall constitute one original. Any telecopied or electronically transmitted signature hereto shall be deemed a manually executed and delivered original.

7. Further Agreements. Each of the parties hereto shall execute and deliver such additional documents and instruments and shall perform such additional acts as may be necessary or appropriate in connection with this Amendment and all transactions contemplated by this Amendment to effectuate, carry out and perform all of the covenants, obligations and agreements of this Amendment and such transactions.

8. Governing Law. This Amendment shall be governed by, and construed and interpreted in accordance with the laws of the Province of Alberta.

IN WITNESS WHEREOF the parties have caused to be executed this Amendment all as of the day and year first above written.

EACH OF THE PARTIES ACKNOWLEDGES THAT IT HAS HAD AN OPPORUNITY TO HAVE THIS AMENDMENT REVIEWED BY INDEPENDENT LEGAL COUNSEL.



PACER CONSTRUCTION HOLDINGS CORPORATION

Per: 

Richard Pelletier, P.Eng.
President & CEO

CONSTRUCTION PROMEC INC.

Per: 

PETER CAPKUN
PRESIDENT, CEO



PACER PROMEC ENERGY CORPORATION

Per: 

R. PELLETIER
PRESIDENT

*[Signature Page for Pacer Promec Energy Corporation
First Amendment to Unanimous Shareholders Agreement
Made Effective as of the 25th day of June, 2014]*