

TAB 7

**SUPERIOR COURT
(COMMERCIAL DIVISION)**

**CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

NO: 500-11-022700-047

DATE: March 19, 2004

IN THE PRESENCE OF FRANÇOIS ROLLAND S.C.J.

IN THE MATTER OF THE ARRANGEMENT OF :

EAUX VIVES HARRICANA INC., legal person, duly constituted under the laws of Québec, having its head office at 11 Chemin des Sablières, St-Mathieu-d'Harricana, Province of Québec, District of Abitibi, JOY 1M0;

-and-

EVH U.S.A. INC., legal person, duly constituted under the laws of Delaware, U.s.a., having a place of business at 17821 East 17th Street, suite 193, Tustin, California, 92780, U.S.A.

Petitioners

-and-

RICHTER & ASSOCIÉS INC., a body politic and corporate, duly incorporated according to law, having a place of business at 2 Place Alexis-Nihon, 3500 de Maisonneuve Blvd. West, 22nd Floor, in the City of Montréal, Province of Québec, H3Z 3C2

Monitor

ORDER

[1] I, the undersigned, Judge of the Superior Court, in and for the District of Montréal, after having examined the Motion for the issuance of an initial

order (the "**Motion**"), after having read the affidavit submitted in support thereof.

- [2] **GIVEN** the reasons alleged in said Motion duly supported by an affidavit;
- [3] **GIVEN** the fact that said Motion is well founded;
- [4] **FOR THESE REASONS:**
- [5] **GRANT** the present "Motion for the Issuance of an Initial Order" (the "**Motion**");
- [6] **GRANT** the remedies and relief sought by Petitioners, Eaux Vives Harricana Inc. ("**EVH INC.**") and EVH U.S.A., INC. ("**EVH U.S.A.**") (collectively, "**EVH**" which may from time to time refer to EVH INC. or EVH U.S.A.);
- [7] **EXEMPT** EVH from the service of this Motion and of any notice or delay of presentation;

APPLICATION OF CCAA

- [8] **DECLARE** that EVH INC. and EVH U.S.A. are debtor companies within the meaning of Section 2 of the *Companies Creditors Arrangement Act* ("**CCAA**") and that said Act applies to them, as affiliated debtor companies in accordance with Section 3 of the CCAA;
- [9] **DECLARE** that EVH INC. and EVH U.S.A. have acted and are acting in good faith and with due diligence and that, as appears from the Motion, the circumstances are such that this Order should be rendered;
- [10] **GRANT** EVH's request to submit a formal plan of arrangement with its creditors, in accordance with the CCAA;
- [11] **DECLARE** that EVH may, if EVH and the Monitor believe it is appropriate, file a joint plan of arrangement;
- [12] **DECLARE** that the allegations of EVH, and the affidavit support thereof, are sufficient at this stage to grant the reliefs sought by EVH;

MEETING OF CREDITORS

- [13] **ORDER** the convocation of a meeting of all the EVH's creditors concerned with the proposed plan of arrangement at a date to be determined by EVH and the Monitor, with the consent of 2975483 Canada Inc. and at a place that the Monitor will judge appropriate;
- [14] **ORDER** that a meeting of creditors be convened for the purpose of voting on the plan of arrangement, unless the creditors decide by ordinary

resolution (in accordance with the definition of said expression under the Bankruptcy and Insolvency Act) to postpone said meeting;

- [15] **ORDER** that, further to the filing of the plan of arrangement, a notice of convocation of the meeting of creditors be sent, accompanied by a copy of the proposed plan of arrangement and related information, if any, the appropriate proof of claim forms and a voting form, to all of the known creditors of EVH;

DEBTOR IN POSSESSION FINANCING

- [16] **ALLOW** EVH INC. to enter into, at a later date, a DIP financing agreement with any party ready to advance such funds, on such terms and conditions as this Court may later approve;

APPOINTMENT OF MONITOR

- [17] **APPOINT** Richter & Associés Inc., (Mr. Yves Vincent, CA, CIRP, being the officer responsible for the administration) (the "Monitor" or "Richter"), as monitor with, in addition to any power or obligation provided for by the CCAA, the following powers and obligations, namely, to:

- a. Notify, by regular mail, all of the creditors of EVH having a claim of more than CAD.\$250 of the rendering of this Order within ten (10) days;
- b. Prepare a form for the filing of any claim, as defined per Section 12 of the CCAA;
- c. Send, by regular mail, to all of the known creditors of EVH, a copy of the plan of arrangement to be submitted to the creditors, together with a notice of convocation, a form of proof of claim, a proxy, a letter of votation for the purpose of the creditors' meeting which will be held with respect to the plan of arrangement to be filed, the whole at least fifteen (15) days prior to said meeting of creditors;
- d. Receive any proof of claim to be submitted by any of the creditors of EVH;
- e. Administer and adjudicate, in collaboration with EVH, any proof of claim submitted by any of the creditors of EVH or any alleged creditors of EVH;
- f. Dismiss, in collaboration with EVH, any proof of claim filed by any creditor or alleged creditor of EVH, under reserve of the right of the creditor to appeal to this Court to determine same in the plan of arrangement within ten (10) days of such notice of disallowance, each creditor having the burden of establishing his claim;

- g. File and present to the Court any proceeding, motion or petition, or any other demand, required or appropriate, or that it may feel to be appropriate or required with respect to:
 - i. the affairs of EVH;
 - ii. the plan of arrangement;
 - iii. the determination of any right of EVH or any of its creditors or co-contractants;
 - iv. any advice or instructions it may require or to seek the help of this Court;
 - v. any other matter it feels is required or appropriate;
- h. Preside over the first meeting of creditors and decide any question or dispute arising at the meeting, from which such decision any creditor may appeal to the Court, within ten (10) days of the rendering of same;
- i. Obtain, at the meeting of creditors, the vote of the creditors and admit or reject a proof of claim for the purpose of voting, subject to the right of said creditor to appeal the Monitor's decision to the Court within ten (10) days of said decision;
- j. Send a notice to any creditor, and publish a notice to the said creditors in a Montreal French and English newspapers, seeking the filing of proof of claims before time limit set forth for the filing of proof of claims (the "Bar Date"), failing which any creditor will be barred from doing so and EVH will be discharged of any said claims;
- k. Allow the Monitor, in conjunction with EVH, to determine the Bar Date, which shall be at least 30 days after the sending of the notices hereinabove referred to;
- l. Proceed to the payment of monies which must be paid to the creditors of EVH in the manner provided for in the plan of arrangement from the amounts which shall be remitted to it by EVH for the purpose of such payments;
- m. Provide 2975483 Canada Inc. with any information, report or document it may require;
- n. Exercise, with the consent of EVH and 2975483 Canada Inc., such control over the properties and assets of EVH that may be required or necessary for the protection of such properties and assets;

- o. Hire and retain, with the consent of EVH and 2975483 Canada Inc., any employees and/or consultants required or desired in order to carry on its duties;
- p. Hire and retain, with the consent of EVH and 2975483 Canada Inc., the services of any professional required or desired, including, without limiting the generality of the foregoing, any accountant, lawyer, notary, etc.;
- q. Collaborate with Scotia Capital Inc. in the fulfillment of their mandate and duties;
- r. Delegate, if required or necessary, to any person duly qualified in the sole opinion of the Monitor, and with the consent of EVH and 2975483 Canada Inc., the powers enumerated herein or any thereof;
- s. Obtain from EVH the information which it shall judge useful regarding the evolution of its financial situation and the progress of its restructuring plan;
- t. Execute any deed, contract or agreement or do anything necessary or required in order to give full effect to the plan of arrangement;
- u. Assist and help EVH in its restructuring and its discussions with any of its creditors, co-contractants or any other party;
- v. Assist EVH in negotiating and settling creditors' claims;
- w. File or oppose any claim or proceeding filed with respect to any of the assets of EVH, the whole with the consent of EVH and 2975483 Canada Inc.;
- x. Certify as a true copy, any copy of this Order;
- y. Send notices of stay of proceedings, as if it were a trustee in bankruptcy, with respect to any proceedings or claim whether judicial, administrative or otherwise;
- z. With the authorization of the Court, do anything or enter into any agreement whatsoever with a view to protecting EVH, its assets, its creditors, or for the best interests of EVH or the plan of arrangement;
 - aa. With the authorization of the Court, and with the consent of EVH and 2975483 Canada Inc., enter into any agreement whatsoever in order to sell all or parts of the assets of EVH;
 - bb. Exercise any and all powers of a trustee acting pursuant to a Notice of Intention or a Proposal under the *Bankruptcy and Insolvency Act*

with a view to helping and assisting EVH in the filing of a plan of arrangement;

[18] **ALLOW** EVH and/or the Monitor and/or 2975483 Canada Inc. to file any motion or petition to this Court, in order to expand, modify or clarify the powers and obligations of the Monitor;

[19] **ALLOW** EVH to file any petition or motion which may be required or useful for the pursuit of the process;

STAY OF PROCEEDINGS

[20] **ORDER** a stay of any and all proceedings, including without limitation, suits, actions, application, motion, petition, judgments, orders, injunctions, extra-judicial proceedings, notice, prior notice or other remedies, for a period of thirty (30) days starting at 12:01 a.m. on the day of this Order which will have the effect of:

- a. staying, until otherwise ordered by the court, all proceedings taken or that might be taken in respect of EVH or its assets;
- b. restraining, until otherwise ordered by the court, further proceedings in any action, application, motion, petition, suit, judgment, order, instruction, extra-judicial proceeding against EVH;
- c. prohibiting, until otherwise ordered by the court, the commencement or continuation of any other action, application, motion, petition, suit or any other proceeding against EVH or the sending of any notice or prior notice of any nature;
- d. prohibiting the parties with which EVH would have entered into any agreement to cancel any contract or agreement of any nature whatsoever, including, without limiting the generality of the foregoing, any contract entered into by EVH and any of its supplier or co-contractants or other, providing the services rendered or the goods supplied after the rendering of the order are paid for under normal terms and except for eligible financial contracts as defined under Section 11.1 CCAA;

[21] **ORDER**, for the same period, that, in accordance with section 11.4 CCAA, the right of Her Majesty in right of Canada may not be exercised under subsection 224(1.2) of the income Tax Act in respect of EVH nor by Her Majesty in right of a Province under provincial legislation substantially similar to that subsection in respect of EVH, but as per the terms of said section 11.4;

[22] **ORDER**, for the same period, a stay of all proceedings taken or that might be taken against the EVH in accordance with the Bankruptcy and Insolvency Act and/or the Winding-Up Act;

[23] **ORDER**, for the same period, a stay of proceedings of all suits, actions, applications, motions, petitions, judgments, orders, injunctions, extra-judicial proceedings or other remedies instituted against EVH or its assets, for any reason whatsoever, or the sending of any notice or prior notice save with the permission of this Court upon application served upon EVH, EVH's undersigned attorneys, the Monitor and 2975483 Canada Inc. of four (4) clear days and according to the conditions that this Honourable Court may impose, the whole until a new ruling is made by this Honourable Court;

[24] **ORDER**, for the same period, that no proceeding, including without limitation, suits, actions, application, judgments, orders, injunctions, extra-judicial proceedings or other remedies instituted against EVH or its assets for any reason whatsoever, or the sending of any notice or prior notice shall be continued or commenced against EVH or its assets, save with the permission of this Court upon application served upon EVH and EVH's undersigned attorneys, the Monitor and 2975483 Canada Inc. four (4) clear days in advance and according to the conditions that this Honourable Court may impose, until a new ruling of this Court is made in this matter;

[25] **ORDER**, for the same period, that no persons, firms or corporations shall exercise any lien, privilege, legal hypothec, seizure or right of retention on assets, property or goods belonging to EVH or realize on or otherwise deal with any right or property of EVH or any security, charge, lien, right or power of sale, seizure or attachment held by that person, including any right of revendication or repossession of any goods supplied to EVH or any right to take possession of its property or goods placed on consignment or pursuant to concession arrangements with EVH;

LIMITATION OF CERTAIN RIGHTS

[26] **DECLARE** that until the meeting of creditors is held, no persons, firms or corporations having done business with EVH shall exercise any right of compensation or set off or application of inventory in reduction of accounts with respect to any amounts which may be owing and due by EVH;

[27] **ORDER** that all persons, firms or corporations, including all utilities, having supplied goods or services to EVH in the normal course of business by virtue of written or oral agreements, distributorship or agency agreements or otherwise, are prohibited from terminating same without the written consent of EVH or an order from this Honourable Court;

[28] **ORDER** all persons, firms or corporations having supplied goods or services to EVH in the normal course of business to continue such delivery and supply in the normal course of business provided satisfactory arrangements are made to secure payment of the normal prices or charges of such goods and services incurred from the date of filing of this Motion;

[29] **ORDER** that any person, firms or corporations, who provided letters of credit, standby letters of credit, performance bonds, payment bonds or guarantees (the "Issuing Party") at the request of EVH shall be required to continue honouring any and all such letters of credit, standby letters of credit, performance bonds, payment bonds and/or guarantees, issued on or before the date of this Order subject to the Issuing Party being entitled to retain the bills of lading and/or shipping documents relating thereto until paid therefore. For greater certainty, the Issuing Party shall be prohibited from terminating, suspending, modifying, determining, refusing to honour or cancelling any such letters of credit, standby letters of credit, performance bonds, payment bonds or guarantees, and the beneficiaries of such letters of credit, standby letters of credit, performance bonds, payment bonds or guarantees for the supply and delivery of goods shall be entitled to draw on such letters of credit, standby letters of credit, performance bonds, payment bonds, guarantees or shipping guarantees, as the case may be, in accordance with their respective terms and conditions, without the prior written consent of EVH or without the leave of this Court;

[30] **ORDER** that all persons, corporations or firms are restrained until further order from this Honourable Court or the written consent of EVH from terminating, canceling or otherwise withdrawing any licenses, franchises, dealerships, permits, contracts, leases, approvals or consents or otherwise interfering in any way with the present or future business of EVH;

[31] **ORDER**, for the same period, that the right of any persons, corporations or firms (Including, without limitation, any authority with jurisdiction to levy realty taxes) to commence or continue enforcement, realization or collection proceedings in respect of any encumbrance, tax, lien, security interest, charge, hypothec, legal hypothec, mortgage, guarantee, attornment of rents, hypothecation, pledge or other security held in relation to, or any trust attaching to or deemed to attach to or comprise any of, the property of EVH, including, without limitation, the right of any creditor to take any step in asserting, perfection or registering any right or interest (including, without limitation, any legal hypothec, any right to revendication, rescission, resiliation or any right to repossession or stoppage in transit of any goods supplied or shipped to EVH, whether taken in the Province of Québec or elsewhere, and whether pursuant to the *Bankruptcy and Insolvency Act* or otherwise), is hereby stayed, restrained and suspended;

[32] **ORDER**, for the same period, that the right of any persons, corporations or firms, to assert, enforce or exercise any right, option or remedy available to it, including without limitation, any right of dilution, buy-out, divestiture, pre-emptive right of purchase, option to purchase on default, forced sale, acceleration, termination, suspension, modification, cancellation or right to revoke or terminate any agreement, including, subject to Sections 11.1

and 11.3(b) CCAA, lending arrangements (collectively, "Rights"), where such Rights arise out of, relate to or are triggered by the occurrence of any default or non-performing by EVH thereunder, the making of this Order or filing of these proceedings, or any allegation contained in these proceedings, including, without limitation, the right to make any demand, to sent any notice, to crystallize any security interest, to exercise any, pre-emptive first right, to accelerate any obligation is hereby stayed, restrained and suspended;

[33] **ORDER** that all persons, corporations or firms are restrained from exercising any extra-judicial remedy against EVH or its assets, including, without limitation, any right of distress, revendication or repossession, set-off or consolidation of accounts in relation to any amount due or accruing due in respect of or arising from any indebtedness or obligation of EVH, or from retaining any check and/or money owing to EVH or to which EVH are otherwise entitled, or from retaining any goods, in relation to or by reason of amounts past due to any such person, or customs duties and charges, taxes, freight, insurance, storage or other charges paid on behalf of or owed by EVH prior to the date hereof for which EVH have not reimbursed or paid such person;

RESTRUCTURING

[34] **DECLARE** that EVH may terminate, repudiate, resiliate, cancel, amend or withdraw any agreement and contract of any nature whatsoever, whether verbal or written, upon the sending of a written notice to that effect, subject to the right of said co-contractant to file a proof of claim for damages (should it be entitled to any) under the plan of arrangement to be filed;

[35] **DECLARE** that, subject to the next paragraph and to obtaining 2975483 Canada Inc.'s approval, EVH may sell any and all of its assets;

[36] **DECLARE** that any such sale of assets exceeding \$100,000 shall be conditional upon this Court approval;

[37] **DECLARE** that, with respect to those secured creditors holding conventional hypothecs or security, EVH shall be at liberty, but not obliged, to make the interests payment which, in the sole opinion of EVH, it could afford;

[38] **DECLARE** that, with respect to those secured creditors holding conventional hypothecs or security, EVH shall be at liberty, but not obliged, to remit part of the proceeds which will come from the sale of the assets charged in favor of said secured creditors, which, in the sole opinion of EVH, it could afford;

[39] **ALLOW** for the paying of the salaries accrued and accruing as of the date of this Order, to the employees of EVH in the normal course of business, together with any amount owing in relation to said salary earned, the

whole notwithstanding the order to be rendered. However, this should not include any payment in lieu of salary or any other like payment;

- [40] **DECLARE** that EVH INC. and/or EVH USA may start again, cease, downsize or shut down any of its operations;

DIRECTORS' CHARGE

- [41] **ORDER** that any amount that EVH should pay, as a consequence of a directors' liability, constitute a charge ranking immediately after the Administration Charge (as hereinafter defined) over any and all assets of EVH INC. (the "Directors' Charge") and that neither EVH nor the directors of EVH INC. or EVH U.S.A. shall be required to file, register, record or perfect the Directors' Charge. Such Directors' Charge shall be limited to an aggregate amount of \$1,000,000;

ADMINISTRATION CHARGE

- [42] **ORDER** that the fees and expenses of the Monitor and of any of the professionals or advisors hired or retained by the Monitor or by EVH be paid in priority to any debt and be paid immediately upon presentation of the relevant invoice and documents;
- [43] **ORDER** that the fees and expenses of the Monitor and of any of the professional or advisors hired or retained by the Monitor or by EVH constitute a charge ranking ahead of any of all secured creditors over any or all of the assets of EVH (the "Administration Charge"), and that neither EVH nor the Monitor shall be required to file, register, record or perfect the Administration Charge. Said Administration Charge shall be limited to an aggregate amount of \$1,000,000;

MISCELLANEOUS

- [44] **DECLARE** that the Monitor will not be considered or deemed to be an employer for any purpose whatsoever nor will it have any liability whatsoever in respect to any environmental condition or that arose of environmental damage;
- [45] **DECLARE** that the Monitor will not be deemed nor will be considered as being in a position of constructive control, or in actual control, of any of the assets of EVH;
- [46] **DECLARE** that the Monitor will have no liability whatsoever towards any third party with respect to any of its powers and obligations as Monitor under this order;
- [47] **ORDER** that either EVH, the Monitor or 2975483 Canada Inc., may, from time to time, apply to this Court for advice or instructions, seek the help of this Court or present any motion or petition which is required or appropriate with respect to the present proceedings, the plan of

arrangement, the powers of the company, the dispositions of the CCAA or the rendering of any order that would be useful or appropriate in the circumstances;

[48] **DECLARE** that the fees and expenses owed to Scotia Capital Inc. for the fulfillment of their mandate and duties pursuant to the Agreement R-4, shall be paid to it in the normal course of business, whether any amount may be accruing or owing prior to or after this Order;

[49] **ORDER** that EVH be permitted to indemnify each of its directors and officers with respect to any personal liability they might incur as directors or officers of EVH under all applicable provincial and federal legislation, including taxing statutes and employee legislation and for employee salaries, benefits, vacation pay, etc.;

[50] **ORDER** that, as per section 11.5(1) CCAA, and for a period of thirty (30) days from the rendering of the order, no person may commence or continue any action against a director of EVH or any claim against directors that arose prior to the rendering of this order and that relates to obligations of EVH where said directors could be liable in their capacity as director for the payment of said obligation, until a plan of arrangement is filed, sanctioned by the Court or refused by the creditors or the Court, subject to the exception provided for in section 11.5(2) CCAA;

[51] **CONFIRM** that any document or information in any form whatsoever communicated by EVH to the Monitor, in its capacity as financial advisor to EVH, is confidential and shall not be disclosed or communicated;

[52] **ORDER** that any interested party who wishes to apply to this Court shall give four (4) clear days notice thereof to EVH, EVH's undersigned attorneys, 2975483 Canada Inc., the Monitor and to this Court;

[53] **RECONVENES**, under reserve of the rights of EVH and any other interested party as set forth in this Order, EVH in front of this Court on April 15, 2004, at 9:15 a.m., in room 16.12, to assess the situation and determine if this Initial Order is to be renewed or extended. Any other demand of any other interested party could be presented at the same time.

[54] **ORDER** that EVH or the Monitor, as the case may be, except as otherwise prescribed by this order, may serve this order, the Motion, the notice of the hearing of motion or petition, the plan of arrangement, any notice of meetings of creditors and any other proceeding or document whatsoever, of any nature, on any creditor of EVH or any other interested party, by transmitting a photocopy of the document in question by prepaid mail addressed to the last known address communicated by such creditors or party to EVH, and that such service shall be deemed to be effective on the fourth business day following such mailing;

[55] **ORDER** that these proceedings shall have full force and effect in all of the provinces and territories in Canada;

[56] **DECLARE** that this Court seeks and requests the aid and recognition of any Court or administrative body in any province of Canada, and any Canadian Federal Court or administrative body as well as any Court or administrative body in any of the States of the United States of America and any Federal Court or administrative body of the United States of America, to assist EVH and the Monitor to carry out the terms of this Order;

[57] **ORDER** provisional execution of this Order, notwithstanding any appeal and without the necessity of furnishing any security;

[58] **THE WHOLE**, without costs.

1421. FRANÇOIS ROLLAND, JCS
FRANÇOIS ROLLAND S.C.J.

COPIE CONFORME
<i>Julius Dubois</i>
Officier autorisé

TAB 8

Action No. 0401-05399

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, as amended
AND IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, R.S.A. 2000, c. B-9

AND IN THE MATTER OF
QUESTERRE BEAVER RIVER INC.

BEFORE THE HONOURABLE) AT THE COURT HOUSE, IN THE CITY
JUSTICE S.J. LOVECCHIO) OF CALGARY, IN THE PROVINCE OF
IN CHAMBERS) ALBERTA, ON THURSDAY, THE 1st
) DAY OF APRIL, 2004

ORDER

UPON the ex-parte application of Questerre Beaver River Inc. ("QBR"); AND UPON having read the Petition and the Affidavit of Jackie Cugnet (the "Cugnet Affidavit"), filed; AND UPON being advised that Ernst & Young Inc. has agreed to act as monitor (the "Monitor") of QBR pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended (the "CCAA"); AND UPON hearing the submissions of counsel for QBR;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the Petition be and it is hereby abridged and service thereof upon any interested party is hereby dispensed with.

APPLICATION

2. QBR is a company to which the CCAA applies.

STAY OF PROCEEDINGS

3. Up to and including April 30th, 2004 or such later date as this Honourable Court may by further Order stipulate (the "Stay Termination Date");

(a) any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings or remedies, enforcement processes, the termination, revocation, suspension or cancellation of any permits or licenses affecting QBR, its business, operations, assets or undertaking, or other remedies (collectively, "Proceedings"), commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any of QBR's creditors, customers, clients, suppliers, lessors, (including without limitation, lessors of real property, tenants, co-tenants, governments of any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, whether federal, provincial, state or municipal, in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, limited partners, joint or co-venturers, partners (including limited and general partners) or any other person, firm, corporation or entity (collectively, "Persons" and individually, a "Person") wherever situate or domiciled, against or in respect of QBR or any person who is from and after the date of this Order a director, officer or employee of QBR, or in respect of any present or future property, assets, (including goodwill) and undertakings of QBR of any kind or nature whatsoever, whether real or personal and wherever located (the "Property"), including Proceedings pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (the "BIA"), or otherwise, shall be stayed and suspended;

(b) all Persons having arrangements or agreements, written or oral, with QBR for the supply of goods and/or services by or to QBR, or to any of the Property, including, without limitation, Persons having operating agreements, joint venture agreements, unit agreements, partnership agreements, transportation agreements, marketing agreements, processing agreements, aggregation agreements, delivery agreements or similar arrangements and lessors of real property of any nature or kind whatsoever (including mines and minerals), are hereby, restrained from accelerating, terminating, suspending, modifying or cancelling any such agreements, or any arrangements for the supply of goods and services, and are also hereby restrained from exercising any right of distress, rescission, set-off or consolidation of accounts, other than as permitted by the provisions of s.18.1 of

the CCAA, in relation to any indebtedness or obligation in favour of QBR or from retaining goods, without the prior written consent of QBR and the concurrence of the Monitor hereinafter appointed or leave of this Honourable Court on proper written notice to QBR and the Monitor. Without limiting the generality of the foregoing, all Persons are hereby restrained until further Order of this Honourable Court from discontinuing or interfering with any utility or required services (including telephone, facsimile or other communication services at the present numbers used by QBR in respect of any of the Property), the furnishing of oil, gas, water, heat or electricity, the supply of equipment, computer software, hardware support and electronic, internet access, electronic mail and other data services, so long as QBR pays the normal prices or charges (other than security or other deposits whether by way of cash, letter of credit or guarantee or otherwise, stand-by fees or similar items, which, other than in accordance with the provisions of s.11.3 of the CCAA, QBR shall have no obligation to pay or grant) for such goods and services received after the date of this Order as the same become due and payable in accordance with present payment practices, or as may be hereafter agreed by QBR from time to time, provided that nothing herein shall prohibit any Person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided after the date hereof, and that all such Persons shall continue to perform and observe the terms and conditions contained in any agreements entered into with QBR or in connection with any of the Property, as the case may be, in respect of the supply of any goods and services;

- (c) notwithstanding subparagraph 3(b) hereof, this Order shall not prohibit any party to an "eligible financial contract" (as defined in section 11.1(1) of the CCAA), which contract was entered into before the date of this Order, from terminating, amending or claiming an accelerated payment under such eligible financial contract and setting off the obligations between QBR and such other party in accordance with its provisions, provided that if the "net termination value" (as defined in section 11.1(1) of the CCAA) determined in accordance with the eligible financial contract is owed by QBR to another party to the eligible

financial contract, the other party shall be deemed to be a creditor of QBR with a claim in respect of that net termination value;

- (d) the right of any Person to commence or continue realization in respect of any encumbrance, tax, lien, charge, mortgage, hypothec, prior claim or other security held in relation to, or any trust attaching to, the Property, including the right of any creditor to take any step in asserting or perfecting any right or interest, including, without limitation, any right to repossession of any goods supplied to QBR or to seize before or after judgment whether pursuant to the BIA or otherwise, is hereby restrained, provided however that nothing in this order shall prevent the filing of builders' liens;
- (e) the right of any Person to assert, enforce or exercise any right (including, without limitation, any right of dilution, buy-out, divestiture, repudiation, rescission, forced sale, acceleration, termination, suspension, modification, cancellation or right to revoke any qualifications or registration), option or remedy available to it, including such right, option or remedy arising under or in respect of any agreement, whether written or oral, including, without limitation, any operating agreement, joint venture agreement, unit agreement, partnership agreement, transportation agreement, marketing agreement, processing agreement, aggregation agreement, and any freight, demurrage or terminal contracts or other agreements related to transportation, any services, consulting or management agreement, any co-ownership agreement, any agreement of purchase and sale, and any other agreements to which QBR is a party or is affected thereby, arising out of, relating to or triggered by the occurrence of any default or non-performance by QBR thereunder, the making or filing of these proceedings, or any allegation contained in these proceedings including, without limitation, the making of any demand on any other person, the sending of any notice, the declaration of any default, the right to crystallize any security interest, the right to accelerate the repayment of any outstanding indebtedness and the right to purchase any property from QBR, is hereby restrained;
- (f) the right of all creditors and shareholders of QBR to make demand for payment upon QBR is hereby restrained;

(g) except as permitted by ss. 11.3 and 18.1 of the CCAA, and subject to paragraph 3(b) hereof, any deposit made by QBR with any Person from and after the making of this Order and whether for its own account or for the account of any other entity, shall not be applied by such Person in reduction or repayment of any amount owing as of the date of this Order or which may become due on or before the Stay Termination Date or in satisfaction of any interest, fees, charges or other amounts accruing in respect thereof, and such Person shall have no right of lien, set-off, counterclaim, consolidation, or other right in respect of such deposits, and such deposits shall be remitted to QBR; and

(h) no person shall commence or continue with any proceeding against any person who is from and after the date of this Order a director, officer or employee of QBR (or any entity having similar authority or responsibilities), or any legal counsel or financial advisor to QBR for or in respect of the Restructuring (as hereinafter defined) or the extension and implementation of the Plan (as hereinafter defined), and no Person may commence or continue any Proceedings against any person who is from and after the date of this Order a director of QBR, or any entity having similar authority or responsibilities, in respect of any claim against such director or entity that relates to obligations of QBR where directors may under any law be liable in their capacity as directors for payment of such obligations without first obtaining the leave of this Court, upon ten days' written notice to QBR, the Monitor, and all potential defendants or respondents referred to in this paragraph.

4. Notwithstanding anything else contained herein no creditor of QBR shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to QBR.

5. This Order and the proceedings in this application leading to the granting of this Order, including the content of any affidavit filed in these proceedings, shall not, in and of themselves, constitute or be relied upon in evidence or otherwise as constituting a default or breach by QBR under or pursuant to any agreement (including without limitation any Canadian Association of Petroleum Landmen ("CAPL") operating agreement or other operating or unit agreement or any

joint venture, farmout or partnership agreement), statute, regulation, license, permit, contract, permission, covenant, undertaking or other instrument or requirement.

6. Notwithstanding paragraph 3 of this Order, any Person which, at the request of QBR has provided letters of credit, standby letters of credit or similar instruments of any kind whatsoever (the "Issuing Party"), shall be required to continue honouring any and all such letters of credit, standby letters of credit, or similar instruments on or before the date of this Order. For greater certainty, the Issuing Party shall be prohibited from terminating, suspending, modifying, determining, refusing to honour or cancelling any such letters of credit, standby letters of credit, or similar instrument and the beneficiaries of such letters of credit, standby letters of credit, or similar instruments shall be entitled to draw on such letters of credit, standby letters of credit, or similar instruments as the case may be, in accordance with their respective terms and conditions, without the prior written consent of the Issuing Party and without the leave of this Court, provided however that any Issuing Party who is forced to honour any pre-existing standby letters of credit or similar instruments shall be entitled to set-off against QBR any cash collateral held by such Issuing Party as security for such letter of credit or instrument.

7. From 9:30 a.m. (Calgary time) on the date of this Order any act or action taken or notice given by any of QBR's creditors or other Persons in furtherance of their rights to commence or continue realization or to take or enforce any other step or remedy will be deemed not to have been taken or given, as the case may be, subject to the right of any such Person to further apply to this Court on proper notice to QBR and the Monitor hereinafter appointed in respect of such step, act, action or notice given.

8. In the event that QBR becomes bankrupt or a receiver is appointed in respect of QBR within the meaning of s.243(2) of the BIA, the period between the date of this Order and the day on which such stay of proceedings is ended shall not be counted in determining the 30-day period referred to in s.81.1 of the BIA or the 15-day period referred to in s.81.2 of the BIA, provided that this paragraph shall not be construed to extend the terms of any lease or other agreement that expires during the pendency of such stay of proceedings.

9. Until and including the Stay Termination Date, Her Majesty in Right of Canada may not exercise rights under subsection 224(1.2) of the *Income Tax Act* (Canada) in respect of QBR, where QBR is a tax debtor under that subsection and Her Majesty in Right of a Province may not

exercise rights under provincial legislation substantially similar to that subsection in respect of QBR where QBR is a tax debtor under provincial legislation.

10. The provisions of paragraph 3 of this Order apply in accordance with their terms to stay any and all Proceedings or to restrain any matter provided therein that may be commenced or taken against any Person who is or may be directly or indirectly obligated for any obligations of QBR otherwise than under any letter of credit or any guarantee in respect of any such obligations.

AUTHORIZED PAYMENTS

11. QBR shall be entitled to exercise any rights of set-off and claim any allowances or benefits which it is entitled to claim against amounts payable by QBR to any Person, including, without limitation, amounts payable to any supplier of goods and services or any landlord of premises leased or occupied by QBR and including rights arising in connection with any agreements or arrangements with any joint venture partner, operator or supplier.

12. QBR shall remit, in accordance with legal requirements:

- (a) (i) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof, which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan and income taxes, (ii) amounts accruing and payable by QBR in respect of employment insurance, Canada Pension Plan, workers compensation, employer health taxes and similar obligations with respect to employees, and (iii) all goods and services or other applicable sales taxes payable by QBR or its customers in connection with the sale of goods and services by QBR to such customers arising after the date of this Order;
- (b) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind attributable to or in respect of the carrying on of business by QBR from and after the date hereof, with provision to be made in the Plan (as defined below) for any amounts accrued prior to the date hereof in respect of any of the foregoing; and

- (c) all outstanding and future wages, salaries, employee benefits, vacation pay (for continuing employees in the normal course) and other like amounts due or accruing due to employees and present and future directors and the reimbursement of business expenses properly incurred by employees and present and future directors, and payments to operate and fund payroll accounts (including source deductions) in respect of such employees.

13. From and after the date hereof, subject to compliance with the other provisions of this Order relating to the payment of expenses, QBR shall be entitled but not required, in consultation with the Monitor, to pay all reasonable expenses incurred by it in carrying on its business and carrying out all the provisions of this Order, which expenses, pending any further Order of this Honourable Court, may include, without limitation, payment of:

- (a) the reasonable fees and disbursements of the Monitor (as hereinafter defined and constituted) incurred both prior to and following the making of this Order (which for greater certainty shall include the fees and disbursements of the Monitor incurred in relation to QBR prior to its appointment as the Monitor), including the reasonable fees and disbursements, if any, on a solicitor and client basis, of any counsel retained by the Monitor;
- (b) the reasonable fees and disbursements incurred both prior to and following the making of this Order, on a solicitor and client basis, of insolvency, litigation and corporate counsel retained by QBR in respect of these proceedings and the Plan or other matters affecting the business and operations of QBR, and the reasonable fees and disbursements of the Monitor in its capacity as financial advisor to QBR, incurred both prior to and following the making of this Order in respect of these proceedings and the Plan;
- (c) all outstanding and future wages, salaries, employee benefits, vacation pay (for continuing employees in the normal course), statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof which were required to be deducted from employees' wages, including without limitation, amounts in respect of employment insurance, Canada Pension Plan, income taxes, and other like amounts due or accruing due to employees and present and future directors and the reimbursement of business expenses properly incurred by

employees and present and future directors, and payments to operate and fund the payroll accounts (including source deductions) in respect of such employees;

- (d) all payments, expenses and capital expenditures, whether incurred before or after the making of this Order, reasonably necessary for the economic preservation of the Property or QBR's business including, without limitation, payments in respect or on account of leases or interests in real property of any nature or kind, insurance, safety, security, chattel leases (capital or otherwise), and all other expenses and capital expenditures provided that any such expenditures which materially exceed amounts disclosed in the cash flow statement attached as Exhibit "A" to the Cugnet Affidavi shall be made only with the consent of the Monitor;
- (e) all outstanding and future premiums on directors' and officers' liability insurance including, without limitation, any additional premium related to the extension of reporting periods thereof;
- (f) normal principal and interest payments due in respect of the amounts secured by the security held by the Business Development Bank of Canada (the "Bank Security");
- (g) any amounts secured by the Administration Charge or the Post Petition Trade Creditors' Charge (as hereinafter defined and constituted); and
- (h) any other amount specifically provided for by the terms of this Order.

OPERATIONS AND RESTRUCTURING

14. Subject to the terms of this Order, QBR shall remain in possession and control of the Property and shall (except as herein otherwise contemplated) continue to carry on business in a manner consistent with the preservation of QBR's business and Property, and shall be authorized and empowered to continue to retain and engage the agents, accountants, financial advisors, servants, solicitors and consultants currently engaged and paid by QBR, with liberty to retain such further or other Persons, with the consent of the Monitor, as it deems reasonably necessary or desirable in the ordinary course of business or for the purpose of the Plan (as hereinafter defined), the Restructuring (as hereinafter defined) or the carrying out of the terms of this Order.

15. In order to facilitate or permit QBR to proceed with an orderly restructuring of its business, property and affairs (the "Restructuring"), QBR shall have the right to:

- (a) cease, downsize or shut down any of its operations or locations and to make provision for any consequences thereof in the Plan (as hereinafter defined), either with the consent of the Monitor or further Order of this Court;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate and, to the extent not paid in the ordinary course or pursuant to paragraph 13(c) hereof, to make provision for any consequences thereof in the Plan (as hereinafter defined);
- (c) make capital expenditures if necessary to preserve the value of the Property, provided that any such expenditures which materially exceed the amounts disclosed in the cash flow statement attached as Exhibit "A" to the Cugnet Affidavit shall be made only with the consent of the Monitor;
- (d) proceed with an orderly disposition of such of the Property as QBR may deem appropriate, provided that any sale of any real or personal property outside the ordinary course of business and not permitted by existing security agreements shall require the concurrence of the Monitor or the approval of the Court, and in any event approval of the Court shall be required for any sale of assets (not including petroleum or natural gas produced and sold in the ordinary course of QBR's business) for a consideration exceeding \$100,000; and
- (e) terminate such of its arrangements or agreements of any nature whatsoever, including without limitation contracts for the purchase or sale of commodities, hedging agreements, transportation agreements, leases of real estate, chattel leases or financing arrangements, transportation agreements, and service agreements as QBR deems appropriate and to make provision for any consequences thereof in the Plan (as hereinafter defined).

16. In order to facilitate or permit the Restructuring, QBR shall be permitted to carry on its business in the manner and to the extent determined by it, to dispose of any or all of its inventory and other assets, in the ordinary course of business, all subject to the other provisions hereof,

wherever situate, and, for greater certainty, subject to the other provisions of this Order, QBR shall have the right to realize upon its assets in such manner as QBR deems suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom, provided that QBR shall not enter into any contract or arrangement for the forward sale or hedging of its production or any agreement for the sale of production at below market rates without the approval of the Monitor, or further order of this Court.

DIRECTORS' INDEMNITY

17. QBR shall and does hereby indemnify any person who is from and after the date of this Order a director, officer or employee of QBR (or any entity having similar authority or responsibilities), their legal counsel and their financial advisors of and from all claims, liabilities and obligations of any nature whatsoever, including, without limitation, legal fees and disbursements on a solicitor and client basis, which may arise out of their involvement with QBR, the Restructuring or the Plan, from and after the date hereof in the above-mentioned capacities save and except as may arise from wilful misconduct or gross negligence on the part of any of them.

POWER TO BORROW AND CHARGING OF PROPERTY

18. QBR shall deposit, or cause to be deposited, all cash, cheques, notes, drafts, electronic funds remittances or other similar items of payment ("Remittances") into the bank accounts maintained by QBR with the Royal Bank of Canada (the "Bank") (the "Accounts"). The Bank will remit such Remittances consistent with past practice.

19. Except as otherwise allowed herein, QBR shall not borrow any money from or grant any mortgage, charge, security interest, hypothec, lien or other encumbrance over, any of its present or future Property to any Person without the prior written consent of the Monitor.

20. The security and charges granted in respect of the Administration Charge and the Post Petition Trade Creditor's Charge shall be deemed to be valid and effective notwithstanding any negative covenant, prohibition or any other provision with respect to incurring debt or the creation of liens or security contained in any existing agreement between QBR and other parties, including without limitation those contained in the existing credit or security agreements, if any, between QBR and the Bank or Questerre, and that, notwithstanding any provision to the contrary in any such agreements, neither the creation of the Administration Charge or the Post Petition

Trade Creditors' Charge or the execution, delivery, perfection or registration of any document or interest in respect thereof shall create or be deemed to constitute a breach by QBR of any agreement to which they are a party, and QBR shall have no liability to any Person whatsoever as a result of any breach of any agreement caused by or resulting from QBR doing any act in connection with the creation, implementation or operation of the Administration Charge or the Post Petition Creditors' Charge or the execution and delivery of documents in relation thereto.

PAYMENT OF CREDITORS

21. Obligations incurred by QBR to trade creditors for the supply of goods and/or services after the date of the making of this Order ("Post-Petition Trade Creditors") shall be paid in accordance with their terms of credit. Amounts accruing in relation to any matter arising prior to the date of this Order, including charges the use, maintenance, or depreciation of chattels, or which are payable for or in respect of the termination of arrangements or agreements of any nature whatsoever, including without limitation terminations of leases of real estate, chattel leases, financing arrangements, transportation agreements, and service agreements, which cause damages or the acceleration of payments or other amounts not related to the day-to-day provision of goods and services to become payable, and claims incurred after the date of the making of this Order which have the benefit of some other security or priority which would survive a bankruptcy shall not be considered to be claims of Post Petition Trade Creditors for the purposes of this Order. For greater clarity, in the event a party has a claim in respect of goods and/or services supplied over a period beginning before the date of the making of this Order, and continuing to or after the date of this Order, such creditor is a Post-Petition Trade Creditor only for the portion of such claim which relates to goods and/or services supplied on or after the date of this Order. Further, no creditor is a Post-Petition Trade Creditor for goods and/or services supplied before the date of this order solely because payment for such goods and/or services was due on or after the date of this Order, nor is a creditor a Post-Petition Trade Creditor for claims arising out of the termination or breach on or after the date of this Order of any pre-existing agreement, contract, lease, or other arrangement of whatever kind, between such creditor and QBR.

22. Post-Petition Trade Creditors shall be entitled to the benefit of and are hereby granted a charge to a maximum amount of \$250,000 (the "Post-Petition Trade Creditors' Charge") against, and a security interest in, the Property, as security for indebtedness incurred by them from the

date of the making of this Order up to the Stay Termination Date. The Post-Petition Trade Creditors' Charge shall rank subsequent in priority to the Administrative Charge and the Bank Security. In the event that claims of Post-Petition Trade Creditors shall exceed the amount of the Post-Petition Trade Creditors' Charge, such claims shall share in the benefit of the Post-Petition Trade Creditors Charge pro rata. A Post-Petition Trade Creditor's claim for interest (if any) shall not, however, be secured by the Post-Petition Trade Creditor's Charge.

23. Except as expressly permitted by the provision of this Order, QBR is hereby directed, until further Order by this Court:

- (a) to make no payments, whether of principal, interest thereon or otherwise, on account of amounts owing by QBR to any of its creditors as of this date; and
- (b) to grant no mortgages, charges or other security upon or in respect of any of its present or future Property except as authorized by further Order of this Court.

24. The charges created pursuant to this Order shall rank, as among themselves, as follows:

- (a) firstly, the Administrative Charge;
- (b) secondly, the Bank Security; and
- (c) thirdly, the Post-Petition Trade Creditors' Charge.

PLAN OF ARRANGEMENT

25. QBR is hereby exclusively authorized and permitted to file with this Court a formal plan of compromise or arrangement under the CCAA (the "Plan") on a date to be set upon further application to this Honourable Court and on terms to be set directing the process for service of the Plan on creditors and other parties, the timing of meetings and the classes of creditors called upon to vote upon the Plan in accordance with the directions of this Honourable Court.

THE MONITOR

26. Until further Order of this Court, the Monitor shall be and it is hereby appointed as an officer of this Court to monitor the business and affairs of QBR with the powers and obligations hereafter set forth (the "Monitor") and QBR and its shareholders, officers, directors, employees, servants, agents, financial advisors and representatives shall cooperate fully with the Monitor in

the exercise of their powers and discharge of its obligations. Without limiting the generality of the foregoing, the foregoing persons shall provide the Monitor with such access to QBR's books, records, assets and premises as the Monitor requires to exercise its powers and perform its obligations under this Order.

27. The Monitor shall:

- (a) assist, as applicable, in the development of the Plan and any amendments to and the implementation of the Plan;
- (b) be entitled to receive such information as the Monitor considers relevant for purposes of monitoring QBR's business and affairs including the following information, on an ongoing basis satisfactory to the Monitor:
 - (i) summaries of QBR's cash receipts, cash disbursements, expenses, short term investments and bank balances;
 - (ii) projected cash flow information; and
 - (iii) any and all other information which the Monitor considers relevant at such times as the Monitor considers appropriate;
- (c) review and approve operating budgets, forecasts and margin reports;
- (d) report to the Court if it believes that there has been an adverse change in QBR's projected cash flow or financial circumstances subsequent to the date of this Order, or if it believes that QBR has not complied with this order in any material fashion;
- (e) assist QBR, as applicable, with the holding and administering of any meetings for voting on the Plan and shall act as chair at any such meeting;
- (f) inquire into and report to creditors, at or prior to any meeting to consider the Plan, upon the financial condition and prospects of QBR;
- (g) be at liberty to engage legal counsel and engage such other agents as the Monitor deems necessary respecting the exercise of its powers and performance of its obligations under this Order;

(h) report to this Court as the Monitor deems appropriate or as this Court directs, in respect of the Plan, the Restructuring or the business of QBR or in respect of such other matters as may be relevant to the proceedings herein, and in any event shall produce its first report on or before April 30th, 2004;

(i) perform such other duties as are required by this Order or further Order of this Court.

28. The Monitor is authorized but not obligated to provide all interested parties, including but not limited to the affected creditors, with its report or assessment on the Plan. The Monitor shall incur no liability as a result of any report or assessment that it may make pursuant to this provision.

29. In response to any reasonable request for non-confidential information made in writing by any of QBR's creditors addressed to the Monitor, the Monitor shall provide such creditor with the information requested. In the case of information which the Monitor has been advised by QBR is confidential, the Monitor shall not provide such information to the requesting creditor unless otherwise directed by this Court.

30. The Monitor is not empowered to take possession of any of the Property or to manage any of QBR's business or affairs and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Property, or any part thereof.

31. The reasonable fees and disbursements of the Monitor (including the reasonable solicitor and client fees and disbursements of any counsel retained by the Monitor), the reasonable solicitor and client fees and disbursements of QBR's counsel in these proceedings, and the reasonable fees and disbursements of QBR's financial advisors, if any, shall be paid by QBR as part of the costs of these proceedings, the Plan and the Restructuring and QBR is hereby authorized to pay the accounts of the Monitor, QBR's counsel, QBR's financial advisors, if any, and any counsel for the Monitor on a weekly basis. In addition, QBR is hereby authorized to pay counsel to QBR and QBR's financial advisors, if any, their existing retainers to be held by them as security for payment of their fees and disbursements outstanding from time to time (including with respect to this Petition), subject to any final assessment or taxation as may be ordered by this Court, in which case the remuneration of the Monitor and QBR's financial advisor shall be

taxed on the basis of a chartered accountant and its own client and the legal costs of the Monitor's and/or QBR's counsel shall be taxed on the basis of a solicitor and its own client.

32. The Monitor, counsel to the Monitor, if any, and QBR's counsel, as security for their reasonable professional fees and disbursements incurred both before and after the making of this Order in respect of these proceedings, the Plan and the Restructuring in accordance with the provisions of this Order shall be entitled to the benefits of and are hereby granted a charge in an amount not to exceed \$250,000 against all of QBR's present and future Property (the "Administration Charge").

33. Where the Monitor acts in good faith and takes reasonable care in preparing any report required by this Order, the Monitor is not liable for loss or damage to any Person resulting from that Person's reliance on the report.

34. The Monitor shall not be liable for any other act or omission as a result of its appointment or the fulfillment of its duties in the carrying out of the provisions of this Order, save and except for gross negligence or willful misconduct on its part, or for any debt incurred by QBR whether before or after the date of this Order.

35. No action, application or other proceeding shall be taken, made or continued against the Monitor without the leave of this Court first being obtained, on written notice to QBR and the Monitor.

36. The appointment of the Monitor shall not disqualify it from being appointed trustee in bankruptcy and/or receiver and manager of QBR by this Court, should it consent to such appointment.

37. The appointment of the Monitor shall not constitute the Monitor as an employer, successor employer, sponsor, or payor with respect to QBR under any collective agreement or other contract between QBR and any of its present or former employees, or within the meaning of any legislation governing employment or labour standards or in respect of pensions or benefits or any other statute, regulation or rule of law or equity for any purpose whatsoever and, further, that the Monitor shall not be deemed to be an owner or in possession, control or management of the Property or of the business and affairs of QBR whether pursuant to any legislation enacted for the protection of the environment, the transportation of hazardous goods, health and safety or

any other statute or regulation of any federal, provincial or other jurisdiction or under any rule of law or equity for any purpose whatsoever.

GENERAL TERMS

38. QBR shall be at liberty to:

- (a) serve this Order, any other orders in these proceedings, all other proceedings, the Plan, any notices or meetings and all other notices, and to deliver any letters to creditors, information circulars, proofs of claim, proxies and disallowances of claims, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the fourth business day after mailing;
 - (b) with the concurrence of the Monitor, take such proceedings under the BIA as QBR at any time deems appropriate;
 - (c) with the concurrence of the Monitor, consent to the appointment of a receiver and/or receiver and manager of any of the Property otherwise protected by this Order, at any time; and
 - (d) register this Order against title to any of its Property.
39. Notwithstanding any other provision of this Order, QBR may apply at any time to this Court to seek any further relief, and any interested Person may apply to this Court to vary or rescind this Order or seek other relief on two (2) days' written notice to the Monitor, Questerre and to any other Person likely to be affected by the Order sought or on such other notice, if any, as this Court may order.
40. QBR or the Monitor may, from time to time apply to this Court for directions in the discharge of the Monitor's powers and duties hereunder or in respect of the proper execution of this Order, on notice only to QBR and the Monitor, as the case may be.

41. This Order and any other Orders in these proceedings shall have full force and effect in all provinces and territories in Canada and abroad and as against all Persons whom it may otherwise be enforceable.

42. This Honourable Court requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to s.17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

43. For the purposes of seeking the aid and recognition of any court or any judicial, regulatory or administrative body outside of Canada, the Monitor shall act and be deemed to be the foreign representative of QBR.

"S. J. Lovelock"
J.C.C.Q.B.A.

ENTERED THIS 1st DAY
OF April, 2004

KEVIN BOSCHKA



Clerk of the Court

Action No.: 0401-053399

2004

IN THE COURT OF QUEEN'S
BENCH OF ALBERTA
JUDICIAL DISTRICT OF
CALGARY

IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, as amended
AND IN THE MATTER OF THE *BUSINESS
CORPORATIONS ACT*, R.S.A. 2000, c. B-9
AND IN THE MATTER OF
QUESTERRE BEAVER RIVER INC.

ORDER

BORDEN LADNER GERVAIS LLP
Barristers and Solicitors
1000 Canterra Tower
400 Third Avenue S.W.
Calgary, Alberta T2P 4H2

Attention: PATRICK T. MCCARTHY Q.C.
Telephone: (403) 232-9441
Fax: (403) 266-1395
File No. 425598-000009

CLERK OF THE COURT
APR - 1 2004
CALGARY, ALBERTA

TAB 9

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-11-025198-058

DATE: March 11, 2005

**IN THE PRESENCE OF: THE HONOURABLE FRANÇOIS ROLLAND,
CHIEF JUSTICE**

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

JETSGO CORPORATION, a legal person duly constituted under the *Canada Business Corporations Act*, having its head office and principal place of business at 7800 Côte de Liesse, in the city and district of Montreal, Province of Quebec, H4T 1G1;

Petitioner

and

RSM RICHTER INC., a legal person duly constituted under the laws of Quebec, having its principal place of business at 2 Place Alexis-Nihon, in the city and district of Montreal, Province of Quebec, H3Z 3C2;

Monitor

INITIAL ORDER

SEEING Jetsgo Corporation's petition for an initial order pursuant to Sections 4, 5 and 11 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") the exhibits, and the affidavit of Mr. Michel Leblanc filed in support thereof (the "Petition"), the consent of RSM Richter Inc. to act as monitor (the "Monitor") and the submissions of counsel for Jetsgo Corporation;

GIVEN the provisions of the CCAA;

WHEREFORE, THE COURT:

1. GRANTS the Petition.
2. ISSUES an order pursuant to Sections 4, 5 and 11 of the CCAA (the "Order"), divided under the following headings:
 - Service
 - Application of the CCAA
 - Effective Time
 - Plan of Arrangement
 - Stay of Proceedings against the Petitioner, the Property, the Directors or others
 - Possession of Property and Carrying on Business
 - Restructuring
 - Directors Indemnification and Charge
 - Powers of the Monitor
 - Priorities and General Provisions Relating to CCAA Charges
 - General

Service

3. EXEMPTS Jetsgo Corporation (the "Petitioner") from having to serve the Petition and from any notice of presentation.

Application of the CCAA

4. DECLARES that Petitioner is a debtor company to which the CCAA applies.

Effective time

5. DECLARES that from immediately after midnight (Montreal time) on the day prior to the Order (the "Effective Time") to the time of the granting of the Order, any act or action taken or notice given by any Person in respect of Petitioner, the Directors or the Property (as those terms are defined hereinafter), are deemed not to have been taken or given, as the case may be, to the extent such act, action or notice would otherwise be stayed after the granting of the Order.

Plan of Arrangement

6. ORDERS that Petitioner shall file with this Court and submit to its creditors one or more plans of compromise or arrangement under the CCAA (collectively, the "Plan") between, among others, Petitioner and one or more classes of its creditors as Petitioner may deem appropriate, on or before the Stay Termination Date (as defined hereinafter) or such other time or times as may be allowed by this Court.

Stay of Proceedings against the Petitioner, the Property, the Directors or others

7. ORDERS that, until and including April 11, 2005, or such later date as the Court may order (the "Stay Termination Date", the period from the date of the Order to the Stay Termination Date being referred to as the "Stay Period"), no right, legal, statutory or conventional, may be exercised and no proceeding, at law or under a contract, by reason

of this Order or otherwise, however and wherever taken, including the right to seize or detain aircraft, related parts, ground equipment and/or other related equipment (collectively the "Proceedings") may be commenced or proceeded with by anyone, whether a person, firm, partnership, trade union, corporation, stock exchange, government, administration or entity exercising executive, legislative, judicial, regulatory or administrative functions including Office of the Superintendent of Financial Institutions, NAV Canada, airport or air navigation authorities (collectively, "Persons" and, individually, a "Person") against or in respect of Petitioner, or any of the present or future property, assets, rights and undertakings of Petitioner, of any nature and in any location, whether held directly or indirectly by Petitioner, in any capacity whatsoever, or held by others for Petitioner (collectively, the "Property"), and all Proceedings already commenced against Petitioner or any of the Property, are stayed and suspended until the Court authorizes the continuation thereof, the whole subject to the provisions of the CCAA.

8. ORDERS that, without limiting the generality of the foregoing, during the Stay Period, all Persons having agreements, contracts or arrangements with Petitioner or in connection with any of the Property, whether written or oral, for any subject or purpose:
- (a) are restrained from accelerating, terminating, cancelling, suspending, refusing to modify or extend on reasonable terms such agreements, contracts or arrangements or the rights of Petitioner or any other Person thereunder;
 - (b) are restrained from modifying, suspending or otherwise interfering with the supply of any goods, services, or other benefits by or to such Person thereunder (including, without limitation, any directors' and officers' insurance, any telephone numbers, any form of telecommunications service, any oil, gas, electricity or other utility supply); and

(c) shall continue to perform and observe the terms and conditions contained in such agreements, contracts or arrangements, so long as Petitioner pays the prices or charges for such goods and services received after the date of the Order as such prices or charges become due in accordance with the law or as may be hereafter negotiated (other than deposits whether by way of cash, letter of credit or guarantee, stand-by fees or similar items which Petitioner shall not be required to pay or grant), unless the prior written consent of Petitioner and the Monitor is obtained or the leave of this Court is granted;

9. ORDERS that, without limiting the generality of the foregoing and subject to Section 18.1 of the CCAA, if applicable, cash or cash equivalents placed on deposit by Petitioner with any Person during the Stay Period, whether in an operating account or otherwise for itself or for another entity, shall not be applied by such Person in reduction or repayment of amounts owing to such Person as of the date of the Order or due on or before the expiry of the Stay Period or in satisfaction of any interest or charges accruing in respect thereof; however, this provision shall not prevent any financial institution from: (i) reimbursing itself for the amount of any cheques drawn by Petitioner and properly honoured by such institution, or (ii) holding the amount of any cheques or other instruments deposited into Petitioner's account until those cheques or other instruments have been honoured by the financial institution on which they have been drawn.

10. ORDERS that, notwithstanding the foregoing, any Person who provided any kind of letter of credit, bond or guarantee (the "Issuing Party") at the request of Petitioner shall be required to continue honouring any and all such letters, bonds and guarantees, issued on or before the date of the Order; however, the Issuing Party shall be entitled, where applicable, to retain the bills of lading or shipping or other documents relating thereto until paid therefore.

11. DECLARES that, to the extent any rights, obligations, or time or limitation periods, including, without limitation, to file grievances, relating to Petitioner or any of the

Property may expire, other than the term of any lease of real property, the term of such rights or obligations, or time or limitation periods shall hereby be deemed to be extended by a period equal to the Stay Period. Without limitation to the foregoing, in the event that Petitioner becomes bankrupt or a receiver within the meaning of paragraph 243(2) of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") is appointed in respect of Petitioner, the period between the date of the Order and the day on which the Stay Period ends shall not be calculated in respect of Petitioner in determining the 30-day periods referred to in Sections 81.1 and 81.2 of the BIA.

12. ORDERS that no Person may commence, proceed with or enforce any Proceedings against any former, present or future director or officer of Petitioner or any person that, by applicable legislation, is treated as a director of Petitioner or that will manage in the future the business and affairs of Petitioner (each, a "Director", and collectively the "Directors") in respect of any claim against such Director that arose before this Order was issued and that relates to obligations of Petitioner for which such Director is or is alleged to be liable (as provided under Section 5.1 of the CCAA) until further order of this Court or until the Plan, if one is filed, is refused by the creditors or is not sanctioned by the Court.

13. ORDERS that no Person shall commence, proceed with or enforce any Proceedings against any of the Directors, officers, employees, legal counsel or financial advisers of Petitioner, or the Monitor, for or in respect of the Restructuring (as defined hereinafter) or the formulation and implementation of the Plan without first obtaining leave of this Court, upon seven days written notice to Petitioner's *ad litem* counsel and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.

13.1
ORDERS that the Petitioner is authorized to conduct a review of its aircraft leases, with the assistance of the Monitor, to determine which leases are true operating leases and which are financing leases, and to request that its aircraft lessors agree to a 60-day payment moratorium prior to the due date of a lease payment, and with respect to any lessor who

refuses to agree to such moratorium, either return such aircraft to the lessor or to make such payment to the lessor as this Court may direct in order to retain the aircraft for such period of time as is necessary to obtain a replacement.

Possession of Property and Carrying on Business

14. ORDERS that, subject to the terms of the Order, Petitioner shall remain in possession of the Property until further order in these proceedings.

15. ORDERS that Petitioner may continue to carry on its business and financial affairs in a manner consistent with the commercially reasonable preservation thereof.

Restructuring

16. DECLARES that, to facilitate the orderly restructuring of its business and financial affairs (the "Restructuring"), Petitioner shall have the right, subject to approval of the Monitor or further order of the Court, to:

- (a) permanently or temporarily cease, downsize or shut down any or all of its operations or locations as it deems appropriate and make provision for the consequences thereof in the Plan;
- (b) pursue all avenues to market and sell, subject to subparagraph (c), the Property, in whole or part;
- (c) convey, transfer, assign, lease, or in any other manner dispose of the Property, in whole or in part, provided that the price in each case does not exceed \$ 500,000 or \$ 1,000,000 in the aggregate;
- (d) terminate the employment of such of its employees or temporarily or permanently lay off such of its employees as it deems appropriate and, to the extent any amounts in lieu of notice, termination or severance pay or other

amounts in respect thereof are not paid in accordance with this Order, make provision for any consequences thereof in the Plan, as Petitioner may determine;

(e) subject to paragraphs 18 and 19 hereof, vacate or abandon any leased real property or repudiate any lease and ancillary agreements related to any leased premises as it deems appropriate, provided that Petitioner gives the relevant landlord at least seven days prior written notice, on such terms as may be agreed between Petitioner and such landlord, or failing such agreement, to make provision for any consequences thereof in the Plan; and

(f) repudiate such of its agreements, contracts or arrangements of any nature whatsoever, whether oral or written, as it deems appropriate, on such terms as may be agreed between Petitioner and the relevant party, or failing such agreement, to make provision for the consequences thereof in the Plan and to negotiate any amended or new agreements or arrangements; and

(g) refund deposits received on March 10, 2005, against services to be rendered at a later date;

R

16.1

AUTHORIZES Petitioner to pay, with the consent of the Monitor, and if deemed necessary by the Monitor, obtain Court approval concerning same, to its employees all wages owing in consideration of services rendered up until the date of this Order, and all wages and other amounts to which an employee is entitled under Part III of the *Canada Labour Code*, R.S.C. 1985, c. L-2, for which Directors may be held personally liable;

17. DECLARES that, in order to facilitate the Restructuring, Petitioner may, subject to approval of the Monitor:

(a) settle claims of customers and suppliers that are in dispute; and

- (b) establish a plan for the retention of key employees and the making of retention payments or bonuses in connection therewith, and if deemed necessary by the Monitor, obtain Court approval concerning same.
18. DECLARES that, if leased premises are vacated or abandoned by Petitioner pursuant to subparagraph 16(e) the landlord may take possession of any such leased premises without waiver of, or prejudice to, any claims or rights of the landlord against Petitioner, provided the landlord mitigates its damages, if any, and re-leases any such leased premises to third parties on such terms as any such landlord may determine.
19. ORDERS THAT Petitioner shall provide to any relevant landlord notice of Petitioner's intention to remove any fixtures or leasehold improvements at least seven days in advance. If Petitioner has already vacated the leased premises, it shall not be considered to be in occupation of such location pending the resolution of any dispute.
20. DECLARES that, pursuant to sub-paragraph 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, Petitioner is permitted, in the course of these proceedings, to disclose personal information of identifiable individuals in its possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to its advisers (individually, a "Third Party"), but only to the extent desirable or required to negotiate and complete the Restructuring or the preparation and implementation of the Plan or a transaction for that purpose, provided that the Persons to whom such personal information is disclosed enter into confidentiality agreements with Petitioner binding them to maintain and protect the privacy of such information and to limit the use of such information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to Petitioner or destroyed. In the event that a Third Party acquires personal information as part of the Restructuring or the preparation and implementation of the Plan or a transaction in furtherance thereof, such Third Party may continue to use

the personal information in a manner which is in all respects identical to the prior use thereof by Petitioner.

Directors Indemnification and Charge

21. ORDERS that, in addition to any existing indemnities, Petitioner shall indemnify each of the Directors from and against the following (collectively, "D&O Claims"):

- (a) all costs (including, without limitation, full defence costs), charges, expenses, claims, liabilities and obligations, of any nature whatsoever, which may arise on or after the date of the Order or as a result of the cessation of operations (including, without limitation, an amount paid to settle an action or a judgment in a civil, criminal, administrative or investigative action or proceeding to which a Director may be made a party), provided that any such liability relates to such Director in that capacity, and, provided that such Director (i) acted honestly and in good faith in the best interests of Petitioner and (ii) in the case of a criminal or administrative action or proceeding in which such Director would be liable to a monetary penalty, such Director had reasonable grounds for believing his or her conduct was lawful, except if such Director has actively breached any fiduciary duties or has been grossly negligent or guilty of wilful misconduct; and
- (b) all costs, charges, expenses, claims, liabilities and obligations relating to the failure of Petitioner to make any payments or to pay amounts in respect of employee or former employee entitlements to wages, vacation pay, termination pay, severance pay, pension or other benefits, or any other amount for services performed on or after the date of the Order and that such Directors sustain, by reason of their association with Petitioner as a Director, except to the extent that they have actively breached any fiduciary duties or have been grossly negligent or guilty of wilful misconduct.

The foregoing shall not constitute a contract of insurance or other valid and collectible insurance, as such term may be used in any existing policy of insurance issued in favour of Petitioner or any of the Directors.

22. DECLARES that, as security for the obligation of Petitioner to indemnify the Directors pursuant to paragraph 21 hereof, the Directors are hereby granted a hypothec on, mortgage of, lien on and security interest in the Property to the extent of the aggregate amount of \$ 5,000,000.00 (the "**D&O Charge**"), having the priority established by paragraphs 30 and 31 hereof. Such D&O Charge shall not constitute or form a trust. Such D&O Charge, notwithstanding any language in any applicable policy of insurance to the contrary, shall only apply to the extent that the Directors do not have coverage under any directors' and officers' insurance, which shall not be excess insurance to the D&O Charge. In respect of any D&O Claim against any of the Directors (collectively, the "**Respondent Directors**"), if such Respondent Directors do not receive confirmation from the applicable insurer within 21 days of delivery of notice of the D&O Claim to the applicable insurer, confirming that the applicable insurer will provide coverage for and indemnify the Respondent Directors, then, without prejudice to the subrogation rights hereinafter referred to, Petitioner shall pay the amount of the D&O Claim upon expiry. Failing such payment, the Respondent Directors may enforce the D&O Charge provided that the Respondent Directors shall reimburse Petitioner to the extent that they subsequently receive insurance benefits for the D&O Claim paid by Petitioner, and provided further that Petitioner shall, upon payment, be subrogated to the rights of the Respondent Directors to recover payment from the applicable insurer as if no such payment had been made.

Powers of the Monitor

23. ORDERS that RSM Richter Inc. is hereby appointed to monitor the business and financial affairs of Petitioner as an officer of this Court (the "**Monitor**") and that the

Monitor shall, in addition to the duties and functions referred to in Section 11.7 of the

CCAA:

- (a) send notice of the Order, within 10 days, to every known creditor of Petitioner having a claim of more than \$5,000 against it, advising that such creditor may obtain a copy of the Order on the internet at the website of the Monitor (the "Website") or, failing that, from the Monitor and the Monitor shall so provide it. Such notice shall be sufficient in accordance with Subsection 11(5) of the CCAA;
- (b) assist Petitioner, to the extent required by Petitioner, in dealing with its creditors and other interested Persons during the Stay Period;
- (c) assist Petitioner, to the extent required by Petitioner, with the preparation of its cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;
- (d) advise and assist Petitioner, to the extent required by Petitioner, to review Petitioner's business and assess opportunities for cost reduction, revenue enhancement and operating efficiencies;
- (e) assist Petitioner in taking physical inventories of assets and updating the related documentation, if deemed necessary by the Monitor;
- (f) assist Petitioner, to the extent required by Petitioner, with the Restructuring and in its negotiations with its creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;
- (g) at his discretion and if deemed necessary by the Monitor, to obtain appraisals and valuations of all or part of the Property;

- (h) report to the Court on the state of the business and financial affairs of Petitioner or developments in these proceedings or any related proceedings within the time limits set forth in the CCAA and at such time as considered appropriate by the Monitor or as the Court may order;
- (i) report to this Court and interested parties, including but not limited to creditors affected by the Plan, with respect to the Monitor's assessment of, and recommendations with respect to, the Plan;
- (j) retain and employ such agents, advisers and other assistants as are reasonably necessary for the purpose of carrying out the terms of the Order, including, without limitation, one or more entities related to or affiliated with the Monitor;
- (k) engage legal counsel to the extent the Monitor considers necessary in connection with the exercise of its powers or the discharge of its obligations in these proceedings and any related proceeding, under the Order or under the CCAA;
- (l) may act as a "foreign representative" of Petitioner in any proceedings outside of Canada;
- (m) may give any consent or approval as are contemplated by the Order;
- (n) perform such other duties as are required by the Order, the CCAA or this Court from time to time; and
- (o) if deemed necessary by the Monitor, take all necessary steps to implement the terms of this Order, including issuing letters guaranteeing payment of post-filing obligations incurred by the Petitioner and any such amount shall form part of the Administration Charge as defined herein.

The Monitor shall not otherwise interfere with the business and financial affairs carried on by Petitioner, and the Monitor is not empowered to take possession of the Property nor to manage any of the business and financial affairs of Petitioner.

24. ORDERS that Petitioner and its director, officers, employees and agents, accountants, auditors and all other Persons having notice of the Order shall forthwith provide the Monitor with unrestricted access to all of the Property, including, without limitation, the premises, books, records, data, including data in electronic form, and all other documents of Petitioner in connection with the Monitor's duties and responsibilities hereunder.

25. DECLARES that the Monitor may provide creditors and other relevant stakeholders of Petitioner with information in response to requests made by them in writing addressed to the Monitor and copied to Petitioner's counsel. The Monitor shall not have any duties or liabilities in respect of such information disseminated by it pursuant to the provisions of the Order or the CCAA, other than as provided in paragraph 27 hereof. In the case of information that the Monitor has been advised by Petitioner is confidential, proprietary or competitive, the Monitor shall not provide such information to any Person without the consent of Petitioner unless otherwise directed by this Court.

26. DECLARES that the Monitor shall not be, nor be deemed to be, an employer or a successor employer of the employees of Petitioner or a related employer in respect of Petitioner within the meaning of any federal, provincial or municipal legislation governing employment, labour relations, pay equity, employment equity, human rights, health and safety or pensions or any other statute, regulation or rule of law or equity for any similar purpose and, further, that the Monitor shall not be, nor be deemed to be, in occupation, possession, charge, management or control of the Property or business and financial affairs of Petitioner pursuant to any federal, provincial or municipal legislation, statute, regulation or rule of law or equity which imposes liability on the basis of such status, including, without limitation, the *Environment Quality Act* (Quebec), the

Canadian Environmental Protection Act, 1999 or the *Act Respecting Occupational Health and Safety* (Quebec) or similar other federal or provincial legislation.

27. DECLARES that, in addition to the rights and protections afforded to the Monitor by the CCAA, the Order or its status as an officer of the Court, the Monitor shall not incur any liability or obligation as a result of its appointment and the fulfilment of its duties or the provisions of the Order, save and except any liability or obligation arising from the gross negligence or wilful misconduct, and no action or other proceedings shall be commenced against the Monitor relating to its appointment, its conduct as Monitor or the carrying out the provisions of any order of this Court, except with prior leave of this Court, on at least seven days notice to the Monitor and its counsel. The entities related to or affiliated with the Monitor referred to in subparagraph ²³⁰³ ~~hereof~~ shall also be entitled to the protection, benefits and privileges afforded to the Monitor pursuant to this paragraph.

28. ORDERS that Petitioner shall pay the fees and disbursements of the Monitor, the Monitor's legal counsel, Petitioner's legal counsel and other advisers, incurred in connection with or with respect to the Restructuring, whether incurred before or after the Order, and shall provide each with a reasonable retainer in advance on account of such fees and disbursements, if so requested.

29. DECLARES that the Monitor, the Monitor's legal counsel, the Petitioner's legal counsel and other advisers, as security for the professional fees and disbursements incurred both before and after the making of the Order in respect of these proceedings, the Plan and the Restructuring, in addition to the retainers referred to paragraph 28 hereof, be entitled to the benefit of and are hereby granted a hypothec on, mortgage of, lien on, and security interest in the Property to the extent of the aggregate amount of \$ 1,500,000 ~~00~~ (the "Administration Charge"), having the priority established by paragraphs 30 and 31 hereof.

Priorities and General Provisions Relating to CCAA Charges

30. DECLARES that the priorities of the Administration Charge and D&O Charge (collectively, the "CCAA Charges"), as between them with respect to any Property to which they apply, shall be as follows:
 - (a) first, the Administration Charge;
 - (b) second, the D&O Charge.
31. DECLARES that each of the CCAA Charges shall rank in priority to any and all other hypotheses, mortgages, liens, security interests, priorities, conditional sale agreements, financial leases, charges, encumbrances or security of whatever nature or kind (collectively, "Encumbrances") affecting any of the Property.
32. ORDERS that, except as otherwise expressly provided for herein, Petitioner shall not grant any Encumbrances in or against any Property that rank in priority to, or pari passu with, any of the CCAA Charges unless Petitioner obtain the prior written consent of the Monitor and the prior approval of the Court.
33. DECLARES that each of the CCAA Charges shall attach, as of the Effective Time of the Order, to all present and future Property of Petitioner, notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent.
34. DECLARES that the CCAA Charges and the rights and remedies of the beneficiaries of such Charges, as applicable, shall be valid and enforceable and shall not otherwise be limited or impaired in any way by: (i) these proceedings and the declaration of insolvency made herein; (ii) any petition for a receiving order filed pursuant to the BIA in respect of Petitioner or any receiving order made pursuant to any such petition or any assignment in bankruptcy made or deemed to be made in respect of Petitioner; or (iii) any negative

covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any agreement, lease, sub-lease, offer to lease or other arrangement which binds Petitioner (a "Third Party Agreement"), and notwithstanding any provision to the contrary in any Third Party Agreement:

- (a) the creation of any of the CCAA Charges shall not create or be deemed to constitute a breach by Petitioner of any Third Party Agreement to which it is a party; and
- (b) any of the beneficiaries of the CCAA Charges shall not have liability to any Person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the CCAA Charges.

35. DECLARES that notwithstanding: (i) these proceedings and any declaration of insolvency made herein, (ii) any petition for a receiving order filed pursuant to the BIA in respect of Petitioner and any receiving order allowing such petition or any assignment in bankruptcy made or deemed to be made in respect of Petitioner, and (iii) the provisions of any federal or provincial statute, the payments or disposition of Property made by Petitioner pursuant to the Order and the granting of the CCAA Charges, do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law.

36. DECLARES that the CCAA Charges shall be valid and enforceable as against all Property of Petitioner and against all Persons, including, without limitation, any trustee in bankruptcy, receiver, receiver and manager or interim receiver of Petitioner, for all purposes.

General

37. DECLARES that the Order and any proceeding or affidavit leading to the Order, shall not, in and of themselves, constitute a default or failure to comply by Petitioner under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.
38. DECLARES that, except as otherwise specified herein, Petitioner is at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective given addresses as last shown on the records of Petitioner and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
39. DECLARES that Petitioner may serve any court materials in these proceedings on all represented parties electronically, by emailing a PDF or other electronic copy of such materials to counsels' email addresses, provided that Petitioner shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.
40. DECLARES that any party in these proceedings, other than Petitioner, may serve any court materials electronically, by emailing a PDF or other electronic copy of all materials to counsels' email addresses, provided that such party shall deliver both PDF or other electronic copies and "hard copies" of all materials to counsel to Petitioner and the Monitor and to any other party requesting same.
41. DECLARES that, unless otherwise provided herein or ordered by this Court, no document, order or other material need be served on any Person in respect of these

proceedings, unless such Person has served a Notice of Appearance on the solicitors for Petitioner and the Monitor and has filed such notice with this Court.

42. DECLARES that Petitioner, Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of the Order on notice only to each other.

43. DECLARES that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon seven days notice to Petitioner (c/o Ogilvy Renault, LLP, attention of Mes Louis J. Gouin and Sylvain Rigaud, 1981 McGill College, suite 1100, Montréal, Québec, H3A 3C1, fax (514) 286-5474), the Monitor (c/o RSM Richter Inc., attention of Mr. Yves Vincent, FCA, 2 Place Alexis Nihon, 3500 de Maisonneuve boulevard West, 22nd floor, Montréal, Québec, fax (514) 934-3477) and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

44. DECLARES that the Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.

45. DECLARES that the Monitor, with the prior consent of Petitioner, shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under section 304 of the *U.S. Bankruptcy Code*, for which the Monitor shall be the foreign representative of Petitioner. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

46. REQUESTS the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order.

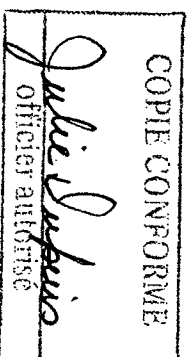
47. ORDERS the provisional execution of the Order notwithstanding any appeal and without the necessity of furnishing any security.



FRANÇOIS ROLLAND,
CHIEF JUSTICE

Me Louis Gouin
and Me Sylvain Rigaud
Attorneys for Petitioner

Me Sandra Abitan
Osler, Hoskin & Harcourt
Attorneys for GTA



Date of hearing: March 11, 2005

TAB 10

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

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

AND IN THE MATTER OF KODIAK ENERGY SERVICES LTD.

BEFORE THE HONOURABLE)
) At the Court House, in the City of Calgary in
MR. JUSTICE D. G. HART)
) the Province of Alberta, on Friday, the 11th
IN CHAMBERS)
) day of March, 2005.

ORDER

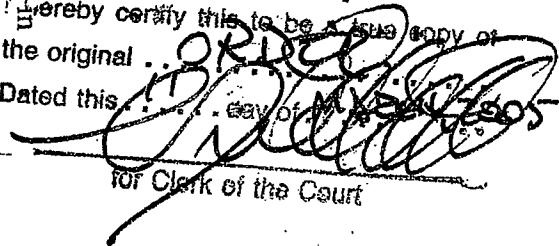
UPON THE application of Kodiak Energy Services Ltd. (the "Applicant"); AND UPON having read the Petition and the Affidavit of John Newman, filed; AND UPON noting the consent of RSM Richter Inc. to act as Monitor (the "Monitor") of the Applicant; AND UPON HEARING the submissions of counsel for the Applicant; IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Notice of the within Application and service of the within Petition is hereby dispensed with.

APPLICATION

2. The Applicant is a company to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), applies.

I hereby certify this to be a true copy of the original . . .
Dated this . . . day of . . . 2005

Clerk of the Court

PLAN OF ARRANGEMENT

3. The Applicant is hereby authorized and permitted to file with this Court a Plan of Compromise or Arrangement under the CCAA (the "Plan") on a date to be set upon further application to this Honourable Court and on terms to be set directing the process for filing of claims, service of the Plan on creditors and other parties, the timing of meetings and the classes of creditors called upon to vote upon the Plan in accordance with the directions of this Honourable Court.

RESTRUCTURING

4. Subject to the terms of this Order, the Applicant shall remain in possession and control of the Property (as hereinafter defined) and shall continue to carry on its business in a manner consistent (except as herein otherwise contemplated) with the preservation of the Applicant's business and Property, and shall be authorized and empowered to continue to retain and engage the agents, accountants, advisors, servants, solicitors and consultants currently engaged and paid by the Applicant, with liberty to retain such further or other Persons as it deems reasonably necessary or desirable in the ordinary course of business or for the purpose of the Plan (as hereinafter defined), the Restructuring (as hereinafter defined) or the carrying out of the terms of this Order.

STAY OF PROCEEDINGS

5. Up to and including April 8, 2005, or such later date as this Court may order (the "Stay Period"):
 - (a) any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings or remedies, enforcement processes, determination, revocation, rights of relocation, suspension or cancellation of any permits or licenses affecting the Applicant, its business, operations, assets or undertaking, or other remedies (collectively, "Proceedings"), commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any of the Applicant's creditors, counterparties, suppliers, lessors (including without limitation, lessors of real Property), tenants, co-tenants, governments of any nation, province, state or

municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government, whether federal, provincial, state or municipal, in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, limited partners, joint or co-venturers, partners (including limited and general partners) or any other individual, person, firm, corporation or entity (collectively, "Persons" and individually, a "Person") wherever situate or domiciled, against or in respect of the Applicant or any person who is from and after the date of this Order a director, officer or employee of the Applicant, or in respect of any present or future property, assets and undertakings of the Applicant of any kind or nature whatsoever, whether real or personal and wherever located (the "Property"), including but not limited to Proceedings pursuant to the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3 (the "BIA"), the *Winding-Up and Restructuring Act* R.S.C. 1985, c. W-11 (the "WUJA"), except as otherwise expressly provided herein, shall be stayed and suspended;

(b) for greater certainty, no person may file a lien or otherwise seek relief pursuant to the *Builders' Lien Act*, R.S.A. 2000, c. B-7 against any customer of the Applicant on the basis of amounts owing by the Applicant to that person;

(c) all Persons having arrangements or agreements, written or oral, with the Applicant for the purchase or sale of goods and/or services by or to the Applicant, or to any of the Property, are hereby restrained from asserting, enforcing, or exercising any right, option or remedy available to them, including the right to accelerate, terminate, suspend, modify or cancel any such agreements, arrangements or supply of goods and services, and are also hereby restrained from exercising any right of distress, rescission, set-off or consolidation of accounts in relation to any indebtedness or obligation in favour of the Applicant or from retaining goods, without the prior written consent of the Applicant and the concurrence of the Monitor hereinafter appointed, or leave of this Honourable Court on proper notice to the Applicant and the Monitor. Without limiting the generality of the foregoing, all Persons are hereby restrained until further order of

this Honourable Court from discontinuing or interfering with any utility or required services (including telephone, cellphone, facsimile or other communication services at the present numbers used by the Applicant in respect of any of the Property), the furnishing of oil, gas, water, heat or electricity, the supply of equipment, computer software, hardware support, internet access, electronic mail and other data services, so long as the Applicant pays the normal prices or charges (other than security or other deposits whether by way of cash, letter of credit or guarantee or otherwise, standby fees or similar items, which the Applicant shall have no obligation to pay or grant) for such goods and services received after the date of this Order as the same become due and payable in accordance with present payment practices, or as may be hereafter agreed by the Applicant from time to time, provided that nothing herein shall prohibit any Person from requiring immediate payment for goods, services, the use of leased or licensed Property or other valuable consideration provided after the date hereof, and that all such Persons shall continue to perform and observe the terms and conditions contained in any agreements entered into with the Applicant or in connection with any of the Property, as the case may be, in respect of the supply of any goods and services;

(d) Persons may exercise only such rights of set-off as are permitted under s. 18.1 of the CCAA as of the date of this Order, upon approval of this Honourable Court and, for greater certainty, no Person may set-off any obligation arising on or after the date of this Order against any obligation of the Applicant to such Person which arose prior to this Order;

(e) the right of any Person to commence or continue realization in respect of any encumbrance, tax, lien, charge, mortgage, hypothec, prior claim or other security held in relation to, or any trust attaching to, the Property, including the right of any creditor to take any step in asserting or perfecting any right or interest, including, without limitation, any right to repossession of any goods supplied to the Applicant or to seize before or after judgment whether pursuant to the BIA or otherwise, is hereby restrained;

- (f) the right of any Person to assert, enforce or exercise any right, option or remedy available to it, including such right, option or remedy (including without limitation any lien arising under an operating agreement) arising under or in respect of any agreement, whether written or oral, (always subject to subparagraph (c) hereof), including without limitation, any operating agreement, joint venture agreement, unit agreement, partnership agreement, transportation agreement, marketing agreement, processing agreement, aggregation agreement, any freight, demurrage or terminal contract or other agreement related to transportation, any services, consulting or management agreement, any co-ownership agreement, any agreement of purchase and sale, and any other agreement to which the Applicant is a party or is affected thereby, arising out of, relating to or triggered by the occurrence of any default or non-performance by the Applicant thereunder, the making or filing of these proceedings, or any allegation contained in these proceedings including, without limitation, the making of any demand on any other Person, the sending of any notice, the declaration of any default, the right to crystallize any security interest, the right to accelerate the repayment of any outstanding indebtedness and the right to purchase any Property from the Applicant, is hereby restrained;
- (g) the right of all creditors of the Applicant to make demand for payment upon the Applicant is hereby restrained, except as otherwise expressly provided herein;
- (h) any deposit made by the Applicant with any Person prior to the making of this Order, whether in an operating account or otherwise, and whether for its own account or for the account of any other entity, shall not be applied by such Person in reduction or repayment of any amount owing as of the date of this Order or which may become due on or before the Stay Period expires or in satisfaction of any interest, fees, charges or other amounts accruing in respect thereof, and such Person shall have no right of lien, set-off, counterclaim, consolidation, or other right in respect of such deposits, and such deposits shall be remitted to the Applicant; and

- (i) no Person may commence or continue any proceedings against any person who is from and after the date of this Order a director or officer of the Applicant on any claim against such director or officer of the Applicant where the director or officer is alleged under any law to be liable in his or her capacity as director or officer for payment or performance of such obligation.
6. Notwithstanding anything else contained herein, no creditor of the Applicant shall be under any obligation after the making of this Order to advance or readvance any monies or otherwise extend any credit to the Applicant.
7. Neither this Order, nor the pleadings and proceedings in this application leading to the granting of this Order, including the content of any Affidavit filed in these proceedings, shall in and of themselves constitute or be relied upon in evidence or otherwise as constituting a default or breach by the Applicant under or pursuant to any agreement (including, without limitation, any operating agreement, unit agreement, joint venture agreement, farmout agreement or partnership agreement), any statute, regulation, license, permit, contract, permission, covenant, undertaking or other instrument or requirement.
8. From 12:01 a.m. (Calgary time) on the date of this Order to the time of the granting of this Order, any act or action taken or notice given by any of the Applicant's creditors or other Persons in furtherance of their rights to commence or continue realization or to take or enforce any other step or remedy will be deemed not to have been taken or given, as the case may be, subject to the right of any such Person to further apply to this Honourable Court on proper notice to the Applicant and the Monitor hereinafter appointed in respect of such step, act, action or notice given.
9. To the extent that any rights, obligations, or time or limitation periods relating to the Applicant or the Property may expire or terminate with the passage of time, the terms of such rights, obligations or periods shall hereby be deemed to be extended by a period of time equal to the duration of the stay of proceedings effected by this Order and any further Order of this Honourable Court, provided that this paragraph shall not be construed to extend the terms of any lease that expires during the pendency of such stay of proceedings.

10. All Persons shall continue to perform and observe the terms, conditions and provisions contained in any agreements with the Applicant on its part to be performed and observed, and in the case where the Applicant has been hired on a day-by-day or "force account" basis, all Persons shall continue such arrangements and not terminate these arrangements by reason of these proceedings or matters related thereto.
11. Until and including the termination of the Stay Period, Her Majesty in Right of Canada may not exercise rights under sub-section 224(1.2) of the *Income Tax Act* (Canada) in respect of the Applicant, where the Applicant is a tax debtor under that sub-section and Her Majesty in Right of a province may not exercise rights under provincial legislation substantially similar to that sub-section in respect of the Applicant where the Applicant is a tax debtor under the provincial legislation.
12. The provisions of paragraphs 5 to 11 of this Order apply in accordance with its terms to stay any and all proceedings or to restrain any matter provided therein that may be commenced or taken against any Person who is or may be directly or indirectly obliged for any obligations of the Applicant.

CARRYING ON BUSINESS

13. The Applicant shall be entitled to exercise any rights of set-off and claim any allowances or benefits which it may be entitled to claim against amounts payable by the Applicant to any Person, including, without limitation, amounts payable to any creditor, counter-party, supplier of goods and services or any landlord of premises leased or occupied by the Applicant and including rights arising in connection with any agreements or arrangements with any Person, including without limitation any partner, creditor, counter-party, or supplier.
14. The Applicant shall remit, in accordance with legal requirements:
 - (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any province thereof, which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan, and income taxes;

- (b) amounts accruing and payable by the Applicant from and after the date hereof, in respect of employee wages and other benefits including without limitation, employment insurance, Canada Pension Plan, and Workers' Compensation;
- (c) to the extent applicable, all goods and services taxes or sales taxes payable by the Applicant in connection with the supply of goods and services by the Applicant to such customers either before or after the date hereof;
- (d) any amount payable to the Crown in Right of Canada or of any province thereof or any political subdivision thereof in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind attributable to or in respect of the carrying on of business by the Applicant; and
- (e) any other similar obligations of the Applicant which, if not satisfied, may result in liabilities on the part of the Applicant's officers or directors.

15. From and after the date hereof, subject to paragraph 14 and compliance with the other provisions of this Order relating to the payment of expenses, the Applicant shall be entitled to pay all reasonable expenses incurred by it in carrying on its business and carrying out all the provisions of this Order, which expenses, pending any further Order of this Honourable Court, may include, without limitation, payment of:

- (a) the reasonable fees and disbursements of the Monitor and any financial advisor to the Applicant incurred both prior to and following the making of this Order (which for greater certainty shall include any fees and disbursements of RSM Richter Inc. as a consultant to the Applicant prior to its appointment as the Monitor), including the reasonable fees and disbursements, if any, on a solicitor and its own client basis, of any counsel retained by the Monitor;
- (b) the reasonable fees and disbursements incurred both prior to and following the making of this Order, on a solicitor and its own client basis, of counsel retained by the Applicant and any officers or directors of the Applicant in respect of these proceedings and the Plan or other matters affecting the business and operations of the Applicant;

- (c) when due, all principal, interest, fees and expenses pursuant to the DIP Facility and secured by the DIP Priority Charge (both as defined hereinafter);
- (d) all outstanding (both before and after the date of filing of the Petition) and future wages, salaries, employee expense accounts, employee benefits, deferred payments, earned or to be earned, vacation pay (for continuing employees in the normal course), statutory deemed trust amounts in favour of the Crown in Right of Canada or of any province thereof which were required to be deducted from employee's wages including without limitation, amounts in respect of employment insurance, Canada Pension Plan, income taxes and other like amounts due or accruing due to employees and present and future directors and the reimbursement of business expenses properly incurred by employees and present and future directors, and payments to operate and fund the payroll accounts (including source deductions) in respect of such employees (the "Employee Obligations");
- (e) all payments, expenses and capital expenditures, whether incurred before or after the making of this Order, reasonably necessary for the preservation of the Property, including without limitation all payments to critical vendors of the Applicant incurred before the making of this Order (although any such obligations, expenses and capital expenditures incurred before the making of this Order shall only be paid with the consent of the Monitor);
- (f) all outstanding and future premiums on directors' and officers' liability insurance including, without limitation, any additional premium related to the extension of reporting periods thereof;
- (g) any amounts secured by the Administration Charge, Directors Charge and the Post-Petition Trade Creditors' Charge (all as hereinafter defined);
- (h) all valid lien claims filed prior to this Order, upon the approval of the Monitor who must be satisfied that such payment will facilitate payment from the customer for whom the work was done;

(i) any other amount specifically provided for by the terms of this Order; and the Monitor shall include in its reports a summary of all payments made in respect of items referred to in this paragraph.

16. The Applicant shall have the right to:

(a) cease, downsize or shut down any of its operations or locations and to make provision for any consequences thereof in the Plan;

(b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate and, to the extent not paid in the ordinary course, to make provision for any consequences thereof in the Plan;

(c) terminate or suspend such of its arrangements or agreements of any nature whatsoever, including without limitation any oral or written agreements, as the Applicant deems appropriate and to make provision for any consequences thereof in the Plan;

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of its business, Property and affairs (the "Restructuring"). In order to facilitate the Restructuring, the Applicant shall be permitted to carry on its business in the manner and to the extent determined by it, to market and dispose of any or all of the Property, wherever situate. Only with respect to dispositions of Property whose value is in excess of \$100,000 shall the Applicant require the approval of the Monitor or further Order of this Court, but the Applicant shall keep the Monitor reasonably informed of activities taken pursuant to this paragraph.

17. The Applicant shall and does hereby indemnify any Person who is from and after the date of this Order a director, officer or employee of the Applicant (or any Person having similar authority or responsibilities), the Applicant's legal counsel and its financial advisors, and the Monitor (including its advisors and legal counsel), of and from all claims, liabilities and obligations of any nature whatsoever, including, without limitation, legal fees and disbursements on a solicitor and its own client basis, which may arise out

of such Person's involvement with the Applicant, the Restructuring or the Plan, from and after the date hereof in the above-mentioned capacities save and except as may arise from willful misconduct or gross negligence on such Person's part. No action may be commenced against any of the persons mentioned in this paragraph for activity arising out of involvement with the Applicant, the Restructuring or the Plan without leave of the Court.

18. No Person shall commence or continue with any proceeding against any person who is from and after the date of this Order a director, officer or employee of the Applicant (or any entity having similar authority or responsibilities), or any legal counsel or financial advisor to the Applicant for or in respect of the Restructuring or the extension and implementation of the Plan, without first obtaining the leave of this Honourable Court, upon 10 days' written notice to the Applicant, the Monitor, and all potential Defendants referred to in this paragraph.

19. All persons with outstanding payables to the Applicant shall pay those accounts on a timely basis in accordance with normal oilfield practice, and such payments shall not be subject to being repaid because of any lien claim.

THE MONITOR

20. Until further order of this Honourable Court, RSM Richter Inc. is hereby appointed as an officer of this Honourable Court (the "Monitor") to monitor the business and affairs of the Applicant with the powers and obligations hereafter set forth and the Applicant and its shareholders, direct and indirect subsidiaries, officers, directors, employees, servants, agents and representatives (the "Company Persons") shall cooperate fully with the Monitor in the exercise of its powers and discharge of its obligations. Without limiting the generality of the foregoing, the Company Persons shall provide the Monitor with such access to the Applicant and its direct and indirect subsidiaries' books, records, assets and premises as the Monitor requires to exercise its powers and perform its obligations under this Order.

21. The Monitor shall have the functions, rights, obligations and protections set out in the CCAA, and shall:

- (a) assist, as applicable, in the development of the Plan and any amendments to and the implementation of the Plan;
- (b) monitor the Applicant's receipts and disbursements;
- (c) assist the Applicant, as applicable, with the holding and administering of any meetings for voting on the Plan and shall act as Chair at any such meeting;
- (d) inquire into and report to creditors, at or prior to any meeting to consider the Plan, upon the financial condition and prospects of the Applicant;
- (e) be at liberty to engage legal counsel and engage such other agents as the Monitor deems necessary respecting the exercise of its powers and the performance of its obligations under this Order;
- (f) report to this Court as the Monitor deems appropriate or as this Court directs, in respect of the Plan, the Restructuring or the business of the Applicant or in respect of such other matters as may be relevant to the proceedings herein;
- (g) report to this Court on any material adverse change in the business and affairs of the Applicant; and
- (h) perform such other duties as are required by the CCAA and this Order or further order of this Honourable Court.

22. The Monitor shall:

- (a) Be entitled to receive such information as the Monitor considers relevant for purposes of monitoring the Applicant's business and affairs including the following information, on an ongoing basis satisfactory to the Monitor:
 - (i) Summaries of the Applicant's cash receipts, cash disbursements, expenses, short term investments and bank balances;

- (ii) Projected cash flow information; and
 - (iii) Any and all other information which the Monitor considers relevant at such times as the Monitor considers appropriate;
- (b) Review and approve operating budgets, forecasts and margin reports.
23. The Monitor is authorized but not obliged to provide all interested parties, including but not limited to the affected creditors, with its report or assessment on the Plan. The Monitor shall incur no liability as a result of any report or assessment that it may make pursuant to this provision.
24. In response to any reasonable request for non-confidential information made in writing by any of the Applicant's creditors addressed to the Monitor, the Monitor shall provide such creditor with the information requested. In the case of information which the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to the requesting creditor unless confidentiality arrangements satisfactory to the Applicant are put in place or otherwise directed by this Honourable Court.
25. The Monitor is not empowered to take possession of any of the Property or to manage any of the Applicant's business or affairs and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Property, or any part thereof.
26. Where the Monitor acts in good faith and takes reasonable care in preparing a report or assessment required or authorized by this Order, or otherwise directed or permitted by this Honourable Court, the Monitor is not liable for loss or damage to any Person resulting from that Person's reliance on the report.
27. The Monitor shall not be liable for any other act or omission as a result of its appointment or the fulfillment of its duties in the carrying out of the provisions of this Order, save and except as a result of gross negligence or willful misconduct on its part, or for any debt incurred by the Applicant whether before or after the date of this Order.

28. No action, application or other proceeding shall be taken, made or continued against the Monitor without the leave of this Honourable Court first being obtained on at least 7 days written notice to the Monitor and to the Applicant.
29. The appointment of the Monitor shall not disqualify it from being appointed Interim Receiver, Receiver and Manager, Agent, Custodian, or Trustee in Bankruptcy of the Applicant or the Property by this Honourable Court, should it consent to such appointment.
30. The appointment of the Monitor shall not constitute the Monitor as an employer, successor employer, sponsor, or payor with respect to the Applicant under any collective agreement or other contract between the Applicant and any of their present or former employees or within the meaning of any legislation governing employment or labour standards or in respect of pensions or benefits or any other statute, regulation or rules of law or equity for any purpose whatsoever and, further, that the Monitor shall not be deemed to be an owner or in possession, control or management of the Property or of the business and affairs of the Applicant whether pursuant to any legislation enacted for the protection of the environment, the transportation of hazardous goods, health and safety or any other statute or regulation of any federal, provincial or other jurisdiction or under any rule of law or equity for any purpose whatsoever.
31. The Monitor shall be deemed to have complied with s. 11(5) of the CCAA if it has, within ten (10) days of the making of this Order:
 - (a) placed a copy of this Order on a website to be established by the Monitor (the "Website"); and
 - (b) mailed to each such creditor identified by the Applicant a letter, among other things, describing the commencement of these proceedings and this Order and directing creditors to the Website.

ADMINISTRATIVE CHARGE

32. The Monitor, counsel to the Monitor, counsel to the Applicant, counsel to the Directors and the Applicant's financial advisors (the "Administrative Parties") shall be paid their fees and disbursements by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the Administrative Parties on a bi-weekly basis and to pay retainers to the Monitor and to the Applicant's own counsel as security for payment of their fees and disbursements from time to time. The indemnity provided in paragraph 17 of this Order and the fees and disbursements of the Monitor, counsel to the Monitor, counsel to the Applicant and counsel to the Directors shall be secured by a charge on the Applicant's Property, present and future (the "Administrative Charge"), without the requirement to file, register, record or perfect the charge.

DIRECTORS' CHARGE

33. In addition to any existing indemnity, the Applicant shall indemnify its directors (or any Person deemed to be a director under applicable law) and officers from:
- a) all costs (including, without limitation, defence costs), charges, expenses, claims, liabilities and obligations (other than those asserted by the Applicant) ("Claim" or "Claims") of any nature whatsoever which may arise out of their acting as directors or officers of the Applicant after the commencement of these proceedings (including, without limitation, an amount paid to settle an action or satisfy a judgment in a civil, criminal or administrative action or proceeding to which such director or officer may be made a party by reason of being or having been an officer or director, provided that the director or officer (i) acted honestly and in good faith with a view to the best interests of the Applicant and (ii) in the case of a criminal or administrative action, the director or officer had reasonable grounds for believing his or her conduct was lawful) except to the extent that, with respect to any officer or director, such officer or director has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct; and
 - b) all Claims relating to the failure of the Applicant to at any time hereafter make payments of the nature referred to in paragraphs 14 and 15 of this order or to pay amounts in

respect of employee or former employee entitlements to wages, vacation pay, severance and retention payments, deferred payments, pensions and benefits which they sustain or incur by reason of or in relation to its respective capacities as directors and officers of the Applicant except to the extent that, with respect to any director or officer, such director or officer has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct.

For greater certainty, this indemnity applies to any allegations or actions against the directors or officers for breach of fiduciary duty, gross negligence or willful misconduct, until such allegations are proven at which point any amounts advanced under the indemnity must be repaid by the directors and officers involved.

34. The directors (or any person deemed to be a director under applicable law) and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property in the aggregate amount of Four Hundred Fifty Thousand (\$450,000) Dollars as security for the indemnity provided in paragraphs 17 and 33 of this Order, but such Directors' Charge shall only apply to the extent that the directors and officers do not have full coverage under the provisions of any applicable directors' and officers' insurance for any reason including, without limitation, the limits of the policy. In respect of any Claim which is asserted against the directors and/or officers of the Applicant, if the directors and/or officers against whom the Claim is asserted (collectively "Respondent Directors") do not receive satisfactory confirmation from the applicable insurer within 21 days of delivery of notice of the Claim to the applicable insurer confirming that the applicable insurer will provide coverage for and indemnify the Respondent Directors against the entire amount of the Claim, then, without prejudice to the subrogation rights hereinafter referred to, all such Claims shall be paid by the Applicant based on the amount of the Directors' Charge at the time of the payment of the Claims, provided that:

- a) No payment shall be made on account of any Claim unless and until the Monitor is satisfied that the Directors' Charge is sufficient to pay all proven Claims and all costs permitted thereunder failing which distribution on account of the Claims shall be subject to further order of this Court;

- b) The Court has ordered that a Respondent Director wishing to assert a Claim shall deliver to the Monitor a claim notice on or before a specific date (the "Claims Bar Date"); and
- c) The Court has ordered that the Claims of all Respondent Directors who do not deliver to the Monitor a claim notice by the Directors Claims Bar Date shall be forever extinguished and barred from and after the Directors Claims Bar date and that all such Respondent Directors shall be deemed to have fully and finally released all Claims.

If the Applicant fails to make any payment on account of a Claim, the Respondent Directors shall be entitled to enforce the Directors' Charge, provided that the Respondent Directors shall reimburse the Applicant to the extent that they subsequently receive insurance proceeds in respect of a Claim paid by the Applicant and provided further that the Applicant shall, in the event that such payment is made, be subrogated to the rights of the Respondent Directors to pursue recovery thereof from the applicable insurer as if no such payment has been made. Any claim by the Applicant under the provisions of any insurance policy providing coverage to a Respondent Director shall be subordinated to any entitlement for coverage that a Respondent Director has under the provisions of that policy in respect of a Claim. The Directors' Charge shall not constitute a contract of insurance, and shall stand as security.

POWER TO BORROW

- 35. The Applicant is hereby authorized and empowered to borrow from Canadian Western Bank ("CWB" or the DIP Lender"), such monies from time to time as the Applicant may consider necessary or desirable, pursuant to a credit facility (the "DIP Facility") up to the principal sum of \$250,000.00, substantially on the terms and conditions set forth in the Commitment Letter between the Applicant and the DIP Lender dated as of March 10, 2005 (the "DIP Term Sheet") annexed hereto as Schedule "A", which DIP Term Sheet is hereby approved, to fund the ongoing operations and working capital for the preservation of the Property, and to pay such other amounts as are permitted by the terms of this Order, the DIP Term Sheet and the DIP Facility.

36. The Applicant shall pay when due all principal and interest, and fees and expenses, including without limiting the generality of the foregoing, all fees and disbursements of counsel, on a full indemnity basis, of the DIP Lender in accordance with the DIP Term Sheet.
37. The DIP Lender is hereby granted a charge in the amount of \$250,000.00 over all of the Property to secure the repayment of all amounts owing by the Applicant, including principal, interest and expenses under the DIP Facility and the performance of all present and future obligations of the Applicant under the DIP Term Sheet (the "DIP Priority Charge").
38. The lending agreements set out in the commitment letter dated January 31, 2002, and as amended in the commitment letters dated April 30, 2002, June 13, 2002, July 25, 2002, August 15, 2002 and July 16, 2003 (the "Existing Credit Facilities") between the Applicant and the DIP Lender shall remain in full force and effect and:
 - (a) all security granted in respect of the Existing Credit Facilities (the "DIP Lender's Existing Security") shall, in addition to the DIP Priority Charge, secure all obligations owed to the DIP Lender under the DIP Facility; and
 - (b) if, at any given time, no amount is outstanding under the DIP Facility, the Applicant shall pay to the DIP Lender, all funds received by it (over and above \$100,000.00 which the Applicant shall retain at any given time to fund the ongoing operations and working capital for the preservation of the Property and to pay such other amounts as are permitted by the terms of this Order) which such payments shall be a permanent reduction of the amount owing by the Applicant under the Existing Credit Facilities.
39. Any fixed or floating lien, charge, mortgage, hypothec, security interest, pledge or encumbrance (collectively, "Encumbrances") created or granted under the DIP Facility and the DIP Priority Charge shall attach as of the effective time of this Order, to the Property.

40. The Applicant shall not grant or permit any Encumbrances over the Property ranking *pari passu* with or in priority to the DIP Priority Charge, or the DIP Lender's Existing Security except as specifically contemplated under the provisions of this Order or the DIP Facility, or without the prior written consent of the DIP Lender, and any Encumbrances granted or allowed by the Applicant contrary to this Order shall be subordinate in all respects to the DIP Priority Charge and the DIP Lender's Existing Security.
41. The Monitor shall report directly to the DIP Lender regarding such matters as the DIP Lender may reasonably require.
42. The DIP Lender shall not be required to file, register, record or perfect the DIP Priority Charge and such DIP Priority Charge shall be binding on all Persons, including any Trustee in Bankruptcy, Receiver, Receiver and Manager or Interim Receiver of the Applicant and the DIP Priority Charge shall retain its full perfection and priority pursuant to the terms of this Order.

PAYMENT OF POST-PETITION TRADE CREDITORS

43. Obligations incurred by the Applicant to trade creditors for the supply of goods and/or services after the date of the making of this Order ("Post-Petition Trade Creditors") shall be paid in accordance with their terms of credit. Amounts accruing in relation to any matter arising prior to the date of this Order, including charges for the use, maintenance, or depreciation of chattels, or which are payable for or in respect of the termination of arrangements or agreements of any nature whatsoever, including without limitation terminations of leases of real estate, chattel leases, financing arrangements, transportation agreements, and service agreements, which cause damages or the acceleration of payments or other amounts not related to the day-to-day provision of goods and services to become payable, and claims incurred after the date of the making of this Order which have the benefit of some other security or priority which would survive a bankruptcy shall not be considered to be claims of Post-Petition Trade Creditors for the purposes of this Order. For greater clarity, in the event a party has a claim in respect of goods and/or services supplied over a period beginning before the date of the making of this Order, and continuing to or after the date of this Order, such creditor is a Post-Petition Trade

Creditor only for the portion of such claim which relates to goods and/or services supplied on or after the date of this Order. Further, no creditor is a Post-Petition Trade Creditor for goods and/or services supplied before the date of this Order solely because payment for such goods and/or services was due on or after the date of this Order, nor is a creditor a Post-Petition Trade Creditor for claims arising out of the termination or breach on or after the date of this Order of any pre-existing agreement, contract, lease or other arrangement of whatever kind, between such creditor and the Applicant.

44. Post-Petition Trade Creditors shall be entitled to the benefit of and are hereby granted a charge to a maximum amount of \$350,000 (the "Post-Petition Trade Creditors' Charge") against, and a security interest in, the Property, as security for indebtedness incurred by them from the date of the making of this Order up to the Stay Termination Date. In the event that claims of Post-Petition Trade Creditors shall exceed the amount of the Post-Petition Trade Creditors' Charge, such claims shall share in the benefit of the Post-Petition Trade Creditors' Charge pro rata. A Post-Petition Trade Creditor's claim for interest (if any) shall not, however, be secured by the Post-Petition Trade Creditor's Charge.

PRIORITY OF CHARGES CREATED

45. The charges created pursuant to this Order and described in this Order shall rank in priority to the claims of all creditors and shall rank, as between themselves, as follows:
- (a) DIP Priority Charge up to \$250,000.00;
 - (b) DIP Lender's Existing Security up to \$750,000.00;
 - (c) Administrative Charge up to \$200,000.00;
 - (d) Director's Charge up to \$450,000.00; and
 - (e) Post-Petition Trade Creditors' Charge up to \$350,000.00.

GENERAL TERMS

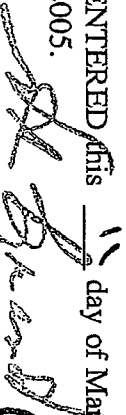

46. The Applicant shall be at liberty to:
- (a) serve this Order, any other Orders in these proceedings, all other proceedings, the Plan, any notices or meetings and all other notices, and to deliver any letters to creditors, information circulars, proofs of claim, proxies and disallowances of claims, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the fourth business day after mailing;
 - (b) with the concurrence of the Monitor, take such proceedings under the BIA as the Applicant at any time deem appropriate;
 - (c) with the concurrence of the Monitor, consent to the appointment of a Receiver and/or a Receiver and Manager of any of the Property otherwise protected by this Order, or make an Assignment in Bankruptcy, at any time; and
 - (d) register this Order against title to any of the Property.
47. Notwithstanding any other provision of this Order, the Applicant may apply at any time to this Honourable Court to seek any further relief, and any interested person may apply to this Honourable Court to vary or rescind this Order or seek other relief on 3 clear days notice to the Monitor, and to any other person likely to be affected by the Order sought or on such other notice, if any, as this Honourable Court may order.
48. The Applicant or the Monitor may, from time to time, apply to this Court for directions in the discharge of the Monitor's powers and duties hereunder, or in respect of the proper execution of this Order, on notice only to the Monitor.
49. This Order and any other Orders in these proceedings shall have full force and effect in all provinces and territories in Canada and abroad, and as against all Persons.

50. This Honourable Court requests the aid and recognition of any Court or any judicial, regulatory or administrative body in any province of territory of Canada (including the assistance of any Court in Canada pursuant to s. 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other Court constituted pursuant to the Parliament of Canada or the legislature of any province and any Court of any judicial, regulatory or administrative body of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

51. For the purposes of seeking the aid and recognition of any Court or any judicial, regulatory or administrative body outside of Canada, the Monitor shall act and be deemed to be the foreign representative of the Applicant pursuant to s. 18.6 of the CCAA.

"D. G. HART"
J.C.Q.B.A.

ENTERED this 11th day of March,
2005.

Clerk of the Court

SCHEDULE "A"

DIP TERM SHEET

COMMITMENT LETTER

This Commitment Letter dated as of March 10th, 2005.

WHEREAS Canadian Western Bank ("CWB") has agreed to provide to Kodiak Energy Services Ltd. ("Kodiak") funding in order to assist with certain restructuring obligations of Kodiak in the context of its proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") and in accordance with the terms set out herein.

NOW THEREFORE the parties, in consideration of the foregoing and the mutual covenants herein contained, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. DIP Facility

CWB shall make available to Kodiak a revolving line of credit to a maximum of \$250,000.00 by way of a super priority credit facility ("the DIP Facility") to provide short term liquidity needs of Kodiak while under CCAA protection. Kodiak agrees that at no time shall the amount owing under the DIP Facility exceed \$250,000.00 and that CWB shall have no obligation to honor any request for funds which would have the effect of making the amount owing exceed such limit.

2. Maturity Date

The Dip Facility shall be due the earlier of:

- i. June 30, 2005,
- ii. the date of the termination of the Stay Period as that term is defined in the Initial Order (as those terms are hereafter defined) as may be extended by subsequent Court Order in the CCAA Proceedings; and
- iii. such date upon which there occurs an Event of Default as that term is defined below,

(such earlier date being the "Maturity Date").

The Maturity Date may be extended at the request of Kodiak with the consent of CWB for such period and on such terms as Kodiak and CWB may agree and as the Court in Kodiak's CCAA proceedings may approve.

The commitment in respect of the DIP Facility shall expire on the Maturity Date and all amounts outstanding under the DIP Facility shall be repaid in full no later than the Maturity Date without CWB being required to make demand upon Kodiak therefore or to give notice to Kodiak that the DIP Facility has expired and that the obligations are due and payable.

3. Cash Flow Projections

Prior to the granting of the Initial Order, Kodiak shall provide to CWB cash flow projections in form and substance satisfactory to CWB and the Monitor appointed in Kodiak's CCAA proceedings (the "Monitor") reflecting the projected cash requirements

of Kodiak from the date of the granting of the Initial Order through the Maturity Date, calculated on a weekly basis (the "Initial Cash Flow Projections"). The Initial Cash Flow Projections may be amended by Kodiak from time to time only on the written consent of CWB. To the extent that the Maturity Date is extended pursuant to this Commitment Letter, cash flow projections with respect to such period of extension shall be provided to CWB in form and substance satisfactory to CWB prior to the expiration of the initial Maturity Date.

Notwithstanding any other provision of this Commitment Letter, CWB shall not be obligated to make any advance under the DIP Facility which is not in material compliance with the Initial Cash Flow Projections and any subsequent cash flow projections that may be agreed to by CWB.

4. Interest

Kodiak agrees to pay interest ("Interest") on amounts drawn under the DIP Facility, both before and after the Maturity Date, at a variable nominal rate per annum of 3% above CWB's prime lending rate, being the rate of interest established from time to time as CWB's prime lending rate for loans denominated in Canadian dollars, adjusted automatically upon any change thereto by CWB. CWB's prime lending rate is 4.25% per annum as of the date hereof.

Interest on amounts drawn under the DIP Facility shall be payable monthly in arrears on the last business day of each month and shall be automatically debited from the Account (as hereafter defined) by CWB on such date. Such Interest shall constitute an advance under the DIP Facility to the extent that there are insufficient funds on deposit to pay such Interest. Interest shall be calculated daily for the actual number of days elapsed in the period during which it accrues based on a year of 365 days. For the purposes of the *Interest Act*, (Canada) the yearly rate of interest to which the rate is equivalent is the rate multiplied by the number of days in the year for which the calculation is made and divided by 365.

Notwithstanding paragraph 1 hereof, if at any time amounts advanced or outstanding under the DIP Facility exceed such limit, and such excess is permitted by CWB in its sole discretion, such excess shall bear Interest at a rate of interest equal to CWB's highest overdraft interest rate established and published from time to time and chargeable on overdraft balances, even though such interest rate may be higher than the rate set out above, with Interest on overdue Interest at the same rate.

5. Advances

The DIP Facility shall be advanced or re-advanced as an overdraft facility, in an account to be established by Kodiak at the CWB Branch at Grande Prairie, Alberta (the "Account").

6. Use of Funds

The DIP Facility shall be used solely for the purpose of providing short term liquidity needs of Kodiak while under CCAA protection and solely in accordance with the Initial

Cash Flow Projections and such other subsequent cash flow projections to which CWB may agree.

7. Structuring Fees

Kodiak shall pay to CWB coincidental with the granting of the Initial Order, a placement fee in the amount of \$2,500.00, and on the last day of each month in which the DIP Facility remains outstanding, Kodiak shall pay to CWB an Administration Fee in the amount of \$500.00. CWB shall be entitled to debit the Account for such fees, and any such debit shall constitute an advance under the DIP Facility to the extent there are insufficient funds on deposit to pay such fees.

8. Monthly Commitment Fee

Kodiak shall pay to CWB an amount equal to 1% per annum of the undrawn portion of the DIP Facility determined on a daily basis, payable to CWB monthly in arrears on the third business day of each month of the term of the DIP Facility, with the final such payment to be calculated and paid on the Maturity Date. Such amounts may be debited by CWB from the Account.

9. Costs

Kodiak shall pay to CWB all reasonable fees and disbursements of CWB and its legal advisors engaged by it in connection with the preparation, negotiation, execution, delivery, administration, interpretation or enforcement of this Commitment Letter and the DIP Priority Charge (as hereafter defined) and in the case of legal costs, such costs shall be charged by CWB to Kodiak on a solicitor and his own client basis. All such costs may be debited by CWB from the Account as incurred.

10. DIP Security

All obligations of Kodiak under or in connection with the DIP Facility shall be secured by a first super priority charge over all present and after-acquired property, assets and undertakings of Kodiak ranking in priority and senior to all other creditors, interest holders, lien holders, and claimants of any kind whatsoever, on substantially the terms set out in the draft of the Initial Order attached hereto and marked as Schedule "A" (the "DIP Priority Charge"). Kodiak shall also execute and deliver to CWB an Overdraft Lending Agreement in such form as CWB may reasonably require (the "Overdraft Agreement").

11. Repayments

All cash receipts collected by or paid to Kodiak while the DIP Facility is outstanding shall be deposited in the Account and shall be applied forthwith as received, to the balance then due and owing under the DIP Facility. Kodiak authorizes CWB to debit the Account to pay amounts outstanding under this Agreement, including without limitation principal, interest, fees, costs relating to the preparation, perfection and enforcement of this agreement and any security interest, collateral securities or documents issued in connection with the DIP Facility. All monies received by CWB, whether by way of debit as aforesaid or otherwise, may be applied and allocated by CWB to such parts of the

outstanding DIP Facility, whether by principal, interest, fees or other costs, as CWB determines in its sole discretion.

12. **Conditions Precedent**

The DIP Facility shall be made available by CWB to Kodiak upon:

- i. Kodiak filing for protection under the CCAA,
- ii. the Court granting the Initial Order substantially on the terms attached hereto and marked as Schedule "A" (the "Initial Order"),
- iii. delivery of the Initial Cash Flow Projections to CWB in form and substance acceptable to CWB in its sole and absolute discretion,
- iv. Kodiak executing and delivering to CWB the Overdraft Agreement.

Notwithstanding the foregoing, the DIP Facility shall not be made available to Kodiak or may be cancelled by CWB if previously made available to Kodiak, if:

- i. the Initial Order is vacated, stayed or otherwise caused to become ineffective or is amended in a manner not acceptable to CWB acting reasonably, or
- ii. an Event of Default has occurred and is continuing,
- iii. RSM Richter Inc. being replaced as the Monitor, without the prior consent of CWB, which consent shall not be unreasonably withheld.

13. **Additional Conditions Precedent**

Prior to the making of any advance under the DIP Facility:

- a. CWB shall be satisfied that Kodiak has complied with and is continuing to comply in all material respects with all applicable laws, regulations and policies in relation to its business; and
- b. CWB shall be satisfied that there are no liens, charges or encumbrances ranking in priority to the DIP Priority Charge.

14. **Representations and Warranties**

Kodiak represents and warrants to CWB that the transactions contemplated by this Commitment Letter and the DIP Facility, including the DIP Priority Charge:

- a. Are within the powers of Kodiak;
- b. Have been duly authorized by all necessary corporate approval;
- c. Have been duly executed and delivered by or on behalf of Kodiak;

- d. Upon the granting of the Initial Order, constitute legal, valid and binding obligations of Kodiak, enforceable in accordance with their terms;
- e. Upon the granting of the Initial Order, do not require the consent or approval of, or registration or filing with, or any other action by, any Governmental Authority, other than filings which may be made to register or otherwise record the DIP Priority Charge; and
- f. Will not violate the constating documents of Kodiak or any applicable law relating to such entity.

15. Affirmative Covenants

Kodiak covenants and agrees to do the following:

- a. Allow CWB full access to the books and records of Kodiak and cause management thereof to fully cooperate with CWB;
- b. Use reasonable efforts to keep CWB apprised on a timely basis of all material developments with respect to the business and affairs of Kodiak;
- c. Deliver to CWB the reporting and other information from time to time reasonably requested by CWB, including cash flow projections, summaries of sales and accounts receivable and any information pertaining to the business and affairs of Kodiak reasonably requested by CWB;
- d. Use the proceeds of the DIP Facility only for the purpose of short-term liquidity needs of Kodiak in a manner consistent with the restrictions set out herein and materially in accordance with the Initial Cash Flow Projections and such subsequent cash flow projections to which CWB may agree;
- e. Comply with the provisions of the Initial Order as may be subsequently amended, provided that if any such order contravenes this Commitment Letter or the DIP Security in a manner detrimental to CWB, the same shall be an Event of Default hereunder;
- f. Preserve, renew and keep in full force its corporate existence with all material licenses;
- g. Maintain at all times adequate insurance coverage of such type, in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope acceptable to CWB;
- h. Operate its business in the ordinary course and in material accordance with the Initial Cash Flow Projections and such subsequent cash flow projections to which CWB may agree, and within the credit limits established for the DIP Facility as set out herein;

- i. Duly and punctually pay or cause to be paid to CWB all principal, interest, fees and other amounts payable by it under this Commitment Letter on the dates, at the places and in the amounts set forth herein;
- j. Forthwith notify CWB of the occurrence of any Event of Default or of any event or circumstance which may constitute a material adverse change to the Initial Cash Flow Projections and such subsequent cash flow projections as to which CWB may agree;
- k. Comply in all material respects with all applicable laws, rules and regulations applicable to its business, including environmental laws;
- l. Provide to CWB monthly, within 3 business days of each month end during the period in which the DIP Facility remains outstanding, a detailed list of the equipment of Kodiak charged in favour of CWB, the then current location of such equipment and the proposed location at which such equipment is likely to be located during the ensuing 30 days; and
- m. Authorize and direct the Monitor to provide regular reports to CWB with respect to Kodiak's compliance with the foregoing affirmative covenants and the following negative covenants.

16. Negative Covenants

Kodiak covenants and agrees not to do the following:

- a. Transfer, lease or otherwise dispose of all or any of its property, assets or undertakings except in compliance with the Initial Order as may be subsequently amended and without the prior written consent of CWB in the case of any single disposition or series of related dispositions totaling in excess of \$100,000.00;
- b. Make any payment of principal or interest in respect of obligations owed by Kodiak as at the date of the Initial Order, except in material accordance with the Initial Order, the Initial Cash Flow Projections, such subsequent cash flow projections to which CWB may agree, or otherwise with the consent of CWB;
- c. Create or permit to exist indebtedness for borrowed money secured by a charge upon any of its assets ranking or potentially ranking in priority to the DIP Priority Charge;
- d. Enter into any transaction with any affiliate (as that term is defined in the *Alberta Business Corporations Act*) or any of its senior officers or employees, except in the ordinary course of business and upon fair and reasonable terms comparable to arms length transactions of a similar type;
- e. Increase the compensation for any director, officer or employee of Kodiak or otherwise directly or indirectly provide additional compensation for any such person or his or her affiliates (as that term is defined in the *Alberta Business*

Corporations Act) to a level materially higher than the level at which such persons were compensated prior to February 15, 2005;

- f. Make any investments or acquisitions of any kind, direct or indirect, in any business or otherwise where to do so would be inconsistent with the Initial Cash Flow Projections and such subsequent cash flow projections as to which CWB may agree;
- g. Make any payment outside of the ordinary course of business, subject always to material compliance with the Initial Cash Flow Projections and such subsequent cash flow projections as to which CWB may agree, and the maximum availability under the DIP Facility, unless CWB otherwise consents;
- h. Make any payments on account of bonuses or retainers, other than retainers relating to Kodiak's legal counsel, the Monitor appointed pursuant to the Initial Order and the Monitor's counsel or otherwise with the consent of CWB;
- i. Amalgamate, consolidate with or merge into or enter into any similar transaction with any other entity except as part of a court approved restructuring.

17. Indemnity and Release

Kodiak agrees to indemnify and hold harmless CWB and each of its directors, officers, employees, agents, attorneys, advisors and affiliates (all of such persons and entities being referred to hereafter as "Indemnified Persons") from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever which may be incurred by or asserted against or involve any Indemnified Person as a result of or arising out of or in any way related to or resulting from any bankruptcy or insolvency proceedings or the CCAA Proceedings or this Commitment Letter, and, upon demand, to pay and reimburse

any Indemnified Person for any reasonable legal costs on a solicitor and his own client basis or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding or claim whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise; provided, however, Kodiak shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability to the extent it resulted from the gross negligence or willful misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction.

The indemnities granted under this Commitment Letter shall survive any termination of the DIP Facility.

18. Events of Default

The occurrence of any one or more of the following events shall constitute an event of default ("Event of Default") under this Commitment Letter:

- a. The entry of an order dismissing the CCAA Proceedings or lifting the stay in the CCAA Proceedings to permit the enforcement of any security against Kodiak or the appointment of a receiver, interim receiver or similar official or the making of a receiving order against Kodiak without the prior consent of CWB;
- b. The entry of an order granting any other claim super priority status or a lien equal or superior to the DIP Priority Charge;
- c. The entry of an order staying, reversing, vacating or otherwise modifying the DIP Facility or the Initial Order or the entry of an order by the Court having the equivalent effect, without the prior written consent of CWB;
- d. Failure of Kodiak to pay (A) interest or fees when due under the Commitment Letter, (B) principal when due under the DIP Facility, or (C) legal and advisor fees of CWB within five (5) business days of being invoiced therefor;
- e. Failure of Kodiak to comply with any positive or negative covenants in this Commitment Letter; provided that where such failure is capable of being cured, such failure has continued for more than five (5) business days after written notice thereof from CWB to Kodiak;
- f. Failure of Kodiak to perform or comply with any term or covenant under this Commitment Letter (other than as set out in subparagraph (d) and (e) above) and such default shall continue unremedied for a period of five (5) days;
- g. Kodiak ceases or threatens to cease to carry on business in the ordinary course, except where such cessation occurs in connection with a sale of all or substantially all of the assets of Kodiak consented to by CWB;
- h. The DIP Facility at any time exceeding 110% of total expenses contemplated in the Initial Cash Flow Projections for such period;
- i. Any representation or warranty by Kodiak is incorrect or misleading in any material respect when made;
- j. The filing of any pleading by Kodiak seeking any of the matters set forth in paragraphs (a) through (e) without the prior consent of CWB; and

- k. The occurrence of any breach of the obligations owed by Kodiak or Gregory Wadsworth pursuant to the Forbearance Agreement entered into by such parties and CWB dated effective March 10th, 2005.

19. Remedies

Upon the occurrence of an Event of Default, CWB may:

- i. declare the obligations in respect of the DIP Facility to be immediately due and payable,
- ii. apply to a court for the appointment of an interim receiver or a receiver and manager of the undertaking, property and assets of Kodiak or for the appointment of a trustee in bankruptcy of Kodiak,
- iii. exercise the powers and rights of a secured creditor under the *Personal Property Security Act* (Alta) or any legislation of similar effect applicable to the DIP Security, and
- iv. exercise all such other rights and remedies under the DIP Facility and the CCAA court orders.

IN WITNESS HEREOF, the parties hereby execute this Commitment Letter as of the date first above mentioned.

CANADIAN WESTERN BANK

Per: _____

KODIAK ENERGY SERVICES LTD.

Per: _____

Action No: 0501 03820

IN THE COURT OF QUEEN'S BENCH OF
ALBERTA JUDICIAL DISTRICT OF
CALGARY

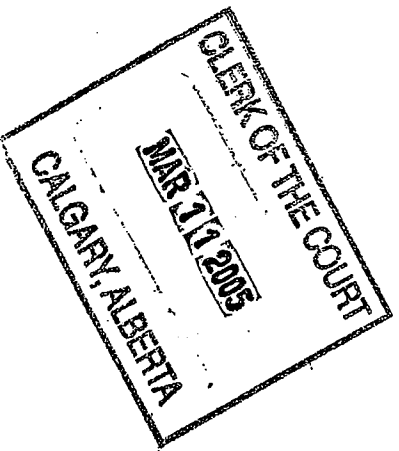
IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT
R.S.C. 1985, Chap. C-36, as amended

AND IN THE MATTER OF KODIAK ENERGY
SERVICES LTD.

ORDER

BENNETT JONES LLP
Barristers and Solicitors
4500, 855 - 2nd Street S.W.
Calgary, Alberta T2P 4K7

Chris Simard
Tel. No. (403) 298-4485
Fax No: (403) 265-7219
Our File No: 54872.1



TAB II

ONTARIO COURT (GENERAL DIVISION)
COMMERCIAL LIST

THE HONOURABLE) WEDNESDAY, THE 11TH DAY
MR. JUSTICE HOULDEN) OF JANUARY, 1995

**IN THE MATTER OF DYLEX LIMITED AND ALL OTHER COMPANIES SET
OUT IN SCHEDULE "A" HERETO**

AND IN THE MATTER OF an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, for a compromise or arrangement with respect to Dylex Limited and all other companies set out in Schedule "A" hereto and a reorganization of share capital of Dylex Limited under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44.

APPLICATION UNDER the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36

ORDER

THIS APPLICATION made by Dylex Limited ("Dylex") and all other companies set out in Schedule "A" hereto (collectively the "Applicants" and individually an "Applicant") for an Order:

abridging the time for service of the Notice of Application and Notice of Motion and the Motion Record herein;

declaring that each of the Applicants is a company to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA") applies;

staying all proceedings taken or that might be taken in respect of any of the Applicants;

staying all proceedings taken or that may be taken in respect of the Applicants under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"), and the *Winding-up Act*, R.S.C. 1985, c. W-11, as amended (the "WUA");

staying further proceedings against the Applicants in any action, suit or proceeding;

enjoining the commencement of any action, suit or proceeding against the Applicants without leave of this Honourable Court, and upon such terms as this Honourable Court imposes;

authorizing the Applicants to file a plan or plans of compromise or arrangement pursuant to

the CCAA;

authorizing the Applicants to call a meeting or meetings of their creditors to approve the plan or plans of compromise or arrangement pursuant to the CCAA;

authorizing Dylex to call a meeting or meetings of any or all classes of its shareholders pursuant to the CCAA to consider the plan or plans of compromise or arrangement and the concurrent reorganization of share capital of Dylex;

authorizing the Applicants to apply to this Honourable Court for approval of any such plan or plans of arrangement and for an order amending the articles of Dylex in order to effect a concurrent reorganization of share capital of Dylex pursuant to section 191 of the *Canada Business Corporations Act*, R.S.C. 1985 c. C-44 (the "CBCA"); and

granting other ancillary relief;

was heard at Toronto today.

ON READING the Notice of Application, the Notice of Motion, the Affidavit of David Posluns sworn January 10, 1995, and the consent of Ernst & Young Inc. as proposed Monitor of the Applicants, and on hearing the submissions of counsel for the Applicants, counsel for Royal Bank of Canada ("RBC") and counsel for Bank of Montreal (RBC and Bank of Montreal being collectively the "Banks") and counsel for River Road (Canada) L.P., and on being advised that none of the other persons who might be interested in these proceedings were served with the Notice of Application, the Notice of Motion, or the Motion Record herein.

SERVICE

THIS COURT ORDERS that the time for service of the Notice of Motion, the Notice of Application and the Motion Record herein be and it is hereby abridged and that the Notice of Application and Notice of Motion are properly returnable today and further that service thereof upon any interested party other than the Banks and River Road (Canada) L.P. be and it is hereby dispensed with.

APPLICATION

THIS COURT ORDERS AND DECLARES that each of the Applicants is a company to which the CCAA applies.

THIS COURT ORDERS AND DECLARES that by virtue of s. 191 of the CBCA, the articles of Dylex may be amended by any order of this court sanctioning the Applicants' plan or plans of compromise or arrangement under the CCAA in order to effect a concurrent reorganization of the share capital of Dylex.

STAY OF PROCEEDINGS

THIS COURT ORDERS that until and including May 31, 1995 (the "Completion Date") or further order of this Court:

any and all proceedings, including without limitation extra-judicial proceedings, enforcement processes, or other remedies, taken or that may be taken by any of the Applicants' creditors, customers, clients, suppliers, customs brokers, lessors (including, without limitation, lessors of real property), tenants, co-tenants, governments or any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, limited partners, co-venturers, partners or by any other person, firm, corporation or entity against or in respect of any of the Applicants or any of the Applicants' property, assets and undertaking, wheresoever located, whether held by any of the Applicants directly or indirectly, as principal or nominee, beneficially or otherwise (the "Property"), as the case may be, whether pursuant to the BIA, the WUA or otherwise, shall be stayed and suspended;

the right of any person, firm, corporation or other entity to make demand or draw under any debentures, notes, bonds, or instruments of similar effect, issued by or on behalf of an Applicant, to take possession of, to foreclose upon or to otherwise realize upon or deal with any Property or to continue such actions or proceedings if commenced prior to the date of this Order, is hereby restrained;

the right of any person, firm, corporation or other entity (including, without limitation, any authority with jurisdiction to levy realty taxes) to commence or continue realization in respect of any encumbrance, tax, lien, charge, mortgage, attornment of rents or other security held in relation to, or any trust attaching to, the Property, including the right of any creditor to take any step in asserting or perfecting any right or interest, including, without limitation, any right to the revendication or any right to repossession of any goods supplied to the Applicant whether taken in the Province of Quebec or elsewhere and whether pursuant to the BIA or otherwise, is hereby restrained;

the right of any person, firm, corporation or other entity to assert, enforce or exercise any right (including, without limitation, any right of dilution, buy-out, divestiture, forced sale, acceleration, termination, suspension, modification, cancellation or right to revoke any qualifications or registration), option or remedy available to it, including such right, option or remedy arising under or in respect of any agreement (including, without limitation, any partnership agreement, management agreement, franchise agreement, shareholders' agreement, co-ownership agreement or any agreement of purchase and sale) to which an Applicant or any entity in which an Applicant has an interest, is a party, arising out of, relating to or triggered by the occurrence of any default or non-performance by an Applicant thereunder, the

making or filing of these proceedings, or any allegation contained in these proceedings including, without limitation, the making of any demand, the sending of any notice, the right to crystallize any security interest, the right to accelerate the repayment of any outstanding indebtedness and the right to terminate, accelerate rent due under, interfere with an Applicant's quiet possession in respect of or otherwise deal with a lease of lands pursuant to which an Applicant is a tenant, is hereby restrained;

all persons, firms, corporations and other entities are restrained from exercising any extra-judicial remedy against the Applicants, including, without limitation, the registration or re-registration of any securities owned by an Applicant into the names of such persons, firms, corporations or other entities or their nominees, the exercise of any voting rights attaching to securities owned by an Applicant, any right of distress, repossession, set-off or consolidation of accounts in relation to amounts due or accruing due in respect of or arising from any indebtedness or obligation of any of the Applicants as at the date hereof or the retention of goods by customs brokers in relation to or by reason of customs duties, taxes or freight, storage or other charges paid on behalf of an Applicant prior to the date hereof for which the Applicant has not reimbursed the customs broker; and

notwithstanding subparagraph (e) hereof, this Order shall not prohibit any party to an "eligible financial contract" (as defined in section 65.1(8) of the BIA) with any Applicant which contract was entered into before the date of this Order from terminating such eligible financial contract and the setting off of obligations between the relevant Applicant and such other party in accordance with its provisions, provided that if the "net termination value" (as defined in section 65.1(8) of the BIA) determined in accordance with the eligible financial contract is owed by the relevant Applicant to another party to the eligible financial contract, that other party shall be deemed to be an unsecured creditor of the relevant Applicant with a provable claim in respect of that net termination value.

THIS COURT ORDERS that no creditor of an Applicant shall be under any obligation after the date of this Order to advance or re-advance any monies to any of the Applicants, provided, however, that cash placed on deposit by any Applicant with any creditor from and after this date, whether in an operating account or otherwise and whether for its own account or for the account of any other entity, shall not be applied by such creditor in reduction or repayment of amounts owing as of the date of this Order or which may become due on or before the Completion Date or in satisfaction of any interest or charges accruing in respect thereof.

THIS COURT ORDERS that, notwithstanding paragraph 5 of this Order, any person providing letters of credit or shipping guarantees (the "Issuing Party") at the request of any of the Applicants, shall be required to continue issuing letters of credit and/or shipping guarantees, as the case may be, following the date of this Order, provided that the Issuing Party continues to hold security from the relevant Applicant(s) on terms similar to those existing between the Issuing Party and the relevant Applicant(s) as at the date of this Order. The Issuing Party shall, for

greater certainty, be prohibited from terminating, suspending, modifying, determining or cancelling such agreements, notwithstanding any provisions contained in such agreements to the contrary, without the prior written consent of the relevant Applicant or without the leave of this Court.

THIS COURT ORDERS that all persons, firms, corporations and other entities having agreements with an Applicant, whether written or oral, and whether the Applicant is acting as principal or nominee, for the supply or purchase of goods and/or services by such Applicant or to such Applicant or any of the Property, as the case may be, including, without limitation, leases, commercial leases, supply contracts, service contracts, distribution agreements, inventory financing agreements and transportation contracts are hereby restrained from accelerating, terminating, suspending, modifying, determining or cancelling such agreements, notwithstanding any provisions contained in such agreements to the contrary, without the prior written consent of such Applicant or without the leave of this Court. Without limiting the generality of the foregoing, all persons, firms, corporations and other entities are hereby restrained until further order of this Court from discontinuing, interfering with or cutting off any utility (including telephone and telefax service at the present numbers used by any of the Applicants or used in respect of any of the Property, as the case may be, and whether such telephone or telefax services are listed in the name of one or more of such Applicants or in the name of some other person), the furnishing of oil, gas, water, heat or electricity, the supply of goods, equipment, computer software, hardware support or other services, so long as such Applicant pays the normal prices or charges (other than deposits, stand-by fees or similar items) for such goods and services received after the date of this Order, as the same become due in accordance with present payment practices or terms or as may be hereafter negotiated by such Applicant from time to time and that all such persons, firms, corporations or other entities shall continue to perform and observe the terms and conditions contained in any agreements entered into with an Applicant or in connection with any of the Property, as the case may be, and, without further limitation, all persons, firms, corporations and other entities including tenants of premises owned or operated by any of the Applicants and lessors of premises leased or operated by any of the Applicants whether held or operated by the Applicants, or any of them, directly or indirectly, as principal or nominee, beneficially or otherwise, be and they are hereby restrained until further order of this Court from terminating, amending, suspending or withdrawing any agreements, licenses, permits, approvals or supplies of goods and services and from pursuing any rights or remedies arising thereunder.

THIS COURT ORDERS that all persons, firms, corporations and other entities having other agreements with an Applicant are hereby restrained from accelerating, terminating, suspending, modifying, determining or cancelling such agreements, notwithstanding any provisions contained in such agreements to the contrary, without the prior written consent of such Applicant or without the leave of this Court and that all such persons, firms, corporations and other entities shall continue to perform and observe the terms, conditions and provisions contained in such agreements on their part to be performed or observed and, without limitation, all persons, firms, corporations and other entities be and they are hereby restrained until further order of this Court from terminating, cancelling or otherwise withdrawing any licences, permits, approvals or consents, and from disturbing or otherwise interfering in any way with the present or future

occupation by an Applicant of any premises leased, subleased or occupied by such Applicant and the landlords of premises leased or subleased by any of the Applicants are hereby specifically restrained from taking any steps to terminate any lease or sublease to which an Applicant is party, whether by notice of termination or otherwise, without the prior written consent of the Applicant or without the leave of this Court, all subject to the obligation of such Applicant to pay occupation rent, for the period commencing with the date of this Order for leased premises that such Applicant enjoys actual occupation, but not arrears, once every two weeks in advance at the rental rate calculated at a per diem basis presently payable by it applied proportionately to the period of actual occupation, or otherwise as may be negotiated by such Applicant from time to time. If any such occupation rent for any such leased premises remains outstanding for more than six days after notice of non-payment has been given by the relevant landlord by telecopier to the head office of the relevant Applicant and to the Applicants' counsel, the stay of proceedings with respect to such premises shall cease to have effect.

THIS COURT ORDERS that from 8 o'clock a.m. (Toronto time) on the date of this Order, to the time of the granting of this Order, any act or action taken or notice given by any of the Applicants' creditors or other persons, firms, corporations, governments and their agents and other entities in furtherance of their rights to commence or continue realization or take or enforce any other step or remedy, will be deemed not to have been taken or given as the case may be, subject to the right of such persons to further apply to this Court in respect of such step, act, action or notice given, provided that the foregoing shall not apply to prevent any creditor who, during such period, effected any registrations with respect to security granted prior to the date of this Order or who obtained third party consents in relation thereto.

THIS COURT ORDERS that to the extent that any rights or obligations, or time or limitation periods, relating to the Applicants may expire or terminate with the passage of time, the term of such rights or obligations or time or limitation periods shall hereby be deemed to be extended by a period of time equal to the duration of the stays of proceedings effected by this Order.

THIS COURT ORDERS that the provisions of paragraphs 4, 5, 6, 7, 8, 9 and 10 apply in accordance with their terms to stay any and all steps, proceedings and actions that may be taken against any person who is, directly or indirectly, obligated for the obligations of any one or more of the Applicants or who is wholly-owned, directly or indirectly, by any one or more of the Applicants unless the relevant Applicant or Applicants otherwise consent. Provided, however, that nothing in this Order shall apply to prevent any person from calling upon or honouring any letters of credit issued in support of, or at the request of, any of the Applicants.

PLAN OF ARRANGEMENT

THIS COURT ORDERS that the Applicants be and are hereby authorized and permitted to file with the Court a plan or plans of arrangement under the CCAA (the "Plan"), on or before January 31, 1995.

THIS COURT ORDERS that the Applicants submit on or before February 15, 1995 by way of motion to this Court the material necessarily required to summon and convene:

meetings between the Applicants and their classes of creditors to consider and approve the Plan; and

a meeting or meetings between Dylex and its classes of shareholders to consider the Plan.

POSSESSION OF PROPERTY

THIS COURT ORDERS that the Applicants shall remain in possession of the Property, shall continue to carry on business in a manner consistent with the preservation of the enterprise and shall be authorized and empowered to continue to retain and employ the agents, servants, solicitors and other assistants and consultants currently in their employ, with liberty to retain such further agents, servants, solicitors, assistants and consultants including, without limitation, those who were formerly, are now or may in the future be retained, employed or paid by any of the Applicants or any person, firm, corporation or other entity related to or affiliated with any of the Applicants, as they deem reasonably necessary or desirable in the ordinary course of business or for the purpose of the Plan or the carrying out of the terms of this Order, or otherwise subject to the approval of this Court.

THIS COURT ORDERS that after the date hereof the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on their business both prior to and after this Order and carrying out the provisions of this Order, which expenses, pending any further Order of this Court, shall include, without limitation, payment of:

the fees and disbursements of the Monitor (as defined in paragraph 24) including the fees and disbursements, if any, on a solicitor and client basis, of counsel retained by the Monitor;

the fees and disbursements of the financial advisor retained by the Applicants in respect of these proceedings and the Plan;

the fees and disbursements, on a solicitor and client basis, of counsel retained by the Applicants in respect of these proceedings and the Plan;

goods or services actually supplied to any of the Applicants following the date of this Order including payments in respect of outstanding documentary credits;

all outstanding and future wages, salaries, employee and pension benefits, vacation pay and other like amounts accruing due to employees;

all outstanding and future premiums on directors' and officers' liability insurance;

all existing or future priority claims of the federal or provincial Crown in respect of any of the Applicants including, without limitation, amounts owing in respect of provincial sales taxes, federal goods and services taxes, source deductions on account of employee income tax payable, Canada Pension Plan contributions payable, Quebec Pension Plan contributions payable, unemployment insurance premiums payable,

employer health taxes, amounts payable to any workers' compensation authority whether as premiums or assessments, amounts owing on account of federal excise tax and amounts owing on account of any provincial or federal environmental legislation;

principal, interest and other payments to holders of security on the assets, property, or undertaking of any of the Applicants where the claim of the holder of such security is less than or equal to the value of the security held by such party;

all expenses reasonably necessary for the preservation of the Property including, without limitation, payments on account of insurance and security;

all outstanding gift certificates and warranty claims, and further the Applicants may accept the return of merchandise in exchange for cash or credit and grant credit for existing customer layaways in accordance with the Applicants' normal business policies and consumer legislation in relation to retail sales which existed prior to or after the date of this Order;

all outstanding and future amounts due by any of the Applicants under any credit card arrangements involving American Express, MasterCard, Visa or other credit card companies;

amounts normally paid or transferred between the Applicants in the ordinary course of business in accordance with existing practice; and

any other amounts provided for by the terms of this Order.

THIS COURT ORDERS that the Applicants shall have the right to:

cease, downsize or temporarily shut down any of their operations;

abandon such of their leased store and other leased locations on 7 days' notice in writing to the relevant landlord, as and when the Applicants, in their sole discretion, deem appropriate, and to make provision for any consequences thereof in the Plan;

proceed with an orderly liquidation of such of their Property situate at any of the locations abandoned pursuant to sub-paragraph (b) hereof as the Applicants deem appropriate;

terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate, and to make provision for any consequences thereof in the Plan; and

terminate such of their arrangements or agreements including, without limitation, arrangements or agreements with suppliers and for franchises, as the Applicants deem appropriate, and to make provision for any consequences thereof in the Plan;

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of their business operations (the "Restructuring").

THIS COURT ORDERS that in order to facilitate the Restructuring, the Applicants shall be permitted to carry on business to the extent required by them to dispose of any or all of their inventory wherever situate through their retail, warehouse and factory outlets and facilities or otherwise without interference of any kind from their landlords and, for greater certainty, the Applicants shall have the right to realize upon their inventory and other assets in such manner and at such locations as the Applicants deem suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom, all of the foregoing subject to the Applicants, their employees, servants or agents or anyone acting on their behalf or under their instruction, complying with the terms and conditions of their leases with respect to advertising and operation of business and the Applicants, their employees, servants or agents or anyone acting on their behalf or under their instructions shall not permit any advertising of any sale in contravention of their leases including, without limitation, the advertising on any leased premises of any fixtures for sale on or with respect to any premises currently leased by the Applicants.

THIS COURT ORDERS that the Applicants and the Monitor (as defined in paragraph 24) be and they are hereby required to provide each of the relevant landlords with notice of any Applicant's intention to remove any fixtures or other property from each leased store or other leased location closed and abandoned by any of the Applicants at least 2 days prior to the date of intended removal. The relevant landlord shall be entitled to have a representative present in the leased location to observe such removal and if the landlord disputes the relevant Applicant's entitlement to remove any item under the provisions of the lease, such item shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants or by further order of the Court on 7 days' notice to such landlord. If the relevant Applicant has otherwise vacated the leased location, it shall not be considered to be in occupation of such location pending resolution of any such dispute.

THIS COURT ORDERS that the Applicants and the Monitor be and they hereby are required to keep an account as to the source of all funds received by or on behalf of the Applicants on a location-by-location basis.

THIS COURT ORDERS that if a leased location is abandoned by any of the Applicants, the relevant landlord, its principals or parties related to or affiliated with such landlord, shall be entitled to take possession of any such leased location without waiver of or prejudice to any claims or rights of such landlord against such Applicant in respect of the vacating and abandonment of such leased location and such landlord shall be entitled to notify such Applicant of the basis upon which it is taking possession and to gain possession of and lease any such leased location to third parties on such terms as any such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation, if any, to mitigate any damages claimed in connection therewith.

POWER TO BORROW

THIS COURT ORDERS that without in any way restricting the generality of paragraph 15 of this Order, the Applicants are hereby authorized and empowered, subject to the existing rights of any creditors holding security, to:

borrow such additional funds as they may deem necessary;

grant such security as they may deem necessary to any lender providing new advances subsequent to the date of this Order provided that such security shall rank subsequent in priority to any then existing security including all floating charges, whether crystallized or uncrystallized, and the charge for professional fees and disbursements created by paragraph 30 of this Order, and shall expressly so state; and

grant such security as they may deem necessary to any lender providing new advances subsequent to the date of this Order which may rank ahead of any security in existence prior to the time of the making of this Order if the consent is obtained of all secured creditors holding such security having an interest in the collateral in respect of which the security is granted;

but nothing in this Order shall prevent any creditor from advancing further funds to any of the Applicants under any existing security, subject to the existing rights of such creditor and any subordinate creditor including pursuant to any postponements or subordinations as may be extant in respect thereof.

DISPOSITION OF CERTAIN PROPERTY AND OTHER TRANSACTIONS

THIS COURT ORDERS that, without in any way restricting the generality of paragraphs 14-17 hereof, the Applicants are hereby authorized and empowered to dispose of any of the Property subject, however, to obtaining the consent of the Banks provided that no disposition of the shares of those companies listed in Schedule "A" hereto shall be made except with leave of this Court, on motion made with such notice, if any, to such creditors and shareholders as the Court may direct, and after the filing of the report referred to in sub-paragraph 25(e) hereof.

THIS COURT ORDERS that, subject to paragraphs 14, 15, 16, 21 and 22 hereof and except as otherwise provided in this Order, the Applicants are hereby directed, until further order of this Court:

to make no payments, whether of principal, interest thereon or otherwise, on account of amounts owing by any of the Applicants to any of their creditors as of this date; and

to grant no mortgages, charges or other security upon or in respect of any of the Property other than for the specific purpose of borrowing new funds as provided for in paragraph 21 hereof or as otherwise authorized pursuant to this Order.

MONITOR

THIS COURT ORDERS that Ernst & Young Inc. (the "Monitor") be and it is hereby appointed as an officer of this Court to monitor the business and affairs of the Applicants with the powers and obligations hereafter set forth and that the Applicants, their shareholders, officers, directors, employees, servants, agents and representatives shall co-operate fully with the Monitor in the exercise of its power and discharge of its obligations.

THIS COURT ORDERS that the Monitor shall:

- assist the Applicants in the development of the Plan;
- assist the Applicants with the holding and administering of any creditors' meetings for voting on the Plan and to act as chair at any such meetings;
- assist Dylex with the holding and administering of any shareholders' meetings to consider the Plan and to act as chair at any such meetings;
- provide the Applicants' creditors with the details of any sale of Property for consideration in excess of \$1,000,000 in a timely fashion, to the extent information is made available to the Monitor;
- prior to the hearing of any motion to this Court respecting the disposition of shares brought pursuant to the provisions of paragraph 22 of this Order, file a written report to the Court containing its analysis and recommendation in respect of the disposition of shares for which leave is being sought;
- inquire into and report to creditors and shareholders, at or prior to any meetings to consider the Plan, upon the financial condition and prospects of the Applicants;
- be at liberty to engage legal counsel in the event the Monitor requires independent legal advice concerning a specific issue or issues relating to the exercise of its powers and discharge of its obligations under this Order;
- report to this Court as the Monitor deems appropriate or as this Court directs, in respect of the Plan, the Restructuring or the business of the Applicants or in respect of such other matters as may be relevant to the proceedings herein; and
- perform such other duties as are required by this Order.

THIS COURT ORDERS that the Monitor is authorized but not obligated to provide all interested parties, including but not limited to the affected creditors, with its report and assessment on the Plan. The Monitor shall incur no liability as a result of any report and assessment that it may make pursuant to this provision.

THIS COURT ORDERS that the Monitor shall provide the Applicants' creditors or shareholders

with information in response to reasonable requests for information made in writing by any one of the creditors or shareholders addressed to the Monitor. In the case of information which the Monitor has been advised by any of the Applicants is confidential, the Monitor shall not provide such information to creditors or shareholders unless otherwise directed by this Court.

THIS COURT ORDERS that the Monitor is not empowered to take possession of the Property of the Applicants or to manage any of their businesses or affairs and shall not, by fulfilling its obligations hereunder, be deemed to have taken and maintained possession or control of the Property, or any part thereof, and shall not occupy any premises except in such circumstances as the Monitor deems necessary.

THIS COURT ORDERS that both the Monitor and Applicants' counsel shall be paid their reasonable fees and disbursements (including the reasonable solicitor and client fees and disbursements of any counsel retained by the Monitor or of Applicants' counsel in these proceedings) by the Applicants as part of the costs of these proceedings, the Plan and the Restructuring and the Applicants are hereby authorized and directed to pay the accounts of the Monitor, any counsel for the Monitor and Applicants' counsel on a weekly basis, and, in addition, the Applicants are hereby authorized to pay each of the Monitor and Applicants' counsel a retainer in the amount of \$100,000 to be held by the Monitor and such counsel as security for payment of their fees and disbursements outstanding from time to time, subject to any final assessment or taxation as may be ordered by this Court in which case the remuneration of the Monitor shall be taxed on the basis of a chartered accountant and its own client and the legal costs of the Monitor and/or Applicants' counsel shall be taxed on the basis of a solicitor and its own client

THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, the financial adviser to the Applicants and Applicants' counsel, as security for their reasonable professional fees and disbursements incurred in respect of these proceedings, the Plan and the Restructuring in accordance with the provisions of paragraph 29 hereof, both before and after the making of this Order, shall be entitled to the benefit of and are hereby granted a charge against the Property provided that such charge shall rank subsequent in priority to any existing security including all floating charges, whether crystallized or uncrystallized.

THIS COURT ORDERS that the Monitor shall not be liable for any act or omission as a result of its appointment or the fulfilment of its duties in the carrying out of the provisions of this Order, save and except for gross negligence or wilful misconduct on its part. The Monitor's appointment under this Order shall not disqualify it from acting as receiver and manager of any of the Applicants or the Property, or as the trustee-in-bankruptcy of any of the Applicants.

THIS COURT ORDERS that the appointment of the Monitor shall not constitute the Monitor to be an employer or a successor employer within the meaning of any legislation governing employment or labour standards or any other statute, regulation or rule of law or equity for any purpose whatsoever and, further, that the Monitor shall not be deemed to be in possession or control of the Property or of the business and affairs of the Applicants whether pursuant to any legislation enacted for the protection of the environment or any other statute, regulation or rule of law or equity for any purpose whatsoever.

THIS COURT ORDERS that the Monitor constitutes a foreign representative of the Applicants for the purpose of proceedings in the United States.

GENERAL TERMS

THIS COURT ORDERS that each of the Applicants be at liberty to:

serve this Order, any other orders in these proceedings, all other proceedings, the Plan, any notices of meetings and all other notices and to deliver the information circular, proofs of claim, proxies and disallowances of claims by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors at their addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date thereof, or if sent by ordinary mail, on the fourth business day after mailing;

take such proceedings under the BIA, or the WUA as the Applicants at any time deem appropriate; and

consent to the appointment of a receiver and/or receiver-manager of any Property otherwise protected by this Order, at any time.

THIS COURT ORDERS that in the event any of the Applicants becomes bankrupt or a receiver within the meaning of section 243(2) of the BIA is appointed in respect of any of the Applicants, the period between the date of this Order and the date on which the stay of proceedings provided for under the terms of this Order is ended by further Order of this Court shall not be counted in determining the 30 day period referred to in section 81.1(a) of the BIA.

THIS COURT ORDERS that notwithstanding any other provisions hereof:

the provisions of paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 14 and 17 do not apply to the Banks which shall be entitled to exercise rights and remedies pursuant to their respective credit agreements and security or which are otherwise available to them;

the power and authority granted to the Applicants in paragraphs 14, 15, 16, 17, 21, 22 and 29 hereof shall at all times be exercised by the Applicants subject to and in compliance with the Banks' security and credit agreements and nothing herein shall expressly or impliedly obligate RBC to make operating advances or to honour any cheques or other payment orders issued by any of the Applicants; and

the Applicants shall continue to deposit receipts into their accounts with their bankers in accordance with existing practices.

THIS COURT ORDERS that notwithstanding any other provision of this Order, any interested person may apply to this Court to vary or rescind this Order or seek other relief upon 7 days'

notice to the Applicants, the Monitor and the Banks and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

THIS COURT ORDERS that the Applicants, the Monitor or the Banks may, from time to time, apply to this Court for directions in the discharge of the Monitor's powers and duties hereunder or in respect of the proper execution of this Order on notice only to the Monitor and the Applicants, as the case may be, and the Banks.

THIS COURT ORDERS that this Order and any other orders in these proceedings shall have full force and effect in all provinces and territories in Canada and as against all persons and corporations against whom it may otherwise be enforceable.

THIS COURT SEEKS AND REQUESTS the aid and recognition of any court or any judicial, regulatory or administrative body in any province of Canada and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states or other subdivisions of the United States and states and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.