

COURT FILE NUMBER 1301-02432

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF RS TECHNOLOGIES INC.

DOCUMENT **FIFTH REPORT OF FTI CONSULTING CANADA  
INC., IN ITS CAPACITY AS MONITOR OF RS  
TECHNOLOGIES INC.**

**August 22, 2013**

ADDRESS FOR SERVICE AND  
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**FIFTH REPORT OF FTI CONSULTING CANADA INC., IN ITS CAPACITY AS  
MONITOR OF RS TECHNOLOGIES INC.**

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## INTRODUCTION

1. By Order of this Honourable Court dated March 14, 2013 (the “**Initial Order**”), RS Technologies Inc. (the “**Applicant**”, “**RS**” or the “**Company**”) obtained protection from its creditors under the *Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36*, as amended (the “**CCAA**”).
2. The Initial Order, among other things, granted a stay of proceedings until April 12, 2013, (the “**Stay Period**”) , and appointed FTI Consulting Canada Inc. (“**FTI Consulting**”) as monitor (the “**Monitor**”) of the Applicant in these proceedings (the “**CCAA Proceedings**”).
3. On March 27, 2013 this Honourable Court granted an order approving a key employee retention plan and allowing RS, with approval from the Monitor, to make certain payments to critical suppliers on account of pre-filing obligations. Two further orders were granted on April 11, 2013. The first was an order (the “**Reverse Claims Order**”) approving the Monitor, in consultation with the Company, to implement a reverse claims procedure (the “**Claims Procedures**”). The second was an order (the “**SISP Approval Order**”) approving the proposed sales and investor solicitation procedures (“**SISP**”) and accompanying asset and share purchase agreement (the “**ASPA**”) put forth by Werklund Capital Corporation (“**Werklund**”) and Melybe Skandinavia AS (“**Melbye**”) (collectively “**Werklund/Melbye**” or the “**Stalking Horse Credit Bidder**”).
4. The Stay Period has been extended on several occasions. Pursuant to the Order of this Court dated July 29, 2013, the Applicant’s Stay Period was extended until and including August 31, 2013 (the “**July 29<sup>th</sup> Extension Order**”).

5. On April 5, 2013, RS, with the approval of the Monitor, provided a third party distributor, Armor Utility Pty Limited (“**Armor**”) with notice of its intent to disclaim (the “**Disclaimer Notice**”) a distribution agreement between RS and Armor (the “**Distribution Agreement**”). On April 22, 2013, Armor filed an application to oppose the Disclaimer Notice. On August 2, 2013 this Honourable Court issued an Order in favour of Armor, negating the Applicant’s disclaimer of the Distribution Agreement. Also on August 2, 2013, the Applicant and Armor reached a settlement agreement (the “**Armor Settlement Agreement**”) with respect to the Distribution Agreement, as discussed in further detail below.
6. Further background information regarding the Applicant and the CCAA Proceeding (including Monitor’s reports and affidavits filed in support of the various applications by the Applicant) has been posted on the Monitor’s website for the CCAA Proceedings at <http://cfcanada.fticonsulting.com/RS>.

## **PURPOSE OF THIS REPORT**

7. The purpose of this fifth report of the Monitor (the “**Fifth Report**”) is to:
  - (a) provide this Honourable Court with an update with respect to the operational and financial performance of RS since the fourth report of the Monitor, dated July 25, 2013 (“**Fourth Report**”), including the Applicant’s budget to actual cash flow results for the period from July 21, 2013 to August 17, 2013 (the “**Reporting Period**”);
  - (b) seek the approval of this Honourable Court of the transactions applicable to a share purchase as contemplated by the ASPA between RS, as seller and Werklund/Melbye, as buyer;
  - (c) inform this Honourable Court of the Applicants’ proposed Plan of Compromise and Arrangement dated August 22, 2013 (the “**Plan**”);

- (d) provide the Monitor's assessment of the Plan and its recommendation thereon;
- (e) comment on the Applicant's request for an Order convening a meeting of creditors to consider and vote on the Plan ("**Meeting Order**") and the Monitor's recommendation thereon; and
- (f) report on the Applicant's request to extend the stay of proceedings to September 13, 2013 and updated cash flow projections from August 17, 2013 to September 13, 2013.

## **TERMS OF REFERENCE**

8. In preparing this report, the Monitor has relied upon unaudited financial information of the Applicant, RS's books and records, certain financial information prepared by the Applicant and discussions with the Applicant's management. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
9. Capitalized terms not otherwise defined herein have the meaning given to them in the Elliott Initial Order Affidavit, Initial Order, Reverse Claims Order, SISP Approval Order, the SISP or the Plan.
10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

## **UPDATE ON THE ACTIVITIES OF THE MONITOR**

### **OPERATIONAL UPDATE**

11. Since the granting of the July 29<sup>th</sup> Extension Order, the Applicant's operations have continued with no material changes. During the Reporting Period, the Applicant has been able to arrange for continuation of services from suppliers and the Applicant's employees and the majority of their suppliers have been supportive of RS's restructuring efforts. Throughout the CCAA Proceedings, RS has been in communication with its customers and to date RS has not experienced any significant delays or cancellation of customer orders.
12. The general support from RS's employees, suppliers and customers has allowed RS to operate in the normal course throughout the Reporting Period.

### **UPDATE ON THE CCAA PROCEEDINGS**

13. The Monitor continues to work closely with the Applicant's management and its legal counsel with respect to the continuation of these proceedings. The Monitor has been provided with appropriate access to information relevant to the CCAA Proceedings allowing the Monitor to complete its duties as set out in the Initial Order. The Monitor continues to perform certain review procedures, as outlined in the Monitor's Third Report to ensure appropriate oversight over the Applicant's business.
14. RS has continued to work cooperatively with the Monitor.

**FINANCIAL UPDATE**

15. The table below summarizes receipts and disbursements from July 21, 2013 to August 17, 2013 as compared to the revised cash flow forecast presented in the Monitor's Fourth Report:

Forecast Period: July 21, 2013 to August 17, 2013	Forecast	Actual	Variance
Opening Cash Balance	(1,259,559)	(1,309,559)	(50,000)
Cash Receipts	563,101	315,043	(248,058)
Overhead Expenses	(529,795)	(263,885)	265,909
Operating Expenses	(191,161)	(135,634)	55,527
Capital Expenditures	(72,000)	-	72,000
Material Costs	(534,026)	(142,669)	391,357
Debtor-in-Possession Fees	-	-	-
Professional/Legal Fees	(175,210)	(200,090)	(24,880)
Total Expenses	(1,502,192)	(742,278)	759,913
Change in Cash	(939,090)	(427,235)	511,856
Ending Cash Balance	<b>(2,198,649)</b>	<b>(2,001,029)</b>	<b>197,620</b>
Interim Financing Beginning outstanding	2,000,000	2,050,000	50,000
Interim Financing draws	350,000	350,000	-
Interim Financing Ending outstanding	2,350,000	2,400,000	50,000
	-	-	-
Total cash on hand including cash from financing	<b>151,351</b>	<b>398,971</b>	<b>247,620</b>
Total remaining Interim Financing Available	400,000	350,000	50,000

16. Opening Cash Balance was \$50,000 lower for the Reporting Period. This was due to a re-classification between cash receipts and advances under the Interim Financing Facility. Overall there is no effect on the cash on hand.

17. Actual Cash receipts were \$315K which was approximately \$248K lower than forecast, the negative variance was driven by timing differences. Collections of receivables have been delayed however they are expected to be received in future reporting periods.
18. Actual cash disbursements for the Reporting Period totaled \$742,278 which was approximately \$760K less than projected. The main reasons for the variance are as follows:
  - (a) a positive variance in the overhead expenses category of \$265,909 relating to timing variances as costs related to communications, office supplies, audit fees, travel and sales consultants have been incurred and accrued for however not yet paid; and
  - (b) a positive variance in the material costs category of \$391,357 due to timing of payments as material costs have been incurred but not yet paid for.
19. Overall as at August 17, 2013 RS's cash balance excluding cash provided through the Interim Financing Facility was \$197,620 greater than projected in the July 29<sup>th</sup> Extension Order Cash Flow Forecast. As of August 21, 2013 there has been \$2,400,000 drawn on the Interim Financing Facility.

## **THE PLAN**

### **OVERVIEW**

20. Paragraph 3 of the Initial Order states:

“THIS COURT ORDERS THAT the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “Plan”)



21. Pursuant to the ASPA, Werklund/Melbye as buyers and RS as seller, agreed to either (i) sell all of a newly created class of voting common shares to Werklund/Melbye conditional upon the approval and implementation of the Plan, or (ii) sell all of its undertaking, property and assets pursuant to an approval and vesting order issued by the Court.
22. A copy of the Plan is attached hereto as Appendix A. The key terms of the Plan are summarized as follows:
- (a) The ASPA will proceed as a share transaction. Accordingly, the Plan contemplates Werklund/Melbye completing the ASPA through the acquisition of a newly created class of shares by RS and the completion and implementation of the Plan;
  - (b) The Plan contemplates RS issuing newly created Class A Common Shares to Werklund/Melbye;
  - (c) The Plan intends to compromise certain creditors (the “**Affected Creditors**”) by issuing newly created Class B Common Shares to the Affected Creditors with affected claims (“**Affected Claims**”), as discussed in further detail below;
  - (d) All existing shares of the Applicant are to be retracted and terminated for no consideration;
  - (e) Unaffected Creditors, as defined and discussed below, are uncompromised and will be unaffected by the Plan; and
  - (f) If the Plan is approved it will facilitate the continuation of the business of the Company as a going concern and makes provision for recoveries to certain stakeholders.

**EXISTING SHAREHOLDERS AND ISSUANCE OF NEW SHARES**

23. The Plan contemplates affecting the holders of issued and outstanding common shares, preferred shares and other securities (including without limitation, stock options and warrants) of RS (such holders being “**Existing Shareholders**” and such shares and securities being “**Existing Shares**”).
24. All Existing Shares are contemplated to be retracted and terminated for no consideration and the classes of Existing Shares will be terminated under the Plan.
25. Upon retracting and terminating the Existing Shares, RS will issue new capital stock that will be comprised of common shares (“**Common Shares**”) made up of the following classes:
  - (a) Class A common shares, which shares shall be voting; and
  - (b) Class B common shares, which shall be non-voting and subject to redemption by the holders and by RS, in each case at fair market value (as determined in good faith by the board of directors of RS) upon the later of:
    - (i) 5 years from the date of issuance of the Class B common shares; and
    - (ii) Upon the fair market value of the equity of RS reaching the equivalent of \$70.0 million, based on the good faith determination of the board of directors of RS.
26. The Common Shares will be allocated as follows:
  - (a) Werklund/Melybe will receive 9.0 million Class A common shares pursuant to their purchase under the ASPA; and

- (b) The Affected Creditors will receive 1.0 million Class B common shares in full and final settlement of all of their Affected Claims, which will be allocated among the Affected Creditors on a pro rata basis based on the proportion of the amount of each Affected Creditor's Affected Claim.
27. Upon implementation of the Plan all Affected Creditors will be deemed to have released RS, its directors and officers from all Affected Claims other than a claim arising after the Plan Implementation under their Class B common shares.

#### **AFFECTED CLAIMS**

28. The Affected Claims under the plan include:
- (a) Claims arising or existing prior to the CCAA filing date, March 14, 2013 (“**Filing Date**”);
  - (b) Claims filed and proven by creditors under the Claims Procedures other than Unaffected Claims; and
  - (c) Claims of employees who were not retained throughout the CCAA proceedings other than in respect of unpaid wages arising after the Filing Date.

29. The table below summarizes the Affected Claims:

Affected Claims	Secured Debt	Promissory		Total
		Note	DSUP	
	a	b	c	
Dwayne Hunka	1,089,486.05	-	11,980.68	1,101,466.73
Paul Giannelia	1,676,770.35	54,940.41	17,872.61	1,749,583.37
Marjad Inc.	1,676,129.68	-	-	1,676,129.68
David Williams	311,212.88	-	12,907.91	324,120.79
Brian Felesky	1,089,963.64	54,940.41	31,629.89	1,176,533.94
James Gray	1,173,294.30	54,940.41	31,646.65	1,259,881.36
Held in Trust by James Gray	28,787.12	-	-	28,787.12
Wilmot Matthews	-	-	15,124.25	15,124.25
<b>Total</b>	<b>7,045,644.02</b>	<b>164,821.24</b>	<b>121,161.99</b>	<b>7,331,627.25</b>

30. The Affected Claims consist of amounts owing to what is referred to as the Guarantor Group and comprise the following amounts confirmed in the Claims Procedures and with counsel to the Affected Creditors:

- (a) Amounts owed to the Guarantor Group relating to their respective portions of the assumed secured debt owing to the Canadian Western Bank, in the approximate principal amount of the \$7.0 million, which claim is a secured claim that ranks subsequent to the Debenture Obligation (as defined in the Plan) owing to Werklund/Melbye;
- (b) Unsecured promissory notes owing to Mr. Paul Giannelia, Mr. Brian Felesky and Mr. James Gray in the principal amount of \$50,000 each plus accrued interest to March 14, 2013, the date of the Initial Order; and
- (c) Amounts owing to former directors of RS relating to services rendered as directors with such obligation accruing under the Deferred Share Unit Plan (“DSUP”).

31. The Monitor is not aware of any other Affected Claims other than those set out in the schedule above.

#### UNAFFECTED CLAIMS

32. The Plan provides that a number of claims are unaffected (“**Unaffected Claims**”) comprising priority payables, the obligations of the Applicant under the Chatham Mortgage, claims for unpaid wages by employees retained throughout the CCAA proceedings, claims of Werklund/Melbye and Trade Liabilities<sup>1</sup> (as defined in the Plan), which have been summarized in the table below:

<b>Unaffected Claims</b>	<b>\$</b>	<b>Note</b>
Priority Payables	-	<b>a</b>
Chatham Mortgage	383,508	<b>b</b>
Claims for unpaid wages	-	<b>c</b>
Trade Liabilities	1,015,442	<b>d</b>
Armor Settlement Agreement	TBD	<b>e</b>
Debenture Obligation	6,000,000	<b>f</b>
Interim Financing Facility	2,750,000	<b>g</b>

33. The Monitor’s comments on the various categories of Unaffected Claims are described below:

- (a) The Monitor is not aware of any unpaid Priority Payables that are anticipated to be outstanding at the Plan Implementation Date;

<sup>1</sup> Trade Liabilities mean all non-contingent trade liabilities that were proven in accordance with the Claims Procedures and that were incurred by the Company in the ordinary course of business for the supply of goods and services to the Company, but specifically exclude any Claims arising from such supply of goods and services that are in the nature of general, special or consequential damages or any Claims relating to a Disclaimed Contract.

- (b) As at August 8, 2013 approximately \$383,508 of principal is currently owing under the Chatham Mortgage with the Plan contemplating that the mortgage will continue to be paid by the Company in the normal course in accordance with the terms of the Chatham Mortgage;
- (c) The Monitor is not aware of any claims for unpaid wages;
- (d) Trade Liabilities total \$1,015,442 and a schedule of such claims is attached at Appendix B to this Report. The Trade Liabilities have been adjusted for any revisions that resulted from the Claims Procedures;
- (e) The Armor Settlement Agreement effectively allowed for the settlement and termination of the Distribution Agreement and any payments required under the settlement are not affected by the Plan. Such payments are to be calculated, commencing on the date of the Armor Settlement Agreement, on future sales of RS Poles to certain customers located in Australia and New Zealand. Any such payments will be paid by the Company pursuant to the terms of the Armor Settlement Agreement after the Plan Implementation Date;
- (f) The Debenture Obligation is a secured obligation owed by RS to Werklund/Melbye. As previously reported, the Monitor's counsel has confirmed the validity of the security of the Debenture Obligation and the amount owing under the Debenture Obligation to be set off against the Purchase Price in the ASPA, and no amounts will be owing upon implementation of the Plan;
- (g) Amount expected to be drawn under the Interim Financing Facility at the Plan Implementation Date. In addition to the principal amount owing, accrued interest (17% per annum) and the commitment fee of 5% of the amount drawn will be set off against the Purchase Price in the ASPA and no amounts will be owing upon implementation of the Plan.

**CLASSES AND SATISFACTION OF CLAIMS**

34. The Plan provides for a single class of Affected Creditors and only Affected Creditors will be eligible to vote on the Plan.
35. Any Unaffected Claims will be satisfied by the Applicant in the following manner and therefore these Claims are uncompromised by the Plan:
- (a) Unaffected Creditors to whom Trade Liabilities are owed which constitute Proven Claims will be paid by RS the amount owed in full either 60 days after Plan Implementation or in accordance with any mutually agreed upon written agreement between those parties;
  - (b) Armor will be paid in accordance with the Armor Settlement Agreement;
  - (c) Chatham will be paid in accordance with the Chatham Mortgage;
  - (d) The Debenture Obligation (including accrued interest and fees) owed to Werkland/Melbye and the amount owed under the Interim Financing Facility will be set off against the Purchase Price under ASPA;
  - (e) Within six months after Plan Implementation, the Company will pay to the relevant government agency any amounts referred to in section 6(3) of the CCAA that were outstanding at the time of the Filing Date; and
  - (f) The amounts payable under the KERP will be payable in accordance with the terms of the KERP Order.

**PLAN CONDITIONS**

36. The Plan is subject to the following conditions:
- (a) the Plan will have been approved by the required majority of Affected Creditors;
  - (b) the Court will have granted the Sanction Order;
  - (c) the satisfaction of Sections 8.1, 8.3 and 8.4 of the ASPA; and
  - (d) the aggregate amount of Proven Claims that are Affected Claims not exceed \$7,332,000.
37. The Monitor has reviewed the conditions precedent to the Plan and do not believe any to be significant or would cause any material closing risk.

**THE MONITOR'S ASSESSMENT OF THE PLAN****ESTIMATED RECOVERIES FOR STAKEHOLDERS****Existing Shareholders**

38. As noted above, the Plan proposes retracting and terminating all of the Existing Shares of RS for no consideration. Therefore the Plan does not contemplate any recovery for existing shareholders. Furthermore the Plan proposes that only Affected Creditors are eligible to vote on the Plan and therefore Existing Shareholders will not vote on the Plan.

**Affected Creditors**

39. Under the Plan, Affected Creditors are to receive 1.0 million Class B Shares in full and final settlement of all of their Affected Claims. The Class B Shares will be allocated among the Affected Creditors on a pro rata basis based on the proportion of the amount of each Affected Creditor's Affected Claim.



**ALTERNATIVE TO THE PLAN AND ESTIMATED RECOVERIES**

40. No qualified bids (other than the ASPA) were submitted under the SISP by the phase one bid deadline of May 21, 2013 and therefore the Monitor terminated the SISP. The marketing process completed in accordance with the SISP clearly demonstrated that there is no alternative going concern transaction available other than the transaction contemplated in the ASPA. Accordingly, there are only two alternatives available in the event that the Plan is not approved or implemented:

(a) An asset purchase by the Stalking Horse Credit Bidder in accordance with ASPA;  
or

(b) A liquidation of all the assets of the Applicant.

41. Accordingly the Monitor has prepared a liquidation analysis in respect of the Applicants. The liquidation analysis (the “**Liquidation Analysis**”) is summarized below:

<b>Estimated Liquidation Value</b>	<b>Book Value of Assets</b>	<b>Liquidation Value</b>		<b>Note</b>
		<b>High</b>	<b>Low</b>	
Accounts Receivable *	658,910	658,910	500,188	i
Inventories * *	2,892,595	1,446,298	723,149	ii
Machinery and Equipment * *	6,407,922	764,000	358,000	iii
Building * *	1,012,249	1,220,000	915,000	iv
Patents & Intellectual Property * *	-	-	-	v
<b>Total Value</b>	<b>10,971,676</b>	<b>4,089,208</b>	<b>2,496,337</b>	

### Book Value of Assets

\* - per sub-ledger dated August 8, 2013

\* \* - per unaudited financial statements dated June 30, 2013

**Note (i)** - Liquidation value is based on August 8, 2013 accounts receivable ageing.  
Low value is based on August 8, 2013 account receivable less accounts greater than 90 days old.

**Note (ii)** - Liquidation value is based on unaudited books and records of the company.  
Low value estimated at 25% of book value given older nature of remaining finished goods.  
High value estimated at 50% of book value.

**Note (iii)** - Liquidation value is based on appraisal completed by Maynards in March 2013.  
Low value is forced liquidation value.

**Note (iv)** - Liquidation value is based on April 2013 appraisal by Metrix Realty Group.  
Low value based on a forced liquidation value assumed at 75% of market value.

**Note (v)** - Value of patents, IP and other corporate attributes (tax losses, etc) assumed to be nil in a liquidation scenario.

42. The Liquidation Analysis above indicates that there would be no recoveries available for creditors ranking subordinate to the Debenture Obligation, as the estimated recoveries under both the high and low scenario are less than the amounts owed under the Interim Financing Facility (currently \$2.4 million has been drawn) and Debenture Obligation (principal obligation of \$6.0 million).

43. Based on the forgoing, the Monitor provides the following comments:

- (a) The implementation of the Plan represents the highest recovery available for Creditors with Affected Claims;
- (b) The implementation of the Plan is beneficial as it will result in the preservation of the business as a going concern, thereby providing additional benefit to employees, suppliers and customers;
- (c) The Plan and related ASPA provide for full payment of amounts owing the Unaffected Creditors, which include all amounts owing to creditors with Trade Liabilities; and
- (d) Based on the Liquidation Analysis, the Existing Shareholders have no economic interest and would recover nil in a liquidation or an asset purchase under the ASPA.

44. Accordingly, it is the Monitor's view that the approval of the Plan is in the best interest of Creditors with Affected Claims, as absent of the Plan, Affected Creditors would most likely recover no monies, and the Monitor respectfully recommends that such Creditors vote in favour of the Plan.

#### **THE APPLICANT'S REQUEST FOR THE MEETING ORDER**

45. The Applicant has requested that the Court grant the Meeting Order in form attached in the application materials.

#### **SUMMARY OF PROPOSED MEETING ORDER**

46. Pursuant to the Meeting Order, a meeting of creditors will be held at 2:00pm (Calgary time) on August 29th, 2013 at the offices of Blake, Cassels & Graydon LLP, 855-2<sup>nd</sup> Street SW, Suite 3500, Calgary, Alberta.

47. The Meeting Order directs the Monitor to post on its website by August 23, 2013 a Notice of Creditors' Meeting to all Affected Creditors, with such notice to include details of the Monitor's Website where the following documents (collectively, the "**Information Package**") can be accessed and retrieved:
- (a) the Meeting Order;
  - (b) the Plan;
  - (c) a copy of the Monitor's Fifth Report;
  - (d) the Notice of Creditors' Meeting; and
  - (e) a copy of Proxy to be used by Affected Creditors.
48. Given the limited number of the Affected Creditors and that such creditors have been closely involved in the negotiations of the terms of the Plan and have common legal representation, the Monitor does not believe it necessary to publish a newspaper notice of the Creditors' Meeting.
49. The Meeting Order directs that a representative of the Monitor will preside as the chair of the Creditors' Meeting and will decide all matters relating to the rules and procedures at, and the conduct of, the Creditors' Meeting in accordance with the terms of the Plan, the Meeting Order and further Order of the Court. The Chair may also adjourn the Creditors' Meeting at its discretion.
50. Only those Affected Creditors with Proven Claims will be eligible to attend the Creditors' Meetings and vote on the resolution to approve the Plan. Creditors which hold Unaffected Claims, as defined in the Plan, will not be entitled to attend and vote at the Creditors' Meetings in respect of their Unaffected Claims.

51. The Monitor will file a report with the Court with respect to the results of the votes cast indicating whether the Plan has been accepted by the required majorities of creditors as prescribed for in the CCAA; and
52. If the Plan is approved by the Affected Creditors at the Creditors' Meeting, the Applicant will seek Court approval sanctioning of the Plan. The Meeting Order sets the date for September 5, 2013.
53. As the Court is aware, the CCAA does not legislate the notice period for a meeting of creditors. However, in the Monitor's experience such notice is typically not less than 21 days. The proposed Meeting Order provides for only 6 days notice.
54. In the Monitor's view, the Meeting Order provides sufficient notice for the Meeting of Creditors given the limited number of the Affected Creditors and the fact that all Affected Creditors have common legal representation. Furthermore, the Monitor confirms that the counsel to the Affected Creditors is in agreement with the notice period.

#### **STAY EXTENSION AND UPDATED CASH FLOW FORECAST**

55. This Honourable Court granted a Stay Extension until and including August 31, 2013.
56. In order to complete the Plan, the Applicant has requested an additional extension to the Stay Period until and including September 13, 2013.
57. The Company has prepared a cash flow forecast for the period of August 18, 2013 to September 14, 2013 (the "**Forecast Period**") to reflect the cash needs during the requested extended Stay Period. The cash flow forecast is attached as Appendix C. The cash flow forecast indicates that the Company will have sufficient liquidity to fund its ongoing obligations such that it will not require an increase in the Interim Financing Facility in order to operate during the requested Stay Period.

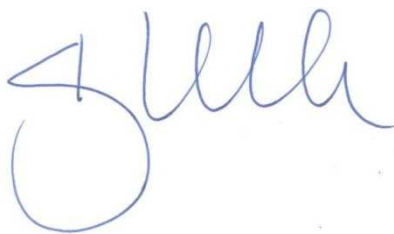
58. The Interim Financing Facility is not to exceed \$2,750,000 pursuant to various amending agreements between the Interim Lender and the Monitor and has been extended to August 30, 2013. The Monitor has requested that a further amendment be made to the Interim Financing Facility to extend the maturity to September 13, 2013, which is consistent with the requested extension to the Stay Period.
59. The requested extension to the Stay Period should provide the Applicant with sufficient time to hold the meeting of creditors with respect to the Plan and, if approved, the implementation of the Plan.

### **THE MONITOR'S RECOMMENDATION**

60. Based on the above, the Monitor recommends that this Honourable Court approve:
- a) The Applicant's request for the Meeting Order; and
  - b) The extension of the Stay Period to September 13, 2013.

All of which is respectfully submitted this 22<sup>nd</sup> day of August, 2013.

FTI Consulting Canada Inc.  
in its capacity as the Court-Appointed Monitor  
of RS Technologies Inc.



Deryck Helkaa CA●CIRP  
Senior Managing Director

## APPENDIX A

# PLAN OF COMPROMISE AND ARRANGEMENT

COURT FILE NUMBER 1301-02432

Clerk's Stamp

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

**AND IN THE MATTER OF THE  
ALBERTA BUSINESS  
CORPORATIONS ACT, R.S.A. 2000, c.  
B-9, AS AMENDED**

**AND IN THE MATTER OF RS  
TECHNOLOGIES INC.**

DOCUMENT **PLAN OF COMPROMISE AND  
ARRANGEMENT**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

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File No. A130324



## **PLAN OF COMPROMISE AND ARRANGEMENT**

### **RECITALS**

- A. The Company is a corporation incorporated under the ABCA and is insolvent.
- B. The Company commenced concurrent proceedings under the CCAA and ABCA and obtained the Initial Order from the Honourable Madam Justice J. Strekaf on March 14, 2013 which, among other things, appointed the Monitor of the Company, stayed proceedings against the Company and permitted the filing, upon further order of the Court, of a plan of compromise and arrangement under the CCAA and ABCA to the Affected Creditors.
- C. Pursuant to the ASPA between the Company as seller, Werklund and Melbye as buyers, and the Monitor, the Company agreed to either (i) sell all of a newly created class of voting common shares to the Buyers conditional upon the approval of a plan of compromise and arrangement under the CCAA and ABCA by the Affected Creditors, its sanctioning by the Court and its implementation, or (ii) sell all of its undertaking, property and assets pursuant to an approval and vesting order issued by the Court.
- D. This Plan is the Buyers CCAA Plan as contemplated by the ASPA and will facilitate the continuation of the business of the Company as a going concern and makes provision for recoveries to certain stakeholders.

**NOW THEREFORE** Werklund and Melbye hereby propose and present this Plan under and pursuant to the CCAA and the ABCA:

### **ARTICLE 1 DEFINITIONS AND INTERPRETATION**

#### **1.1 Definitions**

The following capitalized terms will have the meanings set out below:

- (a) “**ABCA**” means the *Business Corporations Act*, R.S.A. 2000, Chapter B-9 (Alberta), as amended.
- (b) “**Administration Charge**” means a charge created under the Initial Order securing the Administration Obligations, subject to the limits set out in the Initial Order or in any other Order consented to by the Buyers.
- (c) “**Administration Obligations**” means the unpaid professional fees and disbursements of the Monitor, counsel to the Monitor and counsel to the Company in connection with the CCAA Proceedings that were and are incurred both before and after the granting of the Initial Order.
- (d) “**Affected Claims**” mean:
- (i) Claims arising or existing prior to the Filing Date;

- (ii) Claims filed and proven by Creditors under the Claims Procedure (other than Unaffected Claims); and
- (iii) Claims of Employees who are not Retained Employees other than in respect of unpaid wages arising after the Filing Date,

but exclude any Unaffected Claims or any Claims contemplated by section 19(2) of the CCAA. As of August 19, 2013, the only Affected Claims which are Proven Claims under the Claims Procedure, and the quantum of those Proven Claims, are set out in on Schedule “A” hereto.

- (e) “**Affected Creditors**” means a Creditor holding an Affected Claim.
- (f) “**Armor**” means Armor Utility Structures PTY Limited and its successors and assigns.
- (g) “**Armor Settlement Agreement**” means the settlement agreement dated as of August 2, 2013 between Armor and the Company.
- (h) “**Articles**” means the articles of amalgamation of the Company filed on January 1, 2009, as amended June 8, 2010, November 29, 2010 and July 5, 2011.
- (i) “**Articles of Reorganization**” is defined in Section 4.4.
- (j) “**ASPA**” means the Asset and Share Purchase Agreement dated as of April 11, 2013 between the Company, the Buyers and the Monitor, as amended from time to time.
- (k) “**Auditors**” is defined in Section 5.6.
- (l) “**Business**” means the business carried on by the Company consisting of designing, engineering and manufacturing modular composite poles that are used in transmission, distribution and communication applications, and selling and distributing such poles to customers in Canada, the United States of America, the Caribbean, Scandinavia, Australia, New Zealand, Russia, Ukraine, Kazakhstan, Belarus and Guatemala.
- (m) “**Buyers**” means, collectively, Werklund and Melbye, and “**Buyer**” means any one of them.
- (n) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1958, c. C-36.
- (o) “**CCAA Charges**” means the Administration Charge, the Interim Financing Charge and the KERP Charge.
- (p) “**CCAA Proceedings**” means the proceedings initiated by the Company with the Court pursuant to an originating application under the CCAA and ABCA.

- (q) “**Chatham**” means The Corporation of the Municipality of Chatham-Kent.
- (r) “**Chatham Mortgage**” means a charge/mortgage in favour of Chatham in the original principal amount of \$1,403,500 against the lands and premises legally described as Part Lot 15, Concession 4, Geographic Township of Tilbury East in the Municipality of Chatham-Kent and municipally known as 22 Industrial Park Road, Tilbury, Ontario, containing 9.8 acres more or less.
- (s) “**Claim**” means a “claim”, as that term is defined and interpreted in the CCAA.
- (t) “**Claims Bar Date**” means May 17, 2013 at 5:00 pm.
- (u) “**Claims Notice**” is defined in the Claims Procedure Order.
- (v) “**Claims Procedure**” means a reverse claims procedure contemplated by section 20 of the CCAA requiring that all claims of Creditors of the Company be proven in accordance with the procedure set out in such Order, and requiring that any Creditors who wish to dispute their claim or submit a proof of claim do so by no later than the Claims Bar Date.
- (w) “**Claims Procedure Order**” means an Order of the Honourable Madam Justice Strekaf made on April 11, 2013 pursuant to which the Court implemented the Claims Procedure.
- (x) “**Class A Common Shares**” are defined in Section 4.4.
- (y) “**Class A Shareholder**” means a holder of issued and outstanding Class A Common Shares.
- (z) “**Class B Common Shares**” are defined in Section 4.4.
- (aa) “**Class B Shareholder**” means a holder of issued and outstanding Class B Common Shares.
- (bb) “**Company**” means RS Technologies Inc.
- (cc) “**Court**” means the Alberta Court of Queen’s Bench presiding over the CCAA Proceedings or any appeals court therefrom.
- (dd) “**Creditor**” means any Person holding a Claim against the Company.
- (ee) “**Creditors’ Meeting**” means the meeting of the Affected Creditors to be called and held pursuant to the Meeting Order for the purpose of considering and voting upon this Plan, and includes any adjournment of such meeting.
- (ff) “**Debenture**” means the secured convertible debenture executed on or about July 5, 2011 by the Company and held by the Buyers.

- (gg) “**Debenture Obligations**” means the Obligations of the Buyers under the Debenture.
- (hh) “**Directors**” means any past or present directors of the Company.
- (ii) “**Dispute**” is defined in Section 5.6.
- (jj) “**Dispute Notice**” is defined in the Claims Procedure Order.
- (kk) “**Effective Time**” means 10:00 a.m. (Calgary time) on the Plan Implementation Date or such other time on such date as the Company, the Buyers and the Monitor agree.
- (ll) “**Employees**” means all personnel and independent contractors employed, engaged or retained by the Company in connection with the Business, including any that are on medical or long-term disability leave or other statutory or authorized leave of absence.
- (mm) “**Encumbrance**” means any mortgage, charge, security interest, pledge, assignment, hypothecation, title retention, finance lease or trust (whether contractual, statutory or otherwise) securing payment or performance of any Claim, or any lien, restriction, option, adverse claim, right of others or other encumbrance of any kind.
- (nn) “**Existing Shareholder**” means any holder of Existing Shares.
- (oo) “**Existing Shares**” means any common shares, preferred shares and other securities (including stock options, warrants or other rights to acquire securities of any nature of the Company) in the capital of or issued by the Company.
- (pp) “**Filing Date**” means the date on which the Initial Order was made, being March 14, 2013.
- (qq) “**Governmental Authority**” means any federal, provincial, state, local, municipal, regional, territorial, aboriginal, or other government, governmental or public department, branch, ministry, or court, domestic or foreign, including any district, agency, commission, board, arbitration panel or authority and any subdivision of any of them exercising or entitled to exercise any administrative, executive, judicial, ministerial, prerogative, legislative, regulatory, or taxing authority or power of any nature; and any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of them, and any subdivision of any of them.
- (rr) “**Initial Order**” means an Order of the Honourable Madam Justice J. Strekaf in the CCAA proceedings made on March 14, 2013, pursuant to which the Company was declared to be a company to which the CCAA applies, FTI Consulting Canada Inc. was appointed as the Monitor of the Company, any proceedings against the Company were stayed, the Company was permitted, upon further

order of the Court, to present a plan of compromise and arrangement to its creditors, and the Monitor, for and on behalf of the Company, was authorized to enter into the Interim Financing Credit Agreement with the Buyers as lenders.

- (ss) “**Interim Financing Charge**” means the charge created under the Initial Order securing the Interim Financing Obligations.
- (tt) “**Interim Financing Credit Agreement**” means an interim financing credit agreement dated as of March 14, 2013 between the Company (executed on behalf of the Company by the Monitor) as borrower and the Buyers as lenders.
- (uu) “**Interim Financing Obligations**” means the Obligations of the Company to the Buyers under the Interim Financing Credit Agreement.
- (vv) “**ITA**” means the *Income Tax Act* (Canada), R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.).
- (ww) “**KERP**” means the key employee retention plan of the Company.
- (xx) “**KERP Charge**” means the charge created under the KERP Order securing the KERP Obligations, subject to the limits set out in the KERP Order or in any other Order consented to by the Buyers.
- (yy) “**KERP Obligations**” means the Obligations of the Company to the Employees under the KERP Order.
- (zz) “**KERP Order**” means the Order of the Honourable Madam Justice K.M. Eidsvik of the Court made on March 27, 2013 approving the KERP.
- (aaa) “**Letter of Instruction**” means a letter by a Buyer or Affected Creditor to the Company instructing the Company to issue to such Buyer or Affected Creditor the Shares to which such Buyer or Affected Creditor is entitled, and setting out such information as the Company requires, acting reasonably, in order to issue such Shares, including the full and complete name of such Buyer or Affected Creditor, the full and complete address of such Buyer or Affected Creditor, whether such Buyer or Affected Creditor is a Canadian citizen or Canadian corporation as defined in the ITA, and the email, phone and address information that such Buyer or Affected Creditor wishes the Company to use in communications relating to such Shares.
- (bbb) “**Meeting Order**” means the Order in the CCAA Proceedings that, among other things, accepts the filing of this Plan and calls and sets the date for the Creditors’ Meeting.
- (ccc) “**Melbye**” means Melbye Skandinavia AS and any permitted assignee thereof under the ASPA.
- (ddd) “**Melbye Share Certificate**” is defined in Section 6.1(a).

- (eee) “**Monitor**” means FTI Consulting Canada Inc., in its capacity as Court appointed monitor of the Company in the CCAA Proceedings.
- (fff) “**Monitor’s Certificate**” is defined in Section 9.3.
- (ggg) “**Obligations**” means any indebtedness, liabilities and obligations, whether present, future, direct, indirect, liquidated or contingent, whether due or to become due, owed by the Company to any Person.
- (hhh) “**Officers**” means any past and present senior officers of the Company.
- (iii) “**Order**” means an order of a Court in the CCAA Proceedings.
- (jjj) “**Person**” will be broadly interpreted and includes: (i) a natural person, whether acting in his or her own capacity, or in his or her capacity as executor, administrator, estate trustee, trustee or personal or legal representative, and the heirs, executors, administrators, estate trustees, trustees or other personal or legal representatives of a natural person; (ii) a corporation or a company of any kind, a partnership of any kind, a sole proprietorship, a trust, a joint venture, an association, an unincorporated association, an unincorporated syndicate, an unincorporated organization or any other association, organization or entity of any kind; and (iii) a Governmental Authority.
- (kkk) “**Plan**” means this plan of compromise and arrangement filed by Werklund and Melbye pursuant to the CCAA and ABCA, as it may be further amended, supplemented or restated from time to time in accordance with the terms hereof or an Order.
- (lll) “**Plan Implementation**” means the fulfillment, satisfaction or waiver of the conditions set out in Section 9.1 and the occurrence or effecting of the steps set out in Section 6.4.
- (mmm) “**Plan Implementation Date**” means the date on which Plan Implementation occurs.
- (nnn) “**Priority Payables**” means any Claims secured by any Encumbrance that ranks in priority to the Security Interests securing the Debenture Obligations and the Interim Financing Obligations, but for certainty excluding the Chatham Mortgage.
- (ooo) “**Pro Rata**” means with respect to any Affected Creditor in relation to all Affected Creditors, the proportion of the (i) Proven Claim of the Affected Creditor, in relation to (ii) the aggregate Proven Claims of all Affected Creditors.
- (ppp) “**Proof of Claim**” is defined in the Claims Procedure Order.
- (qqq) “**Proven Claim**” means a Claim to the extent that such Claim is finally determined and valued in accordance with the provisions of the Claims Procedure Order or a further Order in the CCAA Proceedings.

- (rrr) “**Purchase Price**” is defined in the ASPA.
- (sss) “**Purchaser**” is defined in Section 5.5.
- (ttt) “**Released Parties**” is defined in Section 7.1.
- (uuu) “**Required Majority**” means a majority in number of the Affected Creditors who represent at least two-thirds in value of the Proven Claims of such Affected Creditors who actually vote on the resolution approving this Plan (in person or by proxy) at the Creditors’ Meeting.
- (vvv) “**Retained Employees**” is defined in the ASPA.
- (www) “**Sanction Order**” is defined in Section 8.2.
- (xxx) “**Securities Act**” means the *Securities Act*, RSA 2000, c S-4.
- (yyy) “**Share Register**” means the share register created by the Company upon Plan Implementation to record the Shares issued from time to time by the Company.
- (zzz) “**Shareholders**” means Class A Shareholders and/or Class B Shareholders and “**Shareholder**” means any one of them.
- (aaaa) “**Shares**” means the Class A Common Shares and/or Class B Common Shares and “**Share**” means any one of them.
- (bbbb) “**Stock Options**” is defined in Section 4.6(a).
- (cccc) “**Trade Liabilities**” means all non-contingent trade liabilities that were incurred by the Company in the ordinary course of business for the supply of goods and services to the Company in relation to the Business and that are Proven Claims under the Claims Procedure, but specifically excluding any Claims arising from such supply of goods and services that are in the nature of general, special or consequential damages or any Claims relating to any contracts disclaimed by the Company under section 32 of the CCAA. The only Trade Liabilities are set out by Creditor and quantum of Proven Claim on Schedule “C”.
- (dddd) “**Unaffected Claims**” means:
- (i) any Priority Payables;
  - (ii) the Obligations of the Company under the Chatham Mortgage;
  - (iii) any Claims for unpaid wages or other remuneration by Retained Employees;
  - (iv) Trade Liabilities;
  - (v) the Claims of Armor under the Armor Settlement Agreement; and

- (vi) the Debenture Obligations and the Interim Financing Obligations.
- (eeee) “**Unaffected Creditor**” means a Creditor that holds an Unaffected Claim.
- (ffff) “**Werklund**” means Werklund Capital Corporation and any permitted assignee thereof under the ASPA.
- (gggg) “**Werklund Share Certificate**” is defined in Section 6.1(a).

## 1.2 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) any reference in this Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions;
- (b) any reference in this Plan to an Order or an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented;
- (c) the division of this Plan into articles and sections are for convenience of reference only and do not affect the construction or interpretation of this Plan, nor are the descriptive headings of articles and sections intended as complete or accurate descriptions of the content thereof;
- (d) the use of words in the singular or plural, or with a particular gender, including a definition, will not limit the scope or exclude the application of any provision of this Plan to such Person (or Persons) or circumstances as the context otherwise permits;
- (e) the words “**includes**” and “**including**” and similar terms of inclusion will not, unless expressly modified by the words “**only**” or “**solely**”, be construed as terms of limitation, but rather will mean “**includes but is not limited to**” and “**including but not limited to**”, so that references to included matters will be regarded as illustrative without being either characterizing or exhaustive;
- (f) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Calgary, Alberta (Mountain Time) and any reference to an event occurring on a Business Day will mean prior to 5:00 p.m. on such Business Day;
- (g) 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 succeeding Business Day if the last day of the period is not a Business Day;



- (h) unless otherwise provided, any reference to a statute or other enactment of parliament, a legislature or other Government Authority includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (i) references to a specific Recital, Article or Section will, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specific Recital, Article or Section of this Plan, whereas the terms “**this Plan**”, “**hereof**”, “**herein**”, “**hereto**”, “**hereunder**” and similar expressions will be deemed to refer generally to this Plan and not to any particular Recital, Article, Section or other portion of this Plan and include any documents supplemental hereto; and
- (j) the word “**or**” is not exclusive.

### 1.3 **Successors and Assigns**

This Plan will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in this Plan.

### 1.4 **Currency**

For the purposes of this Plan, all amounts will be denominated in Canadian dollars and all payments and distributions to be made in cash will be made in Canadian dollars. Any Claims or other amounts denominated in a foreign currency will be converted to Canadian dollars at the Reuters closing rate on the Filing Date.

### 1.5 **Governing Law**

This Plan will be governed by and construed in accordance with the laws of Alberta and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of this Plan and all proceedings taken in connection with this Plan and its provisions will be subject to the jurisdiction of the Alberta Court.

### 1.6 **Schedules**

The following schedules are attached to, incorporated by reference into and form part of this Plan:

- Schedule “A” - Proven Claims of Affected Creditors
- Schedule “B” - Share Provisions Schedule
- Schedule “C” - Unaffected Creditors owed Trade Liabilities

## **ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN**

### **2.1 Purpose**

The purpose of this Plan is:

- (a) to enable the Company to continue its Business as a going concern from and after the Plan Implementation Date;
- (b) to retract and terminate all Existing Shares for no consideration;
- (c) to amend and restate the Articles to cancel and terminate the classes of Existing Shares and to create the Class A Common Shares and Class B Common Shares and set out the rights of such classes of shares;
- (d) to issue Class A Common Shares to the Buyers upon payment by the Buyers of the Purchase Price in accordance with the ASPA;
- (e) to issue Class B Common Shares to the Affected Creditors in full and final settlement of all Affected Claims;
- (f) to provide for payments to Affected Creditors in accordance with Sections 5.4, 5.5 and 5.7; and
- (g) to effect a full, final and irrevocable compromise, release, discharge, cancellation and bar of all Claims that are not Proven Claims.

This Plan is put forward in the expectation that the Persons with an economic interest in the Company, when considered as a whole, will derive a greater benefit from the implementation of this Plan and the continuation of the Business as a going concern than would result from a bankruptcy, receivership or liquidation of the Company.

### **2.2 Persons Affected by this Plan**

This Plan affects:

- (a) the Affected Creditors through the full, final and irrevocable compromise, release, discharge, cancellation and bar of the Affected Claims effective upon the distribution of the Class B Common Shares to the Affected Creditors, except for the purposes of calculating entitlement under Sections 5.4, 5.5 and 5.7;
- (b) any Creditor having a Claim that is barred and extinguished under the Claims Procedure and Section 3.1; and
- (c) the Existing Shareholders through the retraction, termination and cancellation of the Existing Shares.

### 2.3 Unaffected Creditors

Any Unaffected Claims will be satisfied by the Company in the manner and to the extent contemplated in Section 5.9 and are therefore uncompromised by this Plan. Consistent with the forgoing, all liabilities of the Released Parties in respect of Unaffected Claims, other than liability of the Company to satisfy the Unaffected Claims in the manner and to the extent contemplated in Section 5.9, will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred pursuant to Section 7.1. Nothing in this Plan will affect the Company's rights and defences, both legal and equitable, with respect to any Unaffected Claims, including but not limited to, all rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Unaffected Claims.

## **ARTICLE 3 CLASSIFICATION, VOTING AND RELATED MATTERS**

### 3.1 Claims Procedure

- (a) The procedure for determining the validity and quantum of the Affected Claims and Unaffected Claims will be governed by the Claims Procedure Order, the CCAA and any further Order in the CCAA Proceedings. A Creditor will, in respect of its own Claim, have the right to seek the assistance of the Court in valuing any Claim in accordance with the Claims Procedure.
- (b) Nothing in this Plan will extend or amend the Claims Bar Date or give or be interpreted to give any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure. To the extent that any Creditor has any Claim:
  - (i) in addition to, or in excess of, what is set out in a Claims Notice directed to such Creditor, in respect of which the Creditor has not delivered to the Monitor a Dispute Notice or Proof of Claim; or
  - (ii) in respect of which the Creditor has not received a Claims Notice and has not delivered to the Monitor a Proof of Claim,

by no later than the Claims Bar Date, such Claim will be forever extinguished and such Creditor will be forever barred from making or enforcing such Claim against the Company or from participating as a Creditor, or receiving further notice in connection with the CCAA Proceedings, in respect of such Claim.

### 3.2 Class of Creditors entitled to Vote upon this Plan

The Affected Creditors will constitute a single class for the purposes of considering and voting upon this Plan. The Affected Creditors will be entitled to vote their Proven Claims at the Creditors' Meeting in respect of this Plan and receive Class B Common Shares in accordance with Section 5.2 and distributions in accordance with Sections 5.4, 5.5 and 5.7.

### 3.3 Creditors' Meeting

The Creditors' Meeting will be held in accordance with this Plan, the Meeting Order and any further Order in the CCAA Proceedings. The only Persons entitled to attend the Creditors' Meeting are:

- (a) the Monitor and its legal counsel;
- (b) the Affected Creditors (including the holders of proxies) with Proven Claims and their legal counsel;
- (c) the Buyers and their officers, directors and legal counsel;
- (d) the Company through its current Directors and Officers and the legal counsel of the Company; and
- (e) any other Person admitted on invitation of the chair of the Creditors' Meeting.

### 3.4 Approval of this Plan by the Affected Creditors

Each Affected Creditor entitled to vote at the Creditors' Meeting will be entitled to one vote equal to the dollar value of its Proven Claim. In order for this Plan to be approved by the Affected Creditors, it must receive the affirmative vote of the Required Majority at the Creditors' Meeting.

### 3.5 Creditors with Unaffected Claims

No Unaffected Creditor in respect of an Unaffected Claim will be entitled to vote on this Plan or attend the Creditors' Meeting.

### 3.6 Existing Shareholders

No Existing Shareholder in respect of its Existing Shares will be entitled to vote on this Plan or attend the Creditors' Meeting.

## **ARTICLE 4 RESTRUCTURING OF THE COMPANY**

### 4.1 Corporate Actions

The adoption, execution, delivery, implementation and consummation of all matters contemplated under this Plan involving corporate action of the Company will occur and be effective as of Plan Implementation, and will be authorized and approved under this Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by the Existing Shareholders or current Directors or Officers of the Company. All necessary approvals to take actions will be deemed to have been obtained from the current Directors or Existing Shareholders, as applicable, including the deemed passing by any class of Existing Shareholders of any resolution or special resolution.

#### 4.2 **Ceasing to be a Reporting Issuer**

Following Plan Implementation, the Company will apply to the Alberta Securities Commission, the Nova Scotia Securities Commission and the Ontario Securities Commission to cease to be a reporting issuer and will voluntarily surrender its reporting issuer status to the British Columbia Securities Commission and such application is deemed to be approved by the current Directors and Existing Shareholders.

#### 4.3 **Redemption and Cancellation of Existing Shares**

Effective upon Plan Implementation, the issued and outstanding Existing Shares will be deemed to be redeemed and to be fully, finally and irrevocably cancelled and extinguished without any consideration and any and all Claims of the Existing Shareholders in respect of or arising from the Existing Shares will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred.

#### 4.4 **Articles of Reorganization**

Effective upon Plan Implementation in accordance with Section 6.4(b), the Articles are deemed to be amended and restated under section 192 of the ABCA by articles of reorganization incorporating and implementing the terms of this Plan, canceling all classes of Existing Shares and deleting all references thereto from the Articles, and creating Class A common shares in the capital of the Company (the “**Class A Common Shares**”) and Class B common shares in the capital of the Company (the “**Class B Common Shares**”) having the attributes and rights set out in Schedule “B”, and all provisions in the Articles relating to the Existing Shares and the rights and privileges of the Existing Shareholders are amended and restated by the terms and provisions set out on Schedule “B” (the articles of reorganization, to which the Sanction Order is attached as Exhibit “A” thereto, this Plan is attached as Exhibit “B” thereto, and the terms and provisions relating to the Shares set out on Schedule “B” and attached as Exhibit “C” thereto (each such document attached as an Exhibit to such articles of reorganization being incorporated in and forming part thereof) is defined as the “**Articles of Reorganization**”).

#### 4.5 **Equity Financings by the Company after the Implementation Date**

- (a) Subject to Section 4.5(b), if at any time following the Plan Implementation Date the Company seeks equity financing (including the issuance of any debt that is or may become convertible into equity and including equity financing by Persons that are at arm’s length to the Company), such financing will be for cash and will be offered on a non-exclusive basis and on identical terms to both Class A Shareholders and Class B Shareholders, each of whom will have the right but not an obligation to participate in such equity financing up to an amount equal to its pro rata share of the then currently issued and outstanding Shares (for certainty, prior to the completion of such financing), determined on the basis of the ratio of the number of Shares held by each Shareholder to the total number of issued and outstanding Shares. The Company will give the Shareholders fifteen (15) Business Days prior written notice of such financing, which notice will set out the terms of such financing. If a Shareholder does not elect in writing to participate

in such equity financing within such fifteen (15) Business Day period (which election will be deemed to be an irrevocable commitment to participate in such financing by subscribing for securities), the Company will be entitled to proceed with such financing on the identical terms as was originally offered to all Shareholders notwithstanding that its affect on non participating Shareholders is dilutive.

- (b) The right of participation in equity financings granted in favour of the Class B Shareholders under Section 4.5(a) will continue for so long as there are any Class B Common Shares outstanding (or for so long as any securities into which the Class B Common Shares were converted or exchanged without the consent of, or an affirmative vote by, the Class B Shareholders are continued to be held by any Class B Shareholders).

#### 4.6 **Stock Options**

- (a) The Company will be entitled, in its discretion, to adopt stock option, warrant, share incentive or share purchase plans pursuant to which options or rights to acquire additional Class A Common Shares amounting in aggregate to up to fifteen percent (15%) of the issued and outstanding Class A Common Shares of the Company (the “**Stock Options**”) may be granted by the Company to the directors, officers or Employees of or providers of goods and services to the Company and its subsidiaries. The Stock Options will be subject to time vesting to be determined by the board of directors of the Company. No other stock option, warrant, share incentive or share purchase plan which has the effect of exceeding the fifteen percent (15%) cap referred to above will be created without the consent of a majority of the Class B Shareholders.
- (b) For greater certainty, effective on Plan Implementation all stock option plans of the Company in existence as of the Filing Date will be terminated and any Claims of any Person thereunder or arising as a result of such termination will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred.

### **ARTICLE 5 DISTRIBUTIONS**

#### 5.1 **Issuance of Class A Common Shares to Buyers**

Effective on the completion of the ASPA, and the payment of the Purchase Price pursuant to and in the manner contemplated by section 3.2 of the ASPA, the Company will issue to the Buyers 9,000,000 Class A Common Shares in accordance with Section 6.1, which Class A Common Shares will be allocated as follows:

- (a) 4,500,000 Class A Common Shares will be registered in the name of Werklund;  
and
- (b) 4,500,000 Class A Common Shares will be registered in the name of Melbye,

or in such other manner as the Buyers may direct in writing.

## **5.2 Issuance of Class B Common Shares to Affected Creditors**

Effective on the Plan Implementation, the Company will issue to the Affected Creditors with Proven Claims an aggregate of 1,000,000 Class B Common Shares, in accordance with Section 6.2, which will be allocated among the Affected Creditors on a Pro Rata basis. The Monitor will make, acting reasonably, such minor adjustments (rounding up or down, as mathematically appropriate) to the amount of Class B Common Shares to be distributed to individual Affected Creditors in order to ensure that there is no fractional ownership of Class B Common Shares. No other Class B Common Shares will be issued by the Company without the consent of the majority of the Class B Shareholders.

## **5.3 Terms of Issuance of Class B Common Shares**

The issuance of Class B Common Shares to the Affected Creditors will be subject to the following terms, which terms the Affected Creditors will be deemed to have agreed to upon Plan Implementation:

- (a) such issuance will be without any representations or warranties of any kind by the Company;
- (b) the Affected Creditor will accept such issuance as principal and not on account of or on behalf of any other Person as nominee;
- (c) the Shares will not, as of the Implementation Date, be distributable to the public or offered for sale to the public as defined in the Securities Act and the Affected Creditors will be deemed to have acknowledged that there are currently no plans to make them distributable to the public or offer them to the public in the future;
- (d) subsequent to the Company ceasing to be a reporting issuer in accordance with Section 4.2, the Affected Creditors will be deemed to have acknowledged that the Company has advised them that it currently has no intention to again become a reporting issuer in Alberta or any other jurisdiction; and
- (e) any transfer of Shares is subject to the restrictions set out in the Articles of Reorganization and imposed by Applicable Laws.

## **5.4 Distribution Upon the Company Achieving the Taxable Income Threshold**

If in a particular fiscal year of the Company, but for the deductibility of:

- (a) the non-capital tax losses of the Company; and
- (b) any fee, interest or other consideration paid or payable by the Company to the Buyers (including associates, affiliates and employees thereof) that the Auditors have determined is in excess of what would be reasonably payable to an arm's length third party, to the extent of such excess,

the Company would have taxable income as calculated under the ITA in excess of \$500,000, based upon its year end audited financial statements, then on the last Business Day of the sixth month following the end of such fiscal year, the Company will pay to the Class B Shareholders an aggregate amount equal to \$500,000, which will be allocated among such Class B Shareholders on a pro rata basis, whereby the portion which each Class B Shareholder is entitled to is calculated on the basis of proportion of the Class B Common Shares held by such Class B Shareholder to the aggregate issued and outstanding Class B Common Shares. For greater certainty, the Company will only be liable to make this payment one time.

### 5.5 Distribution upon Sale of 80% of Shares

If not less than 80% of the outstanding Class A Common Shares and Class B Common Shares are sold to, or acquired, directly or indirectly, by way of merger, plan of arrangement, plan of compromise, reorganization or otherwise by, a third party purchaser that is arm's length to the Buyers (a "**Purchaser**"), and the Purchaser is qualified to utilize (currently or in the future) no less than Cdn. \$100,000,000 of the Company's non-capital tax losses available immediately prior to such sale or acquisition, then in addition to any consideration received by the Class B Shareholders in such transaction as a result of their holding Class B Common Shares, the Company will pay to the Class B Shareholders, immediately following the completion of such transaction, an aggregate amount equal to \$1,000,000, which will be allocated among such Class B Shareholders on a pro rata basis, whereby the portion which each Class B Shareholder is entitled to is calculated on the basis of proportion of the Class B Common Shares held by such Class B Shareholder to the aggregate issued and outstanding Class B Common Shares.

### 5.6 Review by Auditors

In the event of any dispute between the Company and the Class B Shareholders as to whether

- (a) any fee, interest or other consideration paid or payable by the Company to the Buyers (including associates, affiliates and employees thereof) is in excess of what would be reasonably payable to an arm's length third party pursuant to Section 5.4(b); or
- (b) the Purchaser is qualified to utilize no less than Cdn. \$100,000,000 of the Company's non-capital tax losses as contemplated by Section 5.5,

then such dispute (a "**Dispute**") will be determined by the independent auditors of the Company (the "**Auditors**"), with whom the Company and the Class B Shareholders will cooperate fully. The Auditors will be asked to determine and prepare a report thereon and provide a draft of that report to the board of directors of the Company and to the Class B Shareholders within thirty (30) days after their engagement. The draft may omit conclusions but will set out major assumptions, judgments and the framework for calculations. The Auditors will provide their final report within a further period of ten (10) days after providing their draft report. The Class B Shareholders disputing the question will pay the cost of such report, except to the extent that the Auditor does not substantially confirm the position taken by the Company. If the Auditor does not substantially confirm the position taken by the Company, the Auditor will apportion the cost of the report between the Company and such Class B Shareholders according to the relative



degree of success of the Company and the Class B Shareholders. The preparation of the final report will be conducted as an expert determination, solely on the basis of the Auditors' own experience, and will not be an arbitration. The conclusions of the Auditors will be final and binding, and there will be no appeal or review of that determination on any grounds. To the extent that a Class B Shareholder is required by to pay a portion of the costs of such report, the Company may deduct such portion from the amount that such Class B Shareholder is entitled to under the Section to which the Dispute relates.

#### **5.7 Payment of Legal Costs of Affected Creditors**

On Plan Implementation, the Company shall pay an account rendered by Borden Ladner Gervais LLP to the Affected Creditors in the amount of \$22,951.95, which amount shall be paid by wire transfer directly to Borden Ladner Gervais LLP in accordance with wire transfer instructions provided by it.

#### **5.8 Release of Affected Claims**

The issuance of Class B Common Shares to the Affected Creditors will fully, finally, irrevocably and forever compromise, release, discharge, cancel and bar the Affected Claims of the Affected Creditors in accordance with Section 7.1, except for the purposes of calculating the Pro Rata entitlements of the Affected Creditors to the payments provided for in Sections 5.4 and 5.5. For greater certainty, no interest, fee or other accrual will accrue or accumulate upon any Affected Claim subsequent to the Filing Date.

#### **5.9 Unaffected Creditors**

No Unaffected Claim will be entitled to receive any distribution under this Plan. For greater certainty, after Plan Implementation, the Unaffected Creditors will be paid in accordance with the following arrangements, which are deemed to be outside of this Plan:

- (a) each Unaffected Creditor to whom Trade Liabilities are owed which constitute Proven Claims will be paid those Proven Claims in full either within sixty (60) days of Plan Implementation or in accordance with any agreement in writing entered into between the Company and such Unaffected Creditor after the Filing Date;
- (b) Armor will be paid in accordance with the Armor Settlement Agreement;
- (c) Chatham will be paid in accordance with the periodic payment schedule set out in the Chatham Mortgage; and
- (d) the Debenture Obligations and the Interim Financing Obligations will be set off against the Purchase Price under the ASPA in partial payment thereof on a dollar for dollar basis.

#### **5.10 Crown Priority Claims**

Within six (6) months after Plan Implementation, the Company will pay in full to Her Majesty in

Right of Canada or any province any amount of a kind that could be subject to a demand under the statutory provision referred to in section 6(3) of the CCAA that was outstanding on the Filing Date which has not been paid by Plan Implementation.

#### 5.11 Existing Shareholders

No Existing Shareholder in respect of its Existing Shares will be entitled to receive any consideration or distributions under this Plan. All Claims of Existing Shareholders in respect of or arising from their Existing Shares will be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred effective on Plan Implementation in accordance with Section 7.1.

#### 5.12 Withholding Rights

The Company will be entitled to deduct or withhold from any amount payable to any Person under this Plan such amounts as it is required to deduct and withhold with respect to such payment under the ITA. To the extent that amounts are so withheld or deducted, such withheld or deducted amounts will be treated for all purposes under this Plan as having been paid to the Person in respect of which such deduction or withholding was made, provided that such amounts are actually remitted to the Governmental Authority to whom the Company is required to remit under the ITA.

### **ARTICLE 6 MECHANICS OF DISTRIBUTION AND IMPLEMENTATION**

#### 6.1 Issuance of Class A Shares

The Class A Common Shares will be issued to the Buyers as follows:

- (a) Prior to Plan Implementation, each Buyer will provide the Company and the Monitor with a duly signed and completed Letter of Instruction, and the Company will deliver to the Monitor a duly signed and completed Class A Common Share certificate representing 4,500,000 Class A Common Shares in the name of Werklund (the “**Werklund Share Certificate**”) and a duly signed and completed Class A Common Share certificate representing 4,500,000 Class A Common Shares in the name of Melbye (the “**Melbye Share Certificate**”); and
- (b) On Plan Implementation, the Monitor will deliver to Werklund the Werklund Share Certificate and to Melbye the Melbye Share Certificate, and the Company will note Werklund and Melbye as the owners of their respective Class A Common Shares in the Share Register.

#### 6.2 Issuance of Class B Shares

The Class B Common Shares will be issued to the Affected Creditors as follows:

- (a) Prior to Plan Implementation, each Affected Creditor will provide the Company and the Monitor with a duly signed and completed Letter of Instruction, and the Company will deliver to the Monitor duly signed and completed Class B

Common Share certificates in the name of each Affected Creditor (an “**Affected Creditor Certificate**”), representing the number of Class B Common Shares that the Monitor advises the Company in writing that such Affected Creditor is entitled to;

- (b) On Plan Implementation, the Monitor will deliver to each Affected Creditor the Affected Creditor Certificate to which such Affected Creditor is entitled, and the Company will note such Affected Creditor as the owner of the Class B Common Shares represented by such Affected Creditor Certificate in the Share Register; and
- (c) If an Affected Creditor fails to complete, sign and deliver to the Company and the Monitor a Letter of Instruction pursuant to Section 6.2(a), the Company may deliver to the Monitor the Affected Creditor Certificate pertaining to such Affected Creditor’s Class B Common Shares completed in accordance with the Company’s records and the Monitor’s written instructions, and the Monitor may deliver such Affected Creditor Certificate to counsel for the Affected Creditors in full satisfaction of the Company’s and the Monitor’s obligations under this Section 6.2 in respect of such Class B Common Shares and Affected Creditor Certificate.

### **6.3 Payments to Class B Shareholders and to Borden Ladner Gervais LLP**

All payments by the Company to each Class B Shareholder pursuant to Sections 5.4 and 5.5 and to Borden Ladner Gervais LLP pursuant to Section 5.7 will be by certified cheque or wire transfer addressed in the manner specified in writing by each such Class B Shareholder (in the case of payments under Sections 5.4 and 5.5). If a Class B Shareholder fails to specify the manner in which a payment is to be made, the Company may make the payment by certified cheque or bank draft to the address for such Class B Shareholder in the books and records of the Company. With respect to the payment referred to in Section 5.7, the Affected Creditors will be deemed to have instructed the Company to pay such amount directly to Borden Ladner Gervais LLP, unless all of the Affected Creditors direct the Company in writing otherwise.

### **6.4 Implementation Steps**

- (a) Upon the Company completing the deliveries contemplated by Sections 6.1(a) and 6.2(a), and the fulfillment, satisfaction or waiver of the conditions set out in Section 9.1, the following steps and releases to be taken and effected in implementation of this Plan will occur, and be deemed to have occurred and be taken and effected, immediately in sequence in the following order, without any further act or formality, on the Plan Implementation Date beginning at the Effective Time:
  - (i) the Existing Shares will be deemed to be redeemed, cancelled and extinguished without any consideration in accordance with Section 4.3;
  - (ii) the Articles of Reorganization will be deemed to be effective, amending and restating the Articles in accordance with Section 4.4;

- (iii) the Share Purchase provided for in the ASPA shall be deemed to have been completed and consummated in accordance with the terms thereof;
  - (iv) the Class A Common Shares will be deemed to have been issued to the Buyers in accordance with Section 6.1(a) and the Class B Common Shares will be deemed to have been issued to the Affected Creditors in accordance with Section 6.2(a);
  - (v) the releases contained in Section 7.1, the compromise, release, discharge, cancellation and barring of any Claims of Existing Shareholders under Section 5.11, and the compromise, release, discharge, cancellation and barring of the Affected Claims of Affected Creditors in accordance with Section 5.8, will become effective;
  - (vi) any Encumbrances securing the Affected Claims will be deemed to be released and discharged; and
  - (vii) the CCAA Charges will be deemed to be released and discharged.
- (b) Upon the completion of the sequential steps referred to in Section 6.4(a):
- (i) the Monitor will deliver of the Class A Common Shares to the Buyers in accordance with Section 6.1(b);
  - (ii) the Monitor will deliver the Class B Common Shares to the Affected Creditors in accordance with Section 6.2(b);
  - (iii) the Company will file with the director under the ABCA the Articles of Reorganization. Upon issuance by the director under the ABCA of a certificate of amendment in respect of the Articles of Reorganization, the Company will forthwith deliver a copy of such certificate to the Monitor.

## **ARTICLE 7 RELEASES**

### **7.1 Releases**

Effective on the Plan Implementation in accordance with Section 6.4(a), the Company, Werklund, Melbye, each and every Director, Officer and Employee of the Company, and each and every present and former director, officer, employee and shareholder of Werklund and Melbye (each, a “**Released Party**”) is released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders (including for injunctive relief or specific performance and any compliance orders), expenses, executions, attachments, garnishments, Encumbrances and other recoveries on account of any liability, obligation, demand or cause of action of whatsoever nature which any Creditor or other Person may be entitled to assert, including any Claims, and including, in the case of the Directors, Officers and Employees, all Claims in respect of statutory liabilities of Directors, Officers and Employees and any alleged fiduciary or other duty, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or

hereafter arising, in each of the foregoing cases based in whole or in part on any act or omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to Plan Implementation in any way relating to, arising out of or in connection with any Claims, the arrangement, compromise and restructuring contemplated in this Plan, the Business, the administration of this Plan or the CCAA Proceedings, any Claim that has been barred or extinguished by the Claims Procedure, and all Claims arising out of such actions or omissions will be forever waived and released, all to the full extent permitted by Applicable Law, provided that nothing in this Plan shall release or discharge:

- (a) the Company from any obligation to an Affected Creditor or Shareholder created by this Plan;
- (b) a Released Party from any criminal, fraudulent or other willful misconduct;
- (c) a Released Party from any claim with respect to matters set out in Section 5.1(2) of the CCAA; or
- (d) the Company from the satisfaction of any Unaffected Claims in the manner and to the extent contemplated in Section 5.9.

## **ARTICLE 8 COURT SANCTION**

### **8.1 Application for the Sanction Order**

If the Required Majority approves this Plan, the Monitor will promptly apply for the Sanction Order.

### **8.2 Sanction Order**

The Order of the Court sanctioning this Plan (the “**Sanction Order**”) will be pursuant to the CCAA and ABCA and, among other things:

- (a) declare that this Plan is fair and reasonable;
- (b) declare that as of the Plan Implementation, this Plan and all associated steps, transactions, arrangements, assignments, releases and reorganizations effected hereby are approved, binding and effective as herein set out upon the Company, all Affected Creditors, the Existing Shareholders and all other Persons and parties affected by this Plan;
- (c) declare that the steps to occur, be taken and be effected, and the releases to be effected, on the Plan Implementation are deemed to occur, be taken and effected, and be effective in the sequential order contemplated by Section 6.4(a) on Plan Implementation, beginning at the Effective Time;
- (d) effective upon the fulfillment, satisfaction or waiver of the conditions in Section 9.1, and in the sequential order contemplated by Section 6.4:

- (i) declare that all Existing Shares are redeemed as of Plan Implementation for no consideration, and that any rights of the Existing Shareholders under, pursuant to or arising from their Existing Shares are extinguished;
  - (ii) declare that all classes of Existing Shares are cancelled and extinguished;
  - (iii) declare that the Class A Common Shares are issued to the Buyers and the Class B Common Shares are issued to the Affected Creditors free and clear of any Encumbrances or Claims;
  - (iv) declare that the releases referred to in Section 7.1 will become effective in accordance with this Plan, discharging and releasing the Released Parties from any and all Affected Claims of any Affected Creditor, and declare that the ability of any Affected Creditor to proceed against the Released Parties in respect of or relating to Affected Claims will be forever barred, extinguished, discharged and restrained, and all proceedings with respect to, in connection with or relating to such Claims are permanently stayed;
  - (v) declare that the CCAA Charges are terminated and discharged (effective, in the case of the Administration Charge, on the filing by the Monitor of the certificate under Section 8.2(i)); and
  - (vi) declare that any and all Encumbrances in favour of any Affected Creditor or which any Affected Creditor holds by way of subrogation are terminated and discharged, and authorize any Registrar of any personal property security registry or any real property registry to discharge any such Encumbrance;
- (e) declare that all obligations, agreements or leases to which the Company is a party will be and remain in full force and effect, unamended, as at Plan Implementation, and no party to any such obligation or agreement will on or following Plan Implementation accelerate, terminate, refuse to renew, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy under or in respect of any such obligation, agreement or lease, by reason:
- (i) of any event which occurred prior to, and not continuing after, Plan Implementation or which is or continues to be suspended or waived under this Plan, which would have entitled any other party thereto to enforce those rights or remedies;
  - (ii) that the Company has sought or obtained relief or has taken steps as part of this Plan or under the CCAA or ABCA;
  - (iii) of any default or event of default arising as a result of the financial condition or insolvency of the Company;

- (iv) of the effect upon the Company of the completion of any of the transactions contemplated under this Plan; or
- (v) of any restructurings or reorganizations effected pursuant to this Plan;
- (f) declare that the stay of proceedings under the Initial Order is extended in respect of the Company, the Directors and the Officers to and including Plan Implementation;
- (g) stay the commencing, taking, applying for or issuing or continuing any and all steps or proceedings, including administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Released Party in respect of all Claims and any other matter released pursuant to Section 7.1;
- (h) authorize the Monitor to perform its functions and fulfil its obligations under this Plan to facilitate the implementation of this Plan;
- (i) declare that upon completion by the Monitor of its duties in respect of the Company pursuant to the CCAA and the Orders, the Monitor may file with the Court a certificate of Plan completion stating that all of its duties in respect of the Company pursuant to the CCAA and the Orders have been completed and thereupon, FTI Consulting Canada Inc. will be deemed to be discharged from its duties as Monitor of the Company and the Administration Charge will be terminated and released; and
- (j) declare that the Company, the Monitor and the Buyers may apply to the Court for advice and direction in respect of any matter arising from or under this Plan.

#### **ARTICLE 9 CONDITIONS TO PLAN IMPLEMENTATION**

##### **9.1 Conditions to Plan Implementation**

Plan Implementation will be conditional upon the fulfillment, satisfaction or waiver (in accordance with Section 9.2) of the following conditions:

- (a) this Plan will have been approved by the Required Majority of Affected Creditors;
- (b) the Court will have granted the Sanction Order, the operation and effect of which will not have been stayed, reversed or amended, and all applicable appeal periods in respect of the Sanction Order will have expired and in the event of an appeal or application for leave to appeal, final determination will have been made by the applicable appellate Court;
- (c) the fulfillment, satisfaction or waiver of the conditions set out in Sections 8.1, 8.3 and 8.4 of the ASPA;
- (d) the making of the payments and the completion of the deliveries contemplated by

sections 9.2.3 and 9.2.4 of the ASPA; and

- (e) the aggregate amount of Proven Claims that are Affected Claims not exceed \$7,332,000.

## 9.2 **Waiver**

- (a) The Buyers may at any time waive the fulfillment or satisfaction, in whole or in part, of the condition set out in Section 9.19.1(b) that all applicable appeal periods in respect of the Sanction Order will have expired.
- (b) The fulfillment or satisfaction of the condition set out in Section 9.1(e) may only be waived in writing, in whole or in part, by all of the Affected Creditors and Buyers, on such terms as they deem appropriate.
- (c) The conditions referred to in Section 9.1(c) may be waived in the manner provided for in the ASPA.

## 9.3 **Monitor's Certificate of Plan Implementation**

Upon the delivery of written notice from the Company and the Buyers of the satisfaction, fulfillment or waiver of the conditions set out in Section 9.1, and the completion of the steps, deliveries and filings set out in Section 6.4, the Monitor will deliver to the Company and the Buyers a certificate stating that the Plan Implementation has occurred and that this Plan and the Sanction Order are effective in accordance with their respective terms (the “**Monitor's Certificate**”). Following the Plan Implementation Date, the Monitor will file such certificate with the Court and deliver copies thereof to the Affected Creditors.

# **ARTICLE 10 GENERAL**

## 10.1 **Binding Effect**

At the Effective Time:

- (a) this Plan will become effective;
- (b) the treatment of Affected Creditors and Existing Shareholders under this Plan will be final and binding for all purposes and enure to the benefit of the Company, all Affected Creditors, all Released Parties and all other Persons and Parties named or referred to in, or subject to, this Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns;
- (c) each Affected Creditor will be deemed to have consented and agreed to all of the provisions of this Plan in its entirety; and
- (d) each Affected Creditor will be deemed to have executed and delivered to the Company all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out this Plan in its entirety.



## 10.2 Waiver of Defaults

From and after the Plan Implementation Date, all Persons will be deemed to have waived any and all defaults or events of default of the Company then existing or previously committed by the Company, or caused by the Company, any of the provisions in this Plan or steps contemplated in this Plan, or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Company and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under any such agreement will be deemed to have been rescinded and of no further force or effect, provided that nothing will be deemed to excuse the Company from performing its obligations under this Plan or be a waiver of defaults by the Company under this Plan and the related documents. This section does not affect the rights of any Person to pursue any recoveries for a Claim that may be obtained from a guarantor (other than the Company) and any security granted by such guarantor.

## 10.3 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

## 10.4 Non-Consummation

If Plan Implementation does not occur by September 30, 2013, or such later period as agreed to in writing by the Buyers and the Monitor, (a) this Plan will be null and void in all respects, and (b) nothing contained in this Plan, and no acts taken in preparation for consummation of this Plan, will (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Company or any other Person; (ii) prejudice in any manner the rights of the Company or any other Person in any further proceedings involving the Company; or (iii) constitute an admission of any sort by the Company or any other Person.

## 10.5 Modification of Plan

- (a) The Buyers may at any time and from time to time, amend, restate, modify and/or supplement this Plan, with the prior consent of the Monitor and, if the amendment, restatement, modification or supplement is adverse to the financial or economic interests of the Affected Creditors, with the prior consent of the Required Majority of the Affected Creditors, provided that any such amendment, restatement, modification or supplement must be contained in a written document which is filed with the Court and (i) if made prior to the Creditors' Meeting, communicated to the Affected Creditors in the manner required by the Court (if so required); and (ii) if made following the Creditors' Meeting, approved by the Court on notice to the Affected Creditors.
- (b) Notwithstanding Section 10.5(a), any amendment, restatement, modification or supplement may be made by the Buyers and Company with the prior consent of the Monitor, and pursuant to an Order following the making of the Sanction Order, provided that it concerns a matter which, in the opinion of the Company,

the Buyers and the Monitor is of an administrative nature required to better give effect to Plan Implementation and the Sanction Order or to cure any errors, omissions or ambiguities and is not adverse to the financial or economic interests of the Affected Creditors.

- (c) Any amended, restated, modified or supplementary plan or plans of arrangement and reorganization filed with the Court and, if required by this Section, approved by the Court with the prior consent of the Buyers, the Monitor (and, if necessary in accordance with this Section, the Affected Creditors) will, for all purposes, be and be deemed to be a part of and incorporated into this Plan.

#### **10.6 Severability of Plan Provisions**

If, prior to the Plan Implementation Date, any term or provision of this Plan is held by the Court to be invalid, void or unenforceable, at the request of the Company and subject to the prior consent of the Buyers, acting reasonably, the Court will have the power to either (a) sever such term or provision from the balance of this Plan and provide the Company, the Buyers and the Required Majority of the Affected Creditors (to the extent such severance may adversely affect the Affected Creditors) with the option to proceed with the implementation of the balance of this Plan as of and with effect from the Plan Implementation Date, or (b) alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as altered or interpreted, provided that the Buyers and the Required Majority of Affected Creditors (to the extent such alteration or interpretation may adversely affect the Affected Creditors) have approved such alteration or interpretation, acting reasonably. Notwithstanding any such holding, alteration or interpretation, and provided that the Company proceeds with the implementation of this Plan, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation.

#### **10.7 Responsibilities of the Monitor**

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings and this Plan with respect to the Company and will not be responsible or liable for any Claims against or Obligations of the Company.

#### **10.8 Notices**

Any notice of other communication to be delivered hereunder must be in writing and refer to this Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail, email or by facsimile addressed to the recipient as follows:

- (a) If to the Company:

RS Technologies Inc.  
233 Mayland Place NE  
Calgary, Alberta T2E 7Z8

Attention: Howard Elliott, President and Chief Executive Officer  
Tel. No.: (734) 508-6483  
Facsimile No.: (519) 682-3786  
E-mail: [HRE@rspoles.com](mailto:HRE@rspoles.com)

with a copies to:

Blake Cassels & Graydon LLP  
855 - 2nd Street S.W.  
Suite 3500, Bankers Hall East Tower  
Calgary AB T2P 4J8

Attention: Kelly J. Bourassa and Ryan Zahara  
Tel. No.: (403) 260-9697/(403) 260-9628  
Facsimile No.: (403) 260-9700  
E-mail: [kelly.bourassa@blakes.com](mailto:kelly.bourassa@blakes.com) / [ryan.zahara@blakes.com](mailto:ryan.zahara@blakes.com)

F T I Consulting Canada Inc.  
1000, 888-3rd Street SW  
Bankers Hall, West Tower  
Calgary, AB T2P 5C5

Attention: Deryck Helkaa, Senior Managing Director  
Tel. No.: (403) 444-5372  
Facsimile No.: (403) 444-6699  
E-mail: [deryck.helkaa@fticonsulting.com](mailto:deryck.helkaa@fticonsulting.com)

McCarthy Tétrault LLP  
3300, 421-7th Avenue S.W.  
Calgary, AB T2P 4K9

Attention: Sean Collins  
Tel. No.: (403) 260-3531  
Facsimile No.: (403) 260-3501  
E-mail: [scollins@MCCARTHY.CA](mailto:scollins@MCCARTHY.CA)

(b) If to the Monitor:

F T I Consulting Canada Inc.  
1000, 888-3rd Street SW  
Bankers Hall, West Tower  
Calgary, AB T2P 5C5

Attention: Deryck Helkaa, Senior Managing Director  
Tel. No.: (403) 444-5372  
Facsimile No.: (403) 444-6699  
E-mail: [deryck.helkaa@fticonsulting.com](mailto:deryck.helkaa@fticonsulting.com)

with a copy to:

McCarthy Tétrault LLP  
3300, 421-7th Avenue S.W.  
Calgary, AB T2P 4K9

Attention: Sean Collins  
Tel. No.: (403) 260-3531  
Facsimile No.: (403) 260-3501  
E-mail: [scollins@MCCARTHY.CA](mailto:scollins@MCCARTHY.CA)

(c) If to the Buyers:

Werklund Capital Corporation  
4500 Devon Tower  
400 - 3rd Avenue SW  
Calgary AB T2P 4H2

Attention: Stefan Erasmus, President  
Tel. No.: (403) 231-2086  
Facsimile No.: (403) 231-6549  
E-mail: [stefan.erasmus@werklund.com](mailto:stefan.erasmus@werklund.com)

Melbye Skandinavia AS  
Prost Stabelsvei 22  
2021 Skedsmokorset  
Norway

Attention: Christian Aasheim, President  
Tel. No.: 011-47-63-87-0150  
Facsimile No.: 011-47-63-87-0151  
E-mail: [cha@melbye.no](mailto:cha@melbye.no)

with a copy to:

Gowling Lafleur Henderson LLP  
1400, 700 - 2 Street SW  
Calgary, Alberta T2P 4V5

Attention: Tom Cumming and Jeffrey Oliver  
Tel. No.: (403) 298-1938 / (403) 298-1818  
Facsimile No.: (403) 695-3538  
E-mail: [tom.cumming@gowlings.com](mailto:tom.cumming@gowlings.com) /  
[jeffrey.oliver@gowlings.com](mailto:jeffrey.oliver@gowlings.com)

(d) If to the Affected Creditors:

Borden Ladner Gervais LLP  
Centennial Place, East Tower  
1900, 520 - 3rd Avenue S.W.  
Calgary Alberta T2P 0R3

Attention: Bruce Lawrence and Josef Kruger  
Tel. No.: (403) 232-9597 / (403) 232-9563  
Facsimile No.: (403) 266-1395 / (403) 266-1395  
Email: [blawrence@blg.com](mailto:blawrence@blg.com) / [jkruger@blgcanada.com](mailto:jkruger@blgcanada.com)

or to such other address as any such party may from time to time notify the others in accordance with this Section. Any such communication so given or made will be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing, email or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed, emailed or sent before 5:00 p.m. on such day. Otherwise, such communication will be deemed to have been given and made and to have been received on the next following Business Day.

#### **10.9 Paramountcy**

From and after the Effective Time on the Plan Implementation Date, any conflict between this Plan and the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral, and any and all amendments or supplements thereto existing between any Person and the Company as at the Plan Implementation Date, will be deemed to be governed by the terms, conditions and provisions of this Plan and the Sanction Order, which will take precedence and priority.

#### **10.10 Further Assurances**

Each of the Persons named or referred to in, or subject to, this Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of this Plan and to give effect to the transactions contemplated herein.

DATED as of the 22<sup>nd</sup> day of August, 2013.

**SCHEDULE "A"**  
**AFFECTED CREDITORS**

<b>Affected Creditors</b>	<b>Secured Debt</b>	<b>Promissory Note</b>	<b>DSUP</b>	<b>Total Proven Claims</b>
	<b>a</b>	<b>b</b>	<b>c</b>	
Dwayne Hunka	1,089,486.05	-	11,980.68	1,101,466.73
Paul Giannelia	1,676,770.35	54,940.41	17,872.61	1,749,583.37
Marjad Inc.	1,676,129.68	-	-	1,676,129.68
David Williams	311,212.88	-	12,907.91	324,120.79
Brian Felesky	1,089,963.64	54,940.41	31,629.89	1,176,533.94
James Gray	1,173,294.30	54,940.41	31,646.65	1,259,881.36
Held in Trust by James Gray	28,787.12	-	-	28,787.12
Wilmot Matthews	-	-	15,124.25	15,124.25
<b>Total</b>	<b>7,045,644.02</b>	<b>164,821.24</b>	<b>121,161.99</b>	<b>7,331,627.25</b>

a) Secured Debt- per the proof of claim filed by the Guarantors plus the portion of the assigned CWB debt

b) Promissory Note- \$50,000 promissory note plus accrued interest as at March 14, 2013

c) DSUP- Value of DSUP Claims submitted in the Monitor's Claims Notice

**SCHEDULE “B”**  
**SHARE PROVISIONS OF ARTICLES OF REORGANIZATION**

The classes and any maximum number of shares that the Corporation is authorized to issue:

an unlimited number of Class A Common Shares;  
an unlimited number of Class B Common Shares;

all without nominal or par value and subject to the rights, privileges, restrictions and conditions as set out below.

**1. CLASS A COMMON SHARES**

The Class A Common Shares shall confer on the holders thereof and shall be subject to the following rights, restrictions, privileges and conditions:

(a) Voting:

The holders of the Class A Common Shares shall be entitled to one (1) vote in respect of each such Class A Common Share held at all meetings of the shareholders of the Corporation.

(b) Dividends and Distributions:

The Class A Common Shares and Class B Common Shares shall rank equally with respect to the declaration and payment of all dividends and distributions of any kind (including any returns of capital). The Class A Common Shares and Class B Common Shares shall, in each year, in the absolute discretion of the directors, be entitled, out of any or all profits or surplus available for dividends, to non-cumulative dividends at a rate to be determined by the directors.

(c) Liquidation:

In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs or upon a reduction of capital, the holders of the Class A Common Shares and the Class B Common Shares will be entitled to participate equally, share for share, in the distribution of the assets of the Corporation.

**2. CLASS B COMMON SHARES**

The Class B Common Shares shall confer on the holders thereof and shall be subject to the following rights, restrictions, privileges and conditions:

(a) Voting:

The holders of the Class B Common Shares shall not, except as otherwise required by law, be entitled as such to receive notice of or to attend any meeting of the shareholders of the Corporation, and shall not be entitled to vote at any such meeting.

(b) Dividends and Distributions:

The Class A Common Shares and Class B Common Shares shall rank equally with respect to the declaration and payment of all dividends and distributions of any kind (including any returns of capital). The Class A Common Shares and Class B Common Shares shall, in each year, in the absolute discretion of the directors, be entitled, out of any or all profits or surplus available for dividends, to non-cumulative dividends at a rate to be determined by the directors.

(c) Liquidation:

In the event of the liquidation, dissolution or winding-up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs or upon a reduction of capital, the holders of the Class A Common Shares and the Class B Common Shares will be entitled to participate equally, share for share, in the distribution of the assets of the Corporation.

(d) Redemption by the Corporation:

(i) Subject to the provisions of the *Business Corporations Act* (Alberta) as now enacted or as may from time to time be amended, re-enacted or replaced (in which case any such reference shall be read as referring to the amended, re-enacted or replaced provisions) (the “**ABCA**”), at any time on or after the occurrence of both of the following events:

- (A) the fifth anniversary of the date of issuance of the Class B Common Shares; and
- (B) the Fair Value (as defined below) of all outstanding Class A Common Shares and Class B Common Shares of the Corporation reaching the equivalent of \$70,000,000,

and provided the Corporation is not in default of any obligation to the holders of the Class B Common Shares (which default has not been waived by the holders of a majority of the outstanding Class B Common Shares), the Corporation may redeem any or all of the then outstanding Class B Common Shares, upon paying the Fair Value for each Class B Common Share to be redeemed (the “**Class B Common Share Redemption Price**”), together with all dividends and distributions declared and remaining unpaid on such Class B Common Share up to and including the Redemption Date (as defined herein). If only some of the then outstanding Class B Common Shares are to be redeemed at any time, then such Class B Common Shares shall be redeemed pro rata disregarding fractions and the directors of the Corporation may make such adjustments as may be necessary to avoid the redemption of fractional parts of shares, provided that, with the consent of two-thirds of the then outstanding Class B Common Shares represented in person or by proxy at a meeting or the consent of two-thirds of such holders in writing, the Class B Common Shares to be redeemed may be selected in any other manner including, without limitation, the selection of all or any part of the Class B Common Shares of any particular holder or holders thereof.

(ii) To redeem Class B Common Shares under the provisions of the foregoing paragraph, the Corporation shall notify each registered holder of Class B Common Shares to be redeemed in writing not less than twenty-one (21) days in advance of the proposed date of redemption (the “**Redemption Date**”) confirming the Corporation’s intention to redeem such Class B Common Shares. On the Redemption Date, the Corporation shall



pay to or to the order of the registered holder of the Class B Common Shares to be redeemed, for each Class B Common Share to be redeemed, the Class B Common Share Redemption Price together with all dividends and distributions declared and remaining unpaid on such Class B Common Share (collectively, the “**Redemption Amount**”) provided that, if certificates have been issued for any such Class B Common Shares, the holder presents and surrenders to the Corporation the certificate or certificates representing the Class B Common Shares to be redeemed. If any holder has not surrendered the certificate for a Class B Common Share to be redeemed, the Corporation may pay the Redemption Amount to an account in any chartered bank in Canada (and the Corporation shall notify such holder accordingly) to be paid without interest to or to the order of the holder of such Class B Common Share called for redemption when the holder presents and surrenders the certificate representing the holder’s shares to such bank, and upon depositing such Redemption Amount or upon the Redemption Date, whichever is later, the Class B Common Shares in respect of which such Redemption Amount has been paid shall be redeemed and the rights of the holders thereof shall thereafter be limited to receiving without interest their proportionate part of the Redemption Amount so deposited upon presenting and surrendering the certificates representing their respective shares.

- (iii) In the event that the Corporation fails (for any reason) to make unconditionally available the Redemption Amount in full (except for failure of a holder of the Class B Common Shares to surrender its certificate(s) therefor as required hereunder), the subject Class B Common Shares shall remain issued and outstanding and the holder thereof shall continue to be entitled to receive all dividends and distributions declared on the Class B Common Shares until such failure has been rectified in full, and the “Redemption Amount” shall be deemed to be amended to include such additional dividends and distributions.

(e) Redemption by the Class B Shareholder:

- (i) Subject to the provisions of the ABCA, upon written notice to the Corporation each Class B Shareholder shall have the right at any time on or after the occurrence of both of the following events:
  - (A) the fifth anniversary of the date of issuance of the Class B Common Shares; and
  - (B) the Fair Value of all outstanding Class A Common Shares and Class B Common Shares of the Corporation reaching the equivalent of \$70,000,000,

to require the Corporation to redeem all, but not less than all, of the Class B Common Shares held by such Class B Shareholder, upon paying, for each such Class B Common Share, an amount equal to the Class B Common Share Redemption Price set forth in Section 2(d).

- (ii) To require the Corporation to redeem Class B Common Shares under the provisions of the foregoing sub-paragraph, the Class B Shareholder shall deliver a notice of repurchase to the Corporation (the “**Repurchase Notice**”) confirming the Class B Shareholder’s intention to require the Corporation to redeem all of such Class B Shareholder’s Class B Common Shares. From and after the Repurchase Payment Date (as hereinafter defined),

the Class B Common Shares to be redeemed shall cease to be entitled to dividends and distributions, and the holders thereof shall not be entitled to exercise any of their rights as shareholders in respect thereof, except to receive the Class B Common Share Redemption Price. On the date (the “**Repurchase Payment Date**”) that is not later than twenty-one (21) days following the later of the receipt of the Repurchase Notice or the determination of Fair Value in accordance with Section 3(b) hereof, the Corporation shall pay to or to the order of the registered holder of the Class B Common Shares to be redeemed, for each Class B Common Share to be redeemed, the Class B Common Share Redemption Price together with all dividends and distributions declared and remaining unpaid on such Class B Common Share up to and including the Repurchase Payment Date (collectively, the “**Repurchase Amount**”), provided that, if a certificate or certificates have been issued for such Class B Common Shares, then the holder shall present and surrender to the Corporation the certificate or certificates representing the Class B Common Shares issued in their name. In that event, if any holder has not surrendered the certificate for a Class B Common Share to be redeemed, then the Corporation may pay the Repurchase Amount to an account in any chartered bank in Canada (and the Corporation shall notify such holder accordingly) to be paid without interest to or to the order of the holder of such Class B Common Share called for redemption when the holder presents and surrenders the certificate representing the holder’s shares to such bank, and upon depositing such Repurchase Amount or upon the Repurchase Payment Date, whichever is later, the Class B Common Shares in respect of which such Repurchase Amount has been paid shall be deemed to have been redeemed and the rights of the holders thereof shall thereafter be limited to receiving without interest their proportionate part of the Repurchase Amount so deposited upon presenting and surrendering the certificates representing their respective shares.

- (iii) In the event that the Corporation fails (for any reason) to make unconditionally available the Repurchase Amount in full (except for failure of a holder of the Class B Common Shares to surrender its certificate(s) therefor as required hereunder), the subject Class B Common Shares shall remain issued and outstanding and the holder thereof shall continue to be entitled to receive all dividends and distributions declared on the Class B Common Shares until such failure has been rectified in full, and the “Repurchase Amount” shall be deemed to be amended to include such additional dividends and distributions.

(f) Contravention of ABCA:

In the event that any redemption of Class B Common Shares specified for redemption cannot be completed without the Corporation contravening some provision of the ABCA, then:

- (i) the Corporation shall nonetheless redeem, in the aggregate, such number of Class B Common Shares as can be redeemed without causing such contravention;
- (ii) such redemption shall comprise a like fraction of the total number of Class B Common Shares specified for redemption;
- (iii) such redemption shall not include a fraction of a Class B Common Share, any such fraction to be rounded down to the next whole number; and
- (iv) the balance of the Class B Common Shares which have been specified for redemption shall be redeemed by the Corporation so soon thereafter as the

Corporation is capable of doing so without causing a contravention of such legislation.

(g) Approval by Special Majority:

In addition to any other consent required by law, consent of the holders of not less than two thirds of all of the then outstanding Class B Common Shares will be required for the Corporation to:

- (i) to make any material amendments to any provision of its articles or bylaws where such amendment materially and adversely affects the rights and privileges of the holders of Class B Common Shares;
- (ii) alter or change the rights, preferences or privileges of the Class B Common Shares; or
- (iii) issue any Class B Common Shares after the first issuance of Class B Common Shares.

(h) Additional Rights:

For so long as any Class B Common Shares remain outstanding, the Corporation shall provide to the holders thereof annual audited financial statements within ninety (90) days of the end of each fiscal year.

### 3. DETERMINATION OF FAIR VALUE

(a) Calculation of Fair Value

The fair value (the “**Fair Value**”) of Class A Common Shares and Class B Common Shares will be calculated as at the time immediately before the occurrence of the event that gave rise to the requirement to make the calculation, and will be:

- (i) calculated on an *en bloc* basis, attributing neither a premium to, nor a discount from, the value of the Class A Common Shares and Class B Common Shares;
- (ii) the highest price, expressed in money, available in an open and unrestricted market between informed and willing parties acting at arm’s length (as defined in the *Income Tax Act* (Canada)) and under no compulsion to act; and
- (iii) determined on a going concern basis, unless inappropriate in light of circumstances.

(b) Process

Where the Fair Value of Class A Common Shares and Class B Common Shares is to be determined the process will be as follows:

- (i) the valuator will be the auditors of the Corporation (the “**Auditors**”), with whom the Corporation and the holders of Class A Common Shares and Class B Common Shares will cooperate fully;

- (ii) the Auditors will be asked to determine and prepare a valuation report on the Fair Value of the Class A Common Shares and Class B Common Shares and provide a draft of that report to the board of directors of the Corporation and the holders of Class B Common Shares within thirty (30) days after their engagement. The draft may omit value conclusions but will set out major assumptions, judgments and the framework for valuation calculations;
- (iii) in making the determination of the Fair Value, the Auditors will apply the valuation principles set out in Section 3(a) hereof; and
- (iv) the Auditors will provide their final valuation report to the board of directors and to the holders of the Class B Common Shares within a further period of ten (10) days after providing their draft report. If the Fair Value is expressed by the Auditors as a range, the mid-point of the range will be used for the purposes of determining the Fair Value.

(c) Costs

The Corporation will pay the cost of the determination of Fair Value in accordance with this Section 3 once per calendar year after the fifth anniversary of the date of issuance of the Class B Common Shares. The holder of Class B Common Shares requesting any additional valuations will pay the cost of such additional determination of Fair Value.

(d) Additional Valuations

In the event a holder of Class B Common Shares requests an additional valuation in any calendar year, such latter valuation shall govern provided that the Corporation shall not be bound to abide by any more than one additional valuation in any calendar year requested by the holders of Class B Common Shares

(e) Expert Determination

The preparation of the final valuation report will be conducted as an expert determination, solely on the basis of the Auditors' own experience, and will not be an arbitration. The amount of the Fair Value determined by the Auditors will be final and binding, and there will be no appeal or review of that determination on any grounds.

#### 4. DRAG-ALONG RIGHTS

(a) Drag-Along Offer:

If, at any time:

- (i) the holders of not less than sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the outstanding Class A Common Shares have agreed to assign, sell or transfer all, but not less than all, of their Class A Common Shares to a third party (a "**Third Party**") in one transaction or in a series of transactions; and

- (ii) the Third Party offers to the holders of Class B Common Shares to purchase all, but not less than all, of the Class B Common Shares on the same terms and conditions as those agreed to by the holder of Class A Common Shares (the “**Drag-Along Offer**”),

then provided the Corporation is not in default of any obligation to the holders of Class B Common Shares (which default has not been waived by the holders of the majority of the outstanding Class B Common Shares), the holders of the Class B Common Shares will be required to sell their Class B Common Shares to the Third Party, all in accordance with the terms and conditions of the Drag-Along Offer.

(b) Failure to Comply:

If a holder of Class B Common Shares fails to sell its Class B Common Shares to the Third Party in accordance with the terms and conditions of the Drag-Along Offer, the Third Party will have the right to deposit the applicable purchase price for those Class B Common Shares in an account in any chartered bank in Canada to be paid without interest to holder of such Class B Common Shares upon presentation and surrender to such bank of the certificates representing such Class B Common Shares duly endorsed for transfer to the Third Party. Upon that deposit of the applicable purchase price being made, the Class B Common Shares in respect of which the deposit was made will automatically (without any further action of any kind on the part of the holder of Class B Common Shares or the Third Party) be deemed to be transferred to and purchased by the Third Party and will be transferred on the books of the Corporation, and the rights of the holder of such Class B Common Shares in respect of those Class B Common Shares after that deposit will be limited to receiving, without interest, the amount so deposited against presentation and surrender of the certificates or documents representing its Class B Common Shares, duly endorsed for transfer to the Third Party purchaser.

(c) Failure to Complete:

In the event the sale to the Third Party is not completed in accordance with the terms and conditions provided for in this section within ninety (90) days of delivery of the Drag Along Offer to the holders of the Class B Common Shares, then the transfer of the Class A Common Shares from the Sellers to the Third Party shall not be completed and the holders of Class B Common Shares shall be relieved of all obligations to sell their Class B Common Shares hereunder.

## 5. TAG-ALONG RIGHTS

If the holders of not less than sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the outstanding Class A Common Shares (the “**Selling Shareholders**”) wish to assign, sell or transfer (directly or indirectly) all of their Class A Common Shares to a third party who is at arm’s length (as that term is defined in the *Income Tax Act* (Canada), as amended or replaced from time to time) with each Selling Shareholder, then any of the holders of Class B Common Shares will have the right (the “**Co-Sale Right**”) to participate in that transfer on the following terms and conditions:

(a) Co-Sale Notice:

The Selling Shareholders will immediately notify the holders of Class B Common Shares in writing (the “**Co-Sale Notice**”) specifying:

- (i) the name and address of the Third Party;

- (ii) the terms and conditions of the proposed transfer including the purchase price that the Selling Shareholders are to obtain from the Third Party for the Class A Common Shares and, if applicable, Class B Common Shares to be purchased, and any other information that would reasonably be relevant to the holders of Class B Common Shares;
- (iii) any other terms and conditions of the intended sale; and
- (iv) that the holder of Class B Common Shares has the Co-Sale Right provided under this section in respect of the proposed transfer.

(b) Shares Which Can Be Sold:

A holder of Class B Common Shares will be entitled to sell to the Third Party, in conjunction with the closing of the Third Party's purchase of Class A Common Shares from the Selling Shareholders, all or any part of its Class B Common Shares, as such holder may determine.

(c) Exercise Notice:

Each holder of Class B Common Shares will have fifteen (15) business days after the receipt of the Co-Sale Notice to exercise its Co-Sale Right by written notice to the Selling Shareholders specifying the number of Class B Common Shares that the holder of Class B Common Shares elects to sell to the Third Party.

(d) Co-Sale to Third Party:

If a holder of Class B Common Shares exercises its Co-Sale Right, the Selling Shareholders may not complete the transfer of its Class A Common Shares to the Third Party unless the Third Party also purchases from such holder of Class B Common Shares all of the Class B Common Shares (collectively, the "Co-Sale Shares") in respect of which the Co-Sale Right was exercised at the same time and on the same terms and conditions.

(e) Pricing of Shares:

The price that the Third Party must pay to each holder of Class B Common Shares for its Co-Sale Shares will be the price payable per Class A Common Share as specified in the Co-Sale Notice.

(f) Failure to Complete:

If the Third Party does not purchase the Co-Sale Shares from each holder of Class B Common Shares on the terms and conditions provided for in this section, then the transfer of Class A Common Shares from the Selling Shareholder to the Third Party will not be completed. If either of the Selling Shareholders completes the transfer of all or part of its Class A Common Shares to the Third Party in violation of this section, then each holder of Class B Common Shares will have, in addition to any other rights or remedies it may have in law or at equity, the right, by notice in writing, to put its Co-Sale Shares to such Selling Shareholder at the prices determined under this section, and the Selling Shareholders shall be deemed to be holding the proceeds of the sale of their Class A Common Shares to the Third Party in trust for the holders of Class B Common Shares who put their Co Sale Shares to the Selling Shareholders hereunder.

## **6. RIGHT OF PARTICIPATION**

(a) Right of Participation:

Each holder of Class A Common Shares and each holder of Class B Common Shares (each such holder being a “**Holder**” and all of such holders being collectively the “**Holders**”, and such shares held by a Holder being the “**Shares**”) shall be entitled to participate in any proposed issuance of securities by the Corporation from treasury, which participation right shall be offered pro-rata to each Holder (based upon the proportion of such Holder’s Shares to the Shares of all Holders) in accordance with the number of Class A Common Shares and/or Class B Common Shares held by such Holder, regardless of the classes of securities. The Corporation shall offer the securities (the “**Offered Securities**”) as provided for herein by notice in writing to each Holder, which notice shall include: the terms of the offer; the time, which shall not be less than fifteen (15) business days, for acceptance; and current financial information on the Corporation. The right of participation set forth in this Section 6 shall not apply to the granting of options and/or the issuance of securities pursuant to any permitted stock option or share purchase plan.

(b) Expiration of Time:

After expiration of the acceptance period detailed in Section 6(a) hereof, the Corporation may, for a period of ninety (90) days thereafter allot and issue such Offered Securities which are not purchased by a Holder pursuant to Section 6(a) hereof to the persons and in the manner determined to be most beneficial to the Corporation, but any such allotment and issuance shall not be at a price less than, or on terms more favourable than the offer to the Holders. In the event the Corporation has not sold the Offered Securities within such ninety (90) day period, the Corporation shall not thereafter issue or sell the Offered Securities without first again complying with the provisions of Section 6(a) hereof.

(c) Payment for Offered Shares:

The payment for Offered Securities by a Holder shall be by certified cheque, bank draft or wire transfer against delivery of the certificate representing the Offered Securities at the head office of the Corporation.

## **7. RESTRICTIONS ON TRANSFER**

No securities of the Corporation, other than non-convertible debt securities, shall be transferred to any person without the approval of the Board of Directors.

**SCHEDULE “C”  
PROVEN CLAIMS OF CREDITORS  
OWED TRADE LIABILITIES**

**Raw Material Suppliers**

Bayer Material Science	221,113.46
Chongqing Polycomp International Corp	223,963.45
Jushi Canada Fiberg	89,947.48
Stepan Company	1,062.78

**Total Raw Material Suppliers**

**\$ 536,087.17**

**Other Suppliers**

ABSA	103.00
AB Carter	1,188.18
Alberta Bolt Makers Ltd.	6,237.00
Alberta Innovates Technology	1,617.00
ATS International	6,434.19
Aveda Transportation and Energy Services	3,675.00
B&B Storage and Warehousing	1,627.20
Barry and Sons Tree Service	2,320.00
Baycomp	8,205.70
Beck Designs	393.75
Bell Canada(acct#511782733)	258.66
Bell Canada(acct#606 4552)	1,243.00
Bell Canada(acct#6821110 371)	1,231.96
Bell Mobility(acct#514739689)	5,171.60
Belzona Great Lakes Ltd	1,196.34
Bolair Fluid Handling Systems	636.85
Broadridge	11.18
Broadridge ICS	3,478.02
C.H. Robinson Company (Canada) Ltd.	515.00
Cal-Chek Canada	1,582.00
Canada Wide Packaging	1,748.36
Canadian Linen & Uniform Service	942.43
Canadian Revenue Agency (GST)	0.00
CanaGlobe Compliance Solutions	945.01
Cancard Inc.	706.25
Cap Plugs	1,325.23
Carmichael Engineering	4,776.98
CNW Group	485.10
COGZ Systems	1,727.02



Computershare	7,474.95
Comtech Communication Technologies	31,270.68
Corporate Express	325.00
Crimson Computer Products	799.31
Culligan Water	101.58
Dependable Building Maintenance	1,050.00
Electra Supply Inc.	201.02
Eljay Shipping Inc.	11,254.78
Federal Express Canada Ltd.	2,930.30
Fedex Trade Networks	228.42
Global Crossing Conferencing	1,464.01
Gowling Lafleur Henderson LLP	3,553.53
Great West Life Insurance Company	17,969.03
HD Supply Utilities Ltd.	17,538.42
HD Supply Utilities Ltd.	44,700.47
Healthy Workplace Consulting	1,395.55
Heritage Interactive Services LLC	9,687.01
Industrial Metal Fabricators	429.40
International Financial Group	5,839.58
Intertek Testing	5,675.40
Iron Mountain	762.07
JH Ryder Machinery Ltd.	3,403.44
Kingsway Transport	796.03
KPMG	0.00
Linde Canada Limited	4,242.99
Lunar Industrial Supply	36.16
Made to Order Machining	7,830.90
Maltacourt Canada Ltd.	24,375.00
Maltacourt(canada)	2,329.79
McMaster-Carr Supply Company	713.96
Monelco	424.86
Municipality of Chatham-Kent	15,276.42
Newark	240.88
NForce Crane & Equipment	4,725.00
Officestuff Inc.	97.35
Perry Graphics	105.09
Pitney Bowes	123.40
Praxair Distribution	77.85
Proax Technologies	333.42
Purolator Inc.	143.64
Q-Lab Corporation	1,524.28
Qualicase Ltd.	6,615.00
Rose Printing	3,357.57

Roynat Lease Finance	24.88
Ryan's Coffee Services Ltd.	11.50
Schenker Of Canada Ltd.	13,796.33
Sheraton Centre Toronto Hotel	5,384.60
SSI Custom Plastics	3,031.17
Steel City Bolt and Screw	989.87
Steve Moreau Janitorial Inc.	2,262.26
Steve's Pest Management	215.82
Swain Bros	1,531.15
Telus Communications	1,084.46
Telus Communications	5,180.04
Telus Services Inc.	1,386.96
The Great West Life Assurance Co.	2,315.35
The PC Medic	3,590.29
Tiltran Ascent Solutions Inc.	918.13
Tinoco Soares & Filho Itda	1,035.07
Traffic Tech	46,076.50
TRC Engineers LLC	3,545.49
Triway Services	189.00
TSX Venture Exchange	1,312.50
Uline	1,292.00
Urban Impact	199.22
Victor Machine	31,710.63
Windsor Factory Supply	33,688.49
Workplace Saftey & Insurance Board	0.00
Windsor Pallet	16,610.32
Xerox Canada	766.81

<b>Total Other Suppliers</b>	<b>\$ 479,354.39</b>
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**Other Unaffected Creditors**

Armor

## APPENDIX B

### UNAFFECTED CREDITORS

**RS Technologies Inc.**  
**Unaffected Creditors/ Trade Creditors**  
**As at March 14, 2013**

**Unaffected Creditors**

<b>Trade Creditors</b>	<b>Amount (\$CDN)</b>
AB Carter	1,188.18
ABSA	103.00
Alberta Bolt Makers Ltd.	6,237.00
Alberta Innovates Technology	1,617.00
ATS International	6,434.19
Aveda Transportation and Energy Services	3,675.00
B&B Storage and Warehousing	1,627.20
Barry and Sons Tree Service	2,320.00
Baycomp	8,205.70
Bayer Material Science	221,113.46
Beck Designs	393.75
Bell Canada(acct#511782733)	258.66
Bell Canada(acct#606 4552)	1,243.00
Bell Canada(acct#6821110 371)	1,231.96
Bell Mobility(acct#514739689)	5,171.60
Belzona Great Lakes Ltd	1,196.34
Bolair Fluid Handling Systems	636.85
Broadridge	11.18
Broadridge ICS	3,478.02
C.H. Robinson Company (Canada) Ltd.	515.00
Cal-Chek Canada	1,582.00
Canada Wide Packaging	1,748.36
Canadian Linen & Uniform Service	942.43
Canadian Revenue Agency (GST)	0.00
CanaGlobe Compliance Solutions	945.01
Cancard Inc.	706.25
Cap Plugs	1,325.23
Carmichael Engineering	4,776.98
Chongqing Polycomp International Corp	223,963.45
CNW Group	485.10
COGZ Systems	1,727.02
Computershare	7,474.95
Comtech Communication Technologies	31,270.68
Corporate Express	325.00
Crimson Computer Products	799.31
Culligan Water	101.58
Dependable Building Maintenance	1,050.00
Electra Supply Inc.	201.02
Eljay Shipping Inc.	11,254.78
Federal Express Canada Ltd.	2,930.30

<b>Trade Creditors</b>	<b>Amount (\$CDN)</b>
Fedex Trade Networks	228.42
Global Crossing Conferencing	1,464.01
Gowling Lafleur Henderson LLP	3,553.53
Great West Life Insurance Company	17,969.03
HD Supply Utilities Ltd.	17,538.42
HD Supply Utilities Ltd.	44,700.47
Healthy Workplace Consulting	1,395.55
Heritage Interactive Services LLC	9,687.01
Industrial Metal Fabricators	429.40
International Financial Group	5,839.58
Intertek Testing	5,675.40
Iron Mountain	762.07
JH Ryder Machinery Ltd.	3,403.44
Jushi Canada Fiberg	89,947.48
Kingsway Transport	796.03
KPMG	0.00
Linde Canada Limited	4,242.99
Lunar Industrial Supply	36.16
Made to Order Machining	7,830.90
Maltacourt Canada Ltd.	24,375.00
Maltacourt(Canada)	2,329.79
McMaster-Carr Supply Company	713.96
Monelco	424.86
Municipality of Chatham-Kent	15,276.42
Newark	240.88
NForce Crane & Equipment	4,725.00
Officestuff Inc.	97.35
Perry Graphics	105.09
Pitney Bowes	123.40
Praxair Distribution	77.85
Proax Technologies	333.42
Purolator Inc.	143.64
Q-Lab Corporation	1,524.28
Qualicase Ltd.	6,615.00
Rose Printing	3,357.57
Roynat Lease Finance	24.88
Ryan's Coffee Services Ltd.	11.50
Schenker Of Canada Ltd.	13,796.33
Sheraton Centre Toronto Hotel	5,384.60
SSI Custom Plastics	3,031.17
Steel City Bolt and Screw	989.87
Stepan Company	1,062.78
Steve Moreau Janitorial Inc.	2,262.26
Steve's Pest Management	215.82
Swain Bros	1,531.15

<b>Trade Creditors</b>	<b>Amount (\$CDN)</b>
Telus Communications	1,084.46
Telus Communications	5,180.04
Telus Services Inc.	1,386.96
The Great West Life Assurance Co.	2,315.35
The PC Medic	3,590.29
Tiltran Ascent Solutions Inc.	918.13
Tinoco Soares & Filho Ltda	1,035.07
Traffic Tech	46,076.50
TRC Engineers LLC	3,545.49
Triway Services	189.00
TSX Venture Exchange	1,312.50
Uline	1,292.00
Urban Impact	199.22
Victor Machine	31,710.63
Windsor Factory Supply	33,688.49
Windsor Pallet	16,610.32
Workplace Safety & Insurance Board	0.00
Xerox Canada	766.81
<b>Total Unaffected Claims</b>	<b>1,015,441.56</b>

# APPENDIX C

## CASH FLOW FORECAST

RS Technologies Inc.  
**Projected Cash Flow Statement for the period**  
**August 18, 2013 to September 14, 2013**  
**CDN \$**

	Notes	Week Ending				Total
		August 24	August 31	September 7	September 14	
Opening Cash Balance	1	(2,001,029)	(2,198,218)	(2,498,289)	(2,652,784)	(2,001,029)
Cash Receipts	2	248,225	175,206	59,000	297,500	779,931
Overhead Expenses	3	(207,525)	(200,269)	(31,000)	(131,000)	(569,794)
Operating Expenses	4	(12,500)	(104,661)	(18,500)	(51,500)	(187,161)
Capital Expenditures	5	-	(72,000)	-	-	(72,000)
Material Costs	6	(160,389)	(81,347)	(163,994)	(162,000)	(567,730)
Interim Financing Fees	7	-	-	-	-	-
Professional/Legal Fees	8	(65,000)	(17,000)	-	-	(82,000)
Total Expenses		(445,414)	(475,277)	(213,494)	(344,500)	(1,478,686)
Change in Cash		(197,189)	(300,071)	(154,494)	(47,000)	(698,754)
Ending Cash Balance		<b>(2,198,218)</b>	<b>(2,498,289)</b>	<b>(2,652,784)</b>	<b>(2,699,784)</b>	<b>(2,699,784)</b>
Interim Financing Beginning outstanding		2,400,000	2,400,000	2,750,000	2,750,000	2,400,000
Interim Financing draws		-	350,000	-	-	350,000
Interim Financing Ending outstanding		2,400,000	2,750,000	2,750,000	2,750,000	2,750,000
Total cash on hand including cash from financing	9	<b>201,782</b>	<b>251,711</b>	<b>97,216</b>	<b>50,216</b>	<b>50,216</b>
Total remaining Interim Financing Available		350,000	-	-	-	-

**Notes:**

Management of RS Technologies Inc. ("RS") has prepared this Projected Cash Flow Statement solely for the purposes of determining the liquidity requirements of RS during the CCAA Proceedings. The Projected Cash Flow Statement is based on the probable and hypothetical assumptions detailed in Notes 1 - 9. Consequently, actual results will likely vary from performance projected and such variations may be material.

- 1 - Opening cash balance based on Canadian and US cash at August 18, 2013. US cash has been converted to Canadian on a 1:1 basis.
- 2 - Cash receipts based on the estimated receipt date of receivables from orders shipped prior to August 18, 2013 and expected future orders based on historical results.
- 3 - Overhead expenses are based on historical trends and include, accounting, sales and head office payroll, operations and sales consultants, rent, finance charges, travel, insurance and other general administrative expenses.
- 4 - Operating expenses are based on historical trends and include payroll for operations and manufacturing plant employees, manufacturing plant utilities, equipment leases, property taxes and repairs and maintenance.
- 5 - Capital expenditures based on current need to update the Company's production equipment.
- 6 - Materials costs are based off of raw material purchases required to manufacture projected customer orders for the next month.
- 7 - Fees related to the proposed interim financing are expected to be repaid after the forecast period.
- 8 - Professional/legal fees include fee estimates provided by the proposed monitor, the proposed monitors counsel, the Interim lender's counsel and RS's counsel.
- 9 - Cash balance including cash from financing remains positive and does not exceed the total remaining Interim Financing available and as such it is expected that RS will have sufficient financing from the existing approved Interim Financing facility to fund RS's operations to the week ending September 14, 2013