

Clerk's Stamp

COURT FILE NUMBER 2401-03404

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

DOCUMENT AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF CANADIAN OVERSEAS PETROLEUM
LIMITED AND THOSE ENTITIES LISTED IN SCHEDULE "A"
APPLICATION

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

(AMENDED AND RESTATED INITIAL ORDER)

OSLER, HOSKIN & HARCOURT LLP

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File Number: 1252079

NOTICE TO THE RESPONDENT

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: March 19, 2024

Time: 2:00 PM – 4:00 PM

Where: Calgary Courts Center, 601 – 5th Street SW, Calgary AB (by Webex – see
Schedule "C")

Before: The Honourable Justice B.B. Johnston

Go to the end of this document to see what you can do and when you must do it.

Order Sought:

1. The Applicants, Canada Overseas Petroleum Limited (“**COPL**”) and those other entities listed in **Schedule “A”** hereto, seek an Amended and Restated Initial Order under the *Companies’ Creditors Arrangement Act*, RSC 1985, c. C-36 (the “**CCAA**”), and a Sale and Investment Solicitation Process Approval Order (the “**SISP Approval Order**”), each respectively and substantially in the forms attached as **Schedules “D”** and “**E**”:
 - (a) amending and restating the initial order granted by the Honourable Justice Sidnell in the within proceedings on March 8, 2024 (the “**Initial Order**”) including, without limitation:
 - (i) extending the Stay Period, including the stay of proceedings against the entities listed in **Schedule “B”** hereto (the “**Non-Filing Affiliates**” and together with the Applicants, the “**COPL Group**”), up to and including May 20, 2024, or such other date as this Court may deem appropriate;
 - (ii) approving the agreement between the Applicants and Province Fiduciary Services, LLC (“**Province**”), pursuant to which, among other things, Province will act as the Chief Restructuring Officer (“**CRO**”) of the Applicants during these CCAA proceedings through the services of Peter Kravitz, authorizing and directing the CRO to carry out the terms of the CRO Engagement Letter (defined below), and approving the payment of fees contemplated under the CRO Engagement Letter;
 - (iii) ratifying and approving the agreement between the Applicants and Province, LLC (“**Province LLC**”), pursuant to which, among other things, Province LLC will act as financial advisor (the “**Financial Advisor**”), and authorizing and directing the Applicants to make the payments contemplated in the FA Engagement Letter (defined below);
 - (iv) approving and authorizing and empowering the Applicants and the Lender (defined below), *nunc pro tunc*, to enter into, the support agreement dated March 7, 2024 among the Applicants and the Lender (the “**Restructuring Support Agreement**”) pursuant to which, and subject to the terms and

conditions set out therein, the Lender has agreed to support these CCAA proceedings and the Chapter 15 Case (defined below), including the requested SISP, the Stalking Horse Purchase Agreement (defined below), and the SISP Approval Order;

- (v) increasing the maximum principal amount on which the Applicants can draw under the DIP Loan (as defined below) to \$11 million and, to the extent drawn either in whole or in part, a corresponding increase in the amount secured by the DIP Lender's Charge (as defined below);
 - (vi) increasing the maximum amounts secured by the Administration Charge (defined below) to CAD \$2.5 million, and the Directors' Charge (defined below) to CAD \$1 million;
 - (vii) directing that the CRO Charge secure all fees, including hourly, monthly and the Transaction Fee; and
 - (viii) providing that the Applicants shall not be required to incur any further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (collectively, the "**Securities Filings**") that may be required by any law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, provided that no securities regulator or stock exchange will be prohibited from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants to make any Securities Filings; and
- (b) approving the proposed sale and investment solicitation process ("**SISP**"), among other things:
- (i) authorizing and directing the Applicants to negotiate and finalize a definitive stalking horse transaction agreement (such definitive agreement being the "**Stalking Horse Purchase Agreement**") with the Lender, or its designated nominee (the "**Stalking Horse Purchaser**") in respect of a

transaction as described in and substantially in accordance with the terms of the Restructuring Term Sheet (defined below)) negotiated among the Applicants and the Lender;

- (ii) approving an expense reimbursement for the Stalking Horse Purchaser's reasonable costs and expenses incurred in connection with the transactions contemplated in the Stalking Horse Purchase Agreement and a break fee equal to \$350,000 (the "**Bid Protections**");
- (iii) granting a Court-ordered charge (the "**Bid Protections Charge**") of up to \$500,000 over the Property (as defined in the Initial Order) in favour of the Stalking Horse Purchaser as security for payment of the Bid Protections, in the manner and circumstances described in the Stalking Horse Purchase Agreement, which charge shall be subordinate to the Administration Charge, Directors' Charge and DIP Lender's Charge; and
- (iv) approving the SISP in which the Stalking Horse Purchase Agreement will serve as the "**Stalking Horse Bid**", and authorizing the Applicants to implement the SISP pursuant to its terms.

Basis for this claim:

Background

1. On March 8, 2024, this Court granted the Initial Order, *inter alia*, (i) declaring the Applicants are companies to which the CCAA applies; (ii) appointing KSV Restructuring Inc. as Monitor of the Applicants in these proceedings; (iii) granting a stay of proceedings in respect of the Applicants up to and including March 18, 2024; (iv) extending the stay of proceedings to the Non-Filing Affiliates; (v) authorizing the Applicants to obtain and borrow under a senior secured, super priority loan (the "**DIP Loan**"), with borrowings not to exceed US \$1.5 million and, to the extent drawn either in whole or in part, a corresponding charge in favour of the DIP Lender; (vi) granting a charge as security for the respective fees and disbursements of counsel to the Applicants, the Monitor and the Monitor's Counsel and the Financial Advisor relating to services rendered in respect of the

Applicants; (vii) granting a charge in favour of the directors and officers of the Applicants; and (viii) granting a charge in favour of the CRO to secure its fees and disbursements.

2. On March 11, 2024, COPL, as Foreign Representative of the Applicants, commenced proceedings in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”) seeking the recognition of these CCAA proceedings under chapter 15 of Title 11 of the U.S. Bankruptcy Code (the “**Chapter 15 Case**”).
3. On March 12, 2024, the U.S. Court granted the Order Granting Provisional Relief.
4. Since the granting of the Initial Order, the Applicants, in close consultation and with the assistance of the Monitor, have been working in good faith and with due diligence to:
 - (a) stabilize the COPL Group’s business and operations as part of these CCAA proceedings;
 - (b) advise its stakeholders of the granting of the Initial Order;
 - (c) work with U.S. counsel to the Foreign Representative to commence the Chapter 15 Case;
 - (d) continue to advance discussions with the Lender and DIP Lender regarding the Stalking Horse Purchase Agreement; and
 - (e) respond to certain employee, shareholder and vendor inquiries regarding these CCAA proceedings and the Chapter 15 Case.

Amended and Restated Initial Order

5. The relief sought in the proposed Amended and Restated Initial Order is appropriate, including, without limitation:
 - (a) the Applicants require an extension of the Stay Period to continue to maintain stability during these CCAA proceedings;

- (b) extending the stay to the Non-Filing Affiliates is necessary to help maintain stability and value to the estate during these CCAA proceedings and to prevent any realization and enforcement attempts from being made in Nigeria or elsewhere;
- (c) approving the engagement of the CRO, pursuant to the engagement letter dated as of December 19, 2023, as amended by further letter dated January 17, 2024 (the “**CRO Engagement Letter**”), between Province and COPL, is necessary to maintain stability for the Applicants during these CCAA proceedings and the Applicants will benefit from the CRO’s expertise in managing and overseeing the Applicants’ business during the course of these proceedings, and administering the SISP;
- (d) approving the engagement letter dated December 19, 2023 (the “**FA Engagement Letter**”), between and among the Applicants and Province LLC, is necessary to ensure the ongoing financial services of Province LLC as the Financial Advisor and to maintain stability during these CCAA proceedings;
- (e) incurring the time and costs associated with preparing the Securities Filings, and conducting any annual or other meetings of shareholders during these CCAA proceedings, will detract from the Applicants’ restructuring, would be an inappropriate use of the Applicants’ resources, and dispensing with these requirements will not prejudice any stakeholders;
- (f) the proposed increase to the Administration Charge (as defined in the Initial Order) will secure the fees and disbursements of the beneficiaries of the Administration Charge that will be incurred for the remainder of these CCAA proceedings and has been sized in consultation with the Monitor;
- (g) the proposed increase to the Directors’ Charge (as defined in the Initial Order) has been sized in consultation with the Monitor to account for, among other things, one month of unpaid accrued wages, unpaid accrued vacation pay, and two months of unremitted sales, goods and services, and harmonized sales taxes;
- (h) extending the CRO Charge to secure the Transaction Fee (as defined in the Richardson Affidavit #1), which is only payable upon the completion of a

Transaction (as defined in the Richardson Affidavit #1), is necessary and appropriate in the circumstances as a Transaction will benefit the Applicants and their stakeholders and the fee was the result of negotiations between Province and the Applicants; and

- (i) authorizing the Applicants to increase the borrowings under the DIP Loan to an amount not exceeding \$11 million and providing for a corresponding increase to the DIP Lender's Charge, is appropriate as the DIP Loan is expected to provide the Applicants with sufficient liquidity to continue their business operations during these CCAA proceedings and to implement the SISP.

6. The Applicants have acted, and are acting, in good faith and with due diligence.

Sale and Investment Solicitation Process

7. The Applicants seek approval of the proposed SISP which, together with the Stalking Horse Purchase Agreement, establishes a process to canvass the market for the best possible transaction for the sale of all or substantially all of the Applicants' business or assets for the benefit of stakeholders.
8. On March 7, 2024, the COPL Group and the Lender executed the Restructuring Support Agreement.
9. The Restructuring Support Agreement appends a term sheet (the "**Restructuring Term Sheet**") that sets out the key terms to be included in a Stalking Horse Purchase Agreement, which will support the proposed SISP and may ultimately serve as the basis for the restructuring of the COPL Group.
10. The Restructuring Support Agreement provides that the parties agree to negotiate in good faith to enter into the Stalking Horse Purchase Agreement on or prior to March 22, 2024, with such Stalking Horse Purchase Agreement to be substantially on the terms set out in the Restructuring Term Sheet, acting reasonably, with the approval of the Monitor.
11. The Applicants have developed the proposed SISP in consultation with the Monitor and the Lender.

12. The proposed SISP provides a fair and reasonable process that will adequately canvass the market. The timelines and terms in the proposed SISP are fair, reasonable and appropriate in the circumstances, and provide sufficient time to allow interested parties to fully participate in the SISP (to the extent desired).

Affidavit or other evidence to be used in support of this application:

1. The Affidavit of Peter Kravitz, affirmed March 7, 2024.
2. The Affidavit of Peter Kravitz, affirmed March 14, 2024.
3. The Affidavit of Thomas Richardson, affirmed March 14, 2024.
4. The Pre-Filing Report of the Proposed Monitor, dated March 8, 2024.
5. The First Report of the Monitor (to be delivered).
6. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

1. Companies' Creditors Arrangement Act, RSC 1985, c. C-36.
2. *Judicature Act*, RSA 2000, c J-2.
3. *Rules of Court*, Alta Reg 124/2010.
4. Such further and other Acts and regulations as counsel may advise and this Honourable Court may permit.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you

intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

SCHEDULE "A"

1. Canadian Overseas Petroleum Limited
2. COPL Technical Services Limited
3. Canadian Overseas Petroleum (UK) Limited
4. Canadian Overseas Petroleum (Bermuda) Limited
5. Canadian Overseas Petroleum (Bermuda Holdings) Limited
6. Canadian Overseas Petroleum (Ontario) Limited
7. COPL America Holding Inc.
8. COPL America Inc.
9. Atomic Oil & Gas LLC
10. Southwestern Production Corp.
11. Pipeco LLC

SCHEDULE "B"

1. Shoreline Canoverseas Development Corporation Limited
2. Essar Exploration and Production Limited

SCHEDULE “C”

From: CommercialCoordinator QBCalgary <CommercialCoordinator.QBCalgary@albertacourts.ca>
Sent: Monday, March 11, 2024 2:14 PM
To: Van de Mosselaer, Randal <rvandemosselaer@osler.com>; Pratt, Elena <EPratt@osler.com>
Subject: WEBEX CONFIRMATION: MAR182024 2401-03404 - ITMO v. Canadian Overseas Petroleum Limited, et al - Mar 18, 2024 02:30 PM and Mar 19, 2024 2:00 PM - JOHNSTON, J - Confirmed

The above booking is Confirmed – **Approved to be heard on an urgent basis by ACJ Nixon.**

File #(s) : MAR182024 2401-03404

Style of Cause: ITMO v. Canadian Overseas Petroleum Limited, et al

Date/Duration:

Mar 18, 2024 02:30 PM – 3:00 PM and Mar 19, 2024 2:00 PM – 4:00 PM

Booking Type/List: Commercial

Purpose of Hearing: Commercial Hearing

Counsel: Randal Steven Van de Mosselaer;

Special Requirements:

Requirements: Courtroom Required

Equipment: Video Conferencing

Notes: Comeback hearing CCAA

Counsel: Please ensure that all relevant parties have received Webex information.

Virtual Courtroom 60 has been assigned for the above noted matter:

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.

3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. **Note: Recording or rebroadcasting of the video is prohibited.**
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

You can also join the meeting via the "Cisco Webex Meetings" App on your smartphone/tablet or other smart device. You can download this via the App marketplace and join via the link provided above.

Thank you,



Court of King's
Bench of Alberta

Brittany Robinson (she/her)
Commercial Duty Coordinator

E: commercialcoordinator.qbcalgary@albertacourts.ca

Court of King's Bench of Alberta
Edmonton Law Courts
1A Sir Winston Churchill Square,
Edmonton, Alberta T5J 0R2

SCHEDULE "D"

Clerk's Stamp:



COURT FILE NUMBER
COURT
JUDICIAL CENTRE OF

2401-03404
COURT OF KING'S BENCH OF ALBERTA
CALGARY

APPLICANTS:

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

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF CANADIAN OVERSEAS
PETROLEUM LIMITED AND THOSE ENTITIES
LISTED IN SCHEDULE "A"

DOCUMENT
CONTACT INFORMATION OF
PARTY FILING THIS
DOCUMENT:

AMENDED AND RESTATED INITIAL ORDER
OSLER, HOSKIN & HARCOURT LLP
6200 - 1 First Canadian Place
Toronto, Ontario M5X 1B8
Solicitor: Marc Wasserman / Shawn Irving / Dave
Rosenblat
Telephone: 416.862.4908 / 4733 / 5673
Facsimile: 416.862.6666
Email: mwasserman@osler.com / sirving@osler.com /
drosenblat@osler.com
File Number: 1252079

**DATE ON WHICH ORDER
WAS PRONOUNCED:**
**NAME OF JUDGE WHO
MADE THIS ORDER:**
LOCATION OF HEARING:

March 19, 2024
The Honourable Justice Johnston
Calgary, Alberta

UPON THE APPLICATION of CANADIAN OVERSEAS PETROLEUM LIMITED and those entities listed in Schedule “A” hereto (collectively, the “**Applicants**”); **AND UPON** having read the Application, the Affidavit of Peter Kravitz, affirmed March 7, 2024 (the “**First Kravitz Affidavit**”), the Affidavit of Peter Kravitz affirmed March 14, 2024 (the “**Second Kravitz Affidavit**”) and the Affidavit of Thomas Richardson sworn March 14, 2024; **AND UPON** reading the Pre-Filing Report of KSV Restructuring Inc. (“**KSV**”) dated March 8, 2024, the First Report of KSV in its capacity as monitor of the Applicants (the “**Monitor**”), dated March ●, 2024 (the “**First Report**”); **AND UPON** reviewing the initial order (the “**Initial Order**”) granted by the Honourable Justice E.J. Sidnell on March 8, 2024; **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within Order; **AND UPON** hearing counsel for the Applicants, counsel for the Monitor, ●; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicants are companies to which the *Companies’ Creditors Arrangement Act* of Canada (the “**CCAA**”) applies.

POSSESSION OF PROPERTY AND OPERATIONS

3. The Applicants shall:
 - (a) remain in possession and control of their current and future assets, licenses, permits, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”);
 - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property;

- (c) be authorized and empowered to continue to retain and employ the employees, contractors, consultants, agents, advisors, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order; and
 - (d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Peter Kravitz sworn March 7, 2024 or replace it with another substantially similar central cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement (a “**Plan**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.
4. Subject to the terms of the Definitive Documents (as defined herein) and to the extent permitted by law, the Applicants shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:
- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

- (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and
 - (c) with the written consent of the Monitor, amounts owing for goods and services actually supplied to the Applicants prior to the date of this Order, if in the opinion of the Applicants the supplier is critical to the Business and ongoing operations of the Applicants.
- 5. Subject to the terms of the Definitive Documents and except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:
 - (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services; and
 - (b) payment for goods or services actually supplied to the Applicants following the date of this Order.
- 6. The Applicants shall remit, in accordance with legal requirements, or pay:
 - (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:
 - (i) employment insurance,
 - (ii) Canada Pension Plan, and
 - (iii) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicants.

7. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of any of the Applicants, the making of this Order or the commencement of any insolvency proceeding) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicants from time to time for the period commencing from and including the date of this Order (“**Rent**”), but shall not pay any rent in arrears.
8. Except as specifically permitted in this Order, the Applicants are hereby directed, until further order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their respective creditors as of the date of this Order;
- (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and
- (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

9. The Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined in paragraph 37), have the right to:
- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding CAD \$150,000 in any one transaction or CAD \$500,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicants (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
 - (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan or a further Order of the Court;
 - (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA; and
 - (d) pursue all avenues of refinancing of their Business or Property, in whole or part,

subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

10. The Applicants shall provide each of the relevant landlords with notice of the Applicants’ intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicants’ entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicants disclaim or resiliate the lease governing such leased premises in accordance with section 32 of the CCAA, they shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicants’ claim to the fixtures in dispute.

11. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:
 - (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours’ prior written notice; and

 - (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicants in respect of such lease or leased premises and such landlord shall be entitled to notify

the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

RESTRUCTURING SUPPORT AGREEMENT

12. The Restructuring Support Agreement (in the form attached to the First Kravitz Affidavit as Exhibit “P”) is hereby approved and the Applicants are authorized and empowered to enter into the Restructuring Support Agreement subject to minor amendments as may be consented to by the Monitor and each of the parties thereto in accordance with the Restructuring Support Agreement. The Applicants are further authorized, empowered and directed to take all steps and actions in respect of, and to comply with all of their obligations pursuant to, the Restructuring Support Agreement.

13. Notwithstanding the Stay Period (as hereinafter defined), a counterparty to the Restructuring Support Agreement may exercise any termination right that may become available to such counterparty pursuant to the Restructuring Support Agreement, provided that such termination right must be exercised pursuant to and in accordance with the Restructuring Support Agreement.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. Until and including May 20, 2024, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants, or their employees or representatives acting in such capacities, or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court or the prior written consent of the Applicants and the Monitor.

NO PROCEEDINGS AGAINST THE NON-FILING AFFILIATES

15. During the Stay Period, no Proceeding shall be commenced or continued against or in respect of those entities listed in Schedule “B” hereto (the “**Non-Filing Affiliates**”), or any of their current and future assets, businesses, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (collectively, the “**Non-Filing Affiliates’ Property and Business**”) by reason of:

- (a) the insolvency of the Applicants;
- (b) any of the Applicants having made an application to this Court under the CCAA;
- (c) any of the Applicants being a party to these proceedings;
- (d) any of the Applicants taking any step related to these CCAA proceedings; or
- (e) any default or cross-default arising from the matters set out in subparagraphs (a), (b), (c) or (d) above, or arising from the Applicants breaching or failing to perform any contractual or other obligations (collectively, the “**Non-Filing Affiliates’ Default Events**”),

except with the prior written consent of the Applicants and the Monitor, or with leave of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

16. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicants or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall:

- (a) empower the Applicants to carry on any business that the Applicants are not lawfully entitled to carry on;
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicants from compliance with statutory or regulatory provisions relating to health, safety or the environment.
17. Nothing in this Order shall prevent any party from taking an action against the Applicants, or any of them, where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor and the Applicants at the first available opportunity.
18. During the Stay Period, all rights and remedies of any Person against or in respect of the Non-Filing Affiliates, or affecting the Non-Filing Affiliates' Property and Business, as a result of a Non-Filing Affiliates' Default Event, are hereby stayed and suspended except with leave of this Court, provided that nothing in this Order shall:
- (a) empower the Non-Filing Affiliates to carry on any business that the Non-Filing Affiliates are not lawfully entitled to carry on;
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Non-Filing Affiliates from compliance with statutory or regulatory provisions relating to health, safety or the environment.

NO INTERFERENCE WITH RIGHTS

19. During the Stay Period, no person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the Applicants, or the Non-Filing Affiliates (as a result of a Non-Filing Affiliates' Default Event), except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

20. During the Stay Period, all persons having:
- (a) statutory or regulatory mandates for the supply of goods and/or services; or
 - (b) oral or written agreements or arrangements with the Applicants (or any of them), including without limitation all supply arrangements pursuant to purchase orders and historical supply practices, computer software, communication and other data services, centralized banking services, cash management services, payroll and benefit services, insurance, transportation, services, logistics services, security services, management services, utility or other services to the Business or the Applicants

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicants or exercising any other remedy provided under such agreements or arrangements. The Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicants in accordance with the payment practices of the Applicants, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

21. Nothing in this Order has the effect of prohibiting a person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any person, other than the Interim Lender (as hereinafter defined) where applicable, be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 17 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS INDEMNIFICATION AND CHARGE

23. The Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors and/or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
24. The directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of CAD \$1,000,000, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 43 and 45 herein.

25. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 24 of this Order.

APPOINTMENT OF MONITOR

26. KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein. The Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of their powers and discharge of their obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.
27. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicants' receipts and disbursements, Business and dealings with the Property;
 - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicants or any of them;
 - (c) assist the Applicants, to the extent required by the Applicants, in their dissemination to the Interim Lender and its counsel on a periodic basis as required by the Definitive Documents of financial and other information as agreed to between the Applicants and the Interim Lender which may be used in these

proceedings, including reporting on a basis as reasonably required by the Interim Lender;

- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis as required by the Definitive Documents;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicants to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicants or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (g) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
- (h) perform such other duties as are required by this Order or by this Court from time to time.

28. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination (the

“**Environmental Legislation**”), provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order be deemed to be in Possession of any of the Property within the meaning of any federal or provincial environmental legislation.

29. The Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.
30. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, neither the Monitor nor its employees and representatives acting in such capacities shall incur any liability or obligation as a result of the Monitor’s appointment or the carrying out by it of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
31. The Monitor, counsel to the Monitor, and counsel to the Applicants shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, and counsel for the Applicants on a bi-weekly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants retainers to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
32. The Monitor and its legal counsel shall pass their accounts from time to time.

APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

33. A chief restructuring officer of the Applicants shall be appointed on the following terms:

- (a) the agreement dated as of December 19, 2023, as amended by agreements dated December 29, 2023 and January 17, 2024, pursuant to which Province Fiduciary Services, LLC (“**Province**”) was engaged to provide the Applicants with services including the provision of Peter Kravitz to act as chief restructuring officer of the Applicants (the “**CRO**”), a copy of which is attached as Exhibit “R” to the First Kravitz Affidavit (the “**CRO Engagement Letter**”), and the appointment of the CRO pursuant to the terms thereof is hereby approved, including, without limitation, the payment of all fees contemplated therein;
- (b) the CRO shall have the powers and obligations set out in the CRO Engagement Letter;
- (c) Province shall be entitled, in accordance with the terms of the CRO Engagement Letter, to payment from the Applicants for obligations owing thereunder and the disbursements contemplated therein (collectively, the “**CRO Fees**”);
- (d) the CRO shall be responsible for performing its functions and obligations as set out in the CRO Engagement Letter for the benefit of the Applicants and shall provide timely updates to the Monitor in respect of such functions and obligations;
- (e) in addition to the rights and protections afforded the CRO as an officer of this Court, the CRO shall not be or be deemed to be a director, *de facto* director, or employee of any entity of the Applicants;
- (f) nothing in this Order shall be construed as resulting in Province (or any director, officer or employee thereof) or the CRO being an employer, successor employer, a responsible person, operator or person with apparent authority within the meaning of any statute, regulation or rule of law, or equity (including any Environmental Legislation) for any purpose whatsoever;

- (g) neither Province (nor any director, officer or employee thereof) nor the CRO shall, as a result of the performance of their respective obligations and duties in accordance with the terms of the CRO Engagement Letter, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation; provided however, if either of Province or the CRO are nevertheless later found to be in Possession of any Property under Environmental Legislation, then Province or the CRO, as the case may be, shall be entitled to the benefits and protections in relations to the Applicants and such Property as are provided to a monitor under section 11.8(3) of the CCAA; provided further however, that nothing in this sub-paragraph 33(g) shall exempt Province or the CRO from any duty to report or make disclosure imposed by a law and incorporated by reference in section 11.8(4) of the CCAA;
- (h) Province and the CRO shall not incur any liability or obligation as a result of the appointment or carrying out duties as CRO, whether before or after the granting of this Order, save and except for any gross negligence or willful misconduct, provided that any liability of Province and the CRO with respect to carrying out duties as CRO shall in no event exceed the quantum of the fees paid under the CRO Agreement;
- (i) no action or other proceeding shall be commenced in relation to the Applicants directly, or by way of counterclaim, third party claim or otherwise, against or in respect of Province, its officers, directors, employees, or the CRO, and all rights and remedies of any Person against or in respect of them are hereby stayed and suspended, except with the written consent of the CRO or with leave of this Court on notice to the Applicants, the Monitor and the CRO, provided, however, that nothing in this Order, including this subparagraph 33(i) shall affect such investigations, actions, suits or proceedings by a regulatory body that are permitted by section 11.1 of the CCAA or the ability of any interested party to apply to this Court to vary or amend this Order pursuant to paragraph 60. Notice of any such application seeking leave of this Court shall be served on the Applicants, the

Monitor and the CRO at least seven (7) days prior to the return date of any such application for leave; and

- (j) for the purpose of carrying out the functions and duties set out in the CRO Engagement Letter, the CRO (i) shall have full and complete access to the property of the Applicants, including the premises, books, records, data (including data in electronic format) and other financial documents of the Applicants, and (ii) is hereby authorized to meet with any employee, director, representative or agent of the Applicants. The employees, directors, representatives, and agents of the Applicants are hereby directed to fully cooperate with the CRO in connection with the functions and duties set out in the CRO Engagement Letter.
34. Province and the CRO shall be entitled to the benefit of and are hereby granted a charge on the Property (the “**CRO Charge**”), which shall not exceed an aggregate amount of USD \$500,000, to secure the monthly, hourly and transaction fees, and disbursements, provided for under the CRO Engagement Letter. The CRO Charge shall have the priority set out in paragraphs 43 and 45 hereof.

INTERIM FINANCING

35. The Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from Summit Partners Credit Fund III, L.P.; Summit Investors Credit III, LLC; and Summit Investors Credit III (UK), L.P. (collectively, the “**Interim Lender**”) in order to finance the Applicants’ working capital requirements and other general corporate purposes (including payment of fees of the Applicant’s counsel, the Monitor and its counsel, the Interim Lender’s counsel, and the Financial Advisor) and capital expenditures, provided that the principal amount of borrowings under such credit facility shall not exceed US \$11,000,000 unless permitted by further order of this Court.
36. Such credit facility shall be on the terms and subject to the conditions set forth in the Interim Financing Term Sheet between the Applicants and the Interim Lender dated as of March 7, 2024 (the “**Commitment Letter**”), filed.

37. The Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
38. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the “**Interim Lender’s Charge**”) on the Property to secure all obligations under the Definitive Documents incurred prior to, on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents and will in addition include all interest, fees, and expenses accruing and/or becoming owing thereunder on or after the date of this Order. The Interim Lender’s Charge shall not secure any obligation existing before the date of the Initial Order. The Interim Lender’s Charge shall have the priority set out in paragraphs 43 and 45 hereof.
39. Notwithstanding any other provision of this Order:
 - (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender’s Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender’s Charge, the Interim Lender, upon five (5) days’ notice to the Applicants and the Monitor, may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Commitment Letter, Definitive Documents and the Interim Lender’s Charge, including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the Interim Lender to the Applicants against the obligations of the Applicants to the Interim Lender under the Commitment

Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.
40. The Interim Lender shall be treated as unaffected in any Plan filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any advances made under the Definitive Documents.
41. The agreement dated December 19, 2023 engaging Province, LLC (the "**Financial Advisor**") as financial advisor to the Applicants and attached as Appendix "S" to the First Kravitz Affidavit (the "**Financial Advisor Agreement**"), and the retention of the Financial Advisor under the terms thereof, is hereby ratified and approved and the Applicants are authorized and directed to make the payments contemplated thereunder in accordance with the terms and conditions of the Financial Advisor Agreement.

ADMINISTRATION CHARGE

42. The Monitor, counsel to the Monitor, the Applicants' counsel, and the Financial Advisor, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of CAD \$2,500,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor, such counsel, and the Financial Advisor, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 43

and 45 hereof.

VALIDITY AND PRIORITY OF CHARGES

43. The priorities of the Directors' Charge, the Administration Charge, the CRO Charge and the Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of CAD \$2,500,000) and the CRO Charge (to the maximum amount of USD \$500,000), on a *pari passu* basis;

Second – Directors' Charge (to the maximum amount of CAD \$1,000,000); and

Third – Interim Lender's Charge.

44. The filing, registration or perfection of the Directors' Charge, the Administration Charge, the CRO Charge or the Interim Lender's Charge (collectively, the "**Charges**") shall not be required, and the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

45. Each of the Directors' Charge, the Administration Charge, the CRO Charge and the Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person notwithstanding the order of perfection or attachment.

46. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor, the Interim Lender and the beneficiaries of the Charges, or further order of this Court.

47. The Charges and the Definitive Documents shall not be rendered invalid or unenforceable

and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:

- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
- (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications;
- (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
- (d) the provisions of any federal or provincial statutes; or
- (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a new breach by any of the Applicants of any Agreement to which any of the Applicants is a party;
 - (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges, the Applicants entering into the Commitment Letter or the execution, delivery or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicants pursuant to this Order, including the

Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

48. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Charges amongst the various assets comprising the Property.

RELIEF FROM REPORTING OBLIGATIONS

49. The Applicants shall not be required to incur any further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (collectively, the “**Securities Filings**”) that may be required by any law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act* (Alberta), RSA 2000, c S-4 and comparable statutes enacted by other provinces of Canada (collectively, the “**Securities Legislation**”), provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of the Applicants failing to make any Securities Filings required by the Securities Legislation.
50. None of the directors, officers, employees, and other representatives of the Applicants nor the Monitor shall have any personal liability for any failure by the Applicants to make any Securities Filing required by the Securities Legislation during the Stay Period, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the Applicants. For greater certainty, nothing in this Order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the “**Regulators**”) in the matter of regulating the

conduct of market participants and to issue cease trade orders if and when required pursuant to applicable securities law.

SHAREHOLDERS' MEETING

51. The requirement for any future annual or other meeting of the shareholders of Canadian Overseas Petroleum Limited is postponed during these proceedings, and the time limit to call and hold such annual or other meeting of shareholders is extended until and after the conclusion of these proceedings, subject to further Order of this Court.

SERVICE AND NOTICE

52. The Monitor shall (i) without delay, provide notice of these proceedings to the Non-Filing Affiliates; (ii) without delay, publish in the New York Times, the Calgary Herald and the Globe and Mail a notice containing the information prescribed under the CCAA; (iii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than CAD \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available.
53. The Monitor shall establish a case website in respect of the within proceedings at www.ksvadvisory.com/experience/case/canadian-overseas-petroleum (the “**Monitor’s Website**”).

GENERAL

54. The Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

55. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
56. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicants, the Business or the Property.
57. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States of America, or in any foreign jurisdiction, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.
58. Each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
59. Subject to local laws, rules and regulations:
 - (a) Canadian Overseas Petroleum Limited is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the "**Foreign Representative**") in respect of these proceedings for the purpose of having these proceedings recognized and approved in a foreign jurisdiction.

- (b) The Foreign Representative is hereby authorized to apply for foreign recognition and approval of these proceedings, as necessary, in any jurisdiction outside Canada, including in the United States pursuant to Chapter 15 of the *United State Bankruptcy Code*, 11 U.S.C. §§ 101 – 1532, as amended.
60. Any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
61. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of King's Bench of Alberta

SCHEDULE “A”

Applicants

Canadian Overseas Petroleum Limited

COPL America Holding Inc.

COPL America Inc.

Canadian Overseas Petroleum (UK) Limited

Canadian Overseas Petroleum (Ontario) Limited

COPL Technical Services Limited

Canadian Overseas Petroleum (Bermuda Holdings) Limited

Canadian Overseas Petroleum (Bermuda) Limited

Southwestern Production Corporation

Atomic Oil and Gas LLC

Pipeco LLC

SCHEDULE “B”

Non-filing Affiliates

Shoreline Canoverseas Development Corporation Limited

Essar Exploration and Production Limited

SCHEDULE "E"

Clerk's Stamp:



COURT FILE NUMBER 2401-03404
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

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

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF CANADIAN OVERSEAS PETROLEUM LIMITED AND THOSE ENTITIES LISTED IN SCHEDULE "A"

DOCUMENT **SISP APPROVAL ORDER**
CONTACT INFORMATION OF **OSLER, HOSKIN & HARCOURT LLP**
PARTY FILING THIS 6200 - 1 First Canadian Place
DOCUMENT: Toronto, Ontario M5X 1B8
Solicitor: Marc Wasserman / Shawn Irving / Dave Rosenblat
Telephone: 416.862.4908 / 4733 / 5673
Facsimile: 416.862.6666
Email: mwasserman@osler.com / sirving@osler.com / drosenblat@osler.com
File Number: 1252079

DATE ON WHICH ORDER March 19, 2024
WAS PRONOUNCED:
NAME OF JUDGE WHO The Honourable Justice Johnston
MADE THIS ORDER:
LOCATION OF HEARING: Calgary, Alberta

UPON THE APPLICATION of CANADIAN OVERSEAS PETROLEUM LIMITED

and those entities listed in Schedule “A” hereto (collectively, the “**Applicants**”); **AND UPON** having read the Application, the Affidavit of Peter Kravitz, sworn March 7, 2024 (the “**First Kravitz Affidavit**”), the Affidavit of Peter Kravitz sworn March 14, 2024 (the “**Second Kravitz Affidavit**”); **AND UPON** reading the Pre-Filing Report of KSV Restructuring Inc. (“**KSV**”) dated March 8, 2024, the First Report of KSV in its capacity as monitor of the Applicants (the “**Monitor**”), dated March ●, 2024 (the “**First Report**”); **AND UPON** being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within Order; **AND UPON** hearing counsel for the Applicants, counsel for the Monitor, ●; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

DEFINITIONS

2. Capitalized terms used in this Order and not otherwise defined herein shall have the meanings ascribed to them in the Sale and Investment Solicitation Process in respect of the business and assets of the Applicants, in the form attached hereto as Schedule “B” (the “**SISP**”), the Amended and Restated Initial Order of this Court dated March 19, 2024 (the “**ARIO**”) or the Second Kravitz Affidavit, as applicable.

SALE AND INVESTMENT SOLICITATION PROCESS

3. The SISP is hereby approved and the Applicants and the Monitor are hereby authorized and directed to implement the SISP pursuant to the terms thereof. The Applicants and the Monitor are hereby authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations thereunder, subject to prior approval of the Court being obtained before completion of any transaction(s) under the SISP.
4. The Applicants and the Monitor and their respective affiliates, partners, directors, officers, employees, legal advisors, representatives, agents and controlling persons shall have no

liability with respect to any and all losses, claims, damages or liabilities of any nature or kind to any person in connection with or as a result of the SISP, except to the extent of losses, claims, damages or liabilities that arise or result from the gross negligence or wilful misconduct of the Applicants or the Monitor, as applicable, in performing their obligations under the SISP, as determined by this Court.

5. In conducting the SISP, the Monitor shall have all of the benefits and protections granted to it under the CCAA, the ARIO and any other Order of this Court in the within proceeding.

STALKING HORSE PURCHASE AGREEMENT

6. The Applicants are hereby authorized and empowered to enter into an agreement of purchase and sale with Summit Partners Credit Fund III, L.P.; Summit Investors Credit III, LLC; and Summit Investors Credit III (UK), L.P. and Summit Investors Credit Offshore Intermediate Fund III, L.P. (collectively, the “**Stalking Horse Purchaser**”), which shall be substantially on the terms set out in the Restructuring Term Sheet attached as Exhibit “B” to the Restructuring Support Agreement (“**RSA**”), with such minor amendments as may be acceptable to each of the parties thereto, with the approval of the Monitor; provided that, nothing herein approves the sale and the vesting of any Property to the Stalking Horse Purchaser (or any of its designees) pursuant to the Stalking Horse Purchase Agreement and that the approval of any sale and vesting of any such Property shall be considered by this Court on a subsequent application made to this Court if the transaction set out in the Stalking Horse Purchase Agreement is the Successful Bid pursuant to the SISP.
7. As soon as reasonably practicable following the Applicants and the Stalking Horse Purchaser executing the Stalking Horse Purchase Agreement, and in any event by no later than March 23, 2024, the Monitor shall post a copy thereof on its website, and the Applicants shall:
 - (a) serve a copy thereof on the Service List; and
 - (b) provide a copy thereof to each SISP Participant (as hereinafter defined), excluding from the public record any confidential information that the Applicants and the Stalking Horse Purchaser, with the consent of the Monitor, agree should be redacted.

BID PROTECTIONS

8. The Bid Protections are hereby approved and, subject to the entry of the Stalking Horse Purchase Agreement, the Applicants are hereby authorized and directed to pay the Bid Protections to the Stalking Horse Purchaser (or to such other person as it may direct) in the manner and circumstances described in the RSA and the Stalking Horse Purchase Agreement.
9. The Stalking Horse Purchaser shall be entitled to the benefit of and is hereby granted a charge (the “**Bid Protections Charge**”) on the Property, which charge shall not exceed \$500,000 as security for payment of the Bid Protections in the manner and circumstances described in the Stalking Horse Purchase Agreement.
10. The filing, registration or perfection of the Bid Protections Charge shall not be required, and the Bid Protections Charge shall be valid and enforceable for all purposes, including against any right, title or interest filed, registered, recorded or perfected subsequent to the Bid Protections Charge, notwithstanding any such failure to file, register, record or perfect.
11. The Bid Protections Charge shall constitute a charge on the Property and the Bid Protections Charge shall rank in priority to all other Encumbrances in favour of any Person notwithstanding the order of perfection or attachment, other than the Charges.
12. Except for the Charges or as may be approved by this Court on notice to parties in interest, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, the Bid Protections Charge, unless the Applicants also obtain the prior written consent of the Monitor and the Stalking Horse Purchaser.
13. The Bid Protections Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Stalking Horse Purchaser in respect of the Bid Protections Charge shall not otherwise be limited or impaired in any way by: (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any

federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “Agreement”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Bid Protections Charge nor the execution, delivery, perfection, registration or performance of the Stalking Horse Purchase Agreement shall create or be deemed to constitute a breach by any of the Applicants of any Agreement to which any of the Applicants is a party; and
 - (b) the payments made by the Applicants pursuant to this Order, the Stalking Horse Purchase Agreement and the granting of the Bid Protections Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.
14. The Bid Protections Charge created by this Order over leases of real property shall only be a charge in the applicable Applicant 's interest in such real property lease.
15. The Stalking Horse Purchaser, with respect to the Bid Protections Charge only, shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the BIA.

PIPEDA

16. Pursuant to section 20(e) of the *Personal Information Protection Act* (Alberta), and any similar legislation in any other applicable jurisdictions, the Applicants or the Monitor and their respective advisors are hereby authorized and permitted to disclose and transfer to prospective SISP participants that are party to a non-disclosure agreement with the Applicants (each, a “**SISP Participant**”) and their respective advisors personal information of identifiable individuals, but only to the extent required to negotiate or attempt to complete a transaction pursuant to the SISP (a “**Transaction**”). Each SISP Participant to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to the SISP Participant's

evaluation for the purpose of effecting a Transaction, and, if a SISP Participant does not complete a Transaction, shall return all such information to the Applicants or the Monitor, or, in the alternative, destroy all such information and provide confirmation of its destruction if requested by the Applicants or the Monitor.

GENERAL

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

18. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of King's Bench of Alberta

SCHEDULE “A”

Applicants

Canadian Overseas Petroleum Limited

COPL Technical Services Limited

Canadian Overseas Petroleum (UK) Limited

Canadian Overseas Petroleum (Bermuda) Limited

Canadian Overseas Petroleum (Bermuda Holdings) Limited

Canadian Overseas Petroleum (Ontario) Limited

COPL America Holding Inc.

COPL America Inc.

Atomic Oil & Gas LLC

Southwestern Production Corp.

Pipeco LLC

SCHEDULE "B"
SISP

See attached.

Sale and Investment Solicitation Process

1. On March 19, 2024, the Alberta Court of King's Bench (the "**Court**") granted an order (the "**SISP Order**") that, among other things, (a) authorized the COPL Entities to implement a sale and investment solicitation process ("**SISP**") in accordance with the terms hereof, (b) approved the Support Agreement, (c) authorized and directed the COPL Entities to enter into the Stalking Horse Purchase Agreement, and (d) approved the Break-Up Fee. Capitalized terms that are not defined herein have the meanings ascribed thereto in the Amended & Restated Initial Order granted by the Court in the COPL Entities' proceedings under the *Companies' Creditors Arrangement Act* on March 19, 2024, as amended, restated or supplemented from time to time, or the SISP Order, as applicable.
2. This SISP sets out the manner in which (i) binding bids for executable transaction alternatives that are superior to the sale transaction provided for in the Stalking Horse Purchase Agreement involving the shares and/or the business and assets of the COPL Entities will be solicited from interested parties, (ii) any such bids received will be addressed, (iii) any Successful Bid (as defined below) will be selected, and (iv) Court approval of any Successful Bid will be sought. Such transaction alternatives may include, among other things, a sale of some or all of the COPL Entities' shares, assets and/or business and/or an investment in the COPL Entities, each of which shall be subject to all terms set forth in this SISP.
3. The SISP shall be conducted by the COPL Entities, with the assistance of the Financial Advisor and oversight of KSV Restructuring Inc., in its capacity as court-appointed monitor (the "**Monitor**").
4. Parties who wish to have their bids considered shall participate in the SISP in accordance with the terms herein.
5. The SISP will be conducted such that the COPL Entities will, with the assistance of the Financial Advisor and oversight of the Monitor:
 - a) prepare marketing materials and a process letter;
 - b) prepare and provide applicable parties with access to a data room containing diligence information;
 - c) solicit interest from parties to enter into non-disclosure agreements (parties shall only obtain access to the data room and be permitted to participate in the SISP if they execute a non-disclosure agreement that is in form and substance satisfactory to the COPL Entities); and
 - d) request that such parties (other than the Stalking Horse Bidder or its designee) submit (i) a letter of intent to bid that identifies the potential bidder (which, for the avoidance of doubt, may be a purchaser or an investor) and a general description of the assets and/or business(es) of the COPL Entities that would be the subject of the bid and that reflects a reasonable prospect of culminating in a Qualified Bid (as defined below), as determined by the COPL Entities in consultation with the Monitor and the Consenting Lenders (as defined in the Support Agreement) (a

“**LOI**”) by the LOI Deadline (as defined below) and, if applicable, (ii) a binding offer meeting at least the requirements set forth in Section 7 below, as determined by the COPL Entities in consultation with the Monitor (a “**Qualified Bid**”) by the Qualified Bid Deadline (as defined below).

6. The SISP shall be conducted subject to the terms hereof and the following key milestones:

- a) Court approval of SISP and authorizing the applicable COPL Entities to enter into the Stalking Horse Purchase Agreement, and commencement by COPL Entities of solicitation process – March 19, 2024;
- b) Deadline to submit LOI – 11:59 p.m. Mountain Time on April 17, 2024 (the “**LOI Deadline**”);
- c) Deadline to submit a Qualified Bid – 11:59 p.m. Mountain Time on May 2, 2024 (the “**Qualified Bid Deadline**”);
- d) Deadline to determine whether a bid is a Qualified Bid and, if applicable, to notify those parties who submitted a Qualified Bid of the Auction (as defined below) – 5:00 p.m. Mountain Time on May 6, 2024;
- e) The COPL Entities to hold Auction (if applicable) – 10:00 a.m. Mountain Time on May 8, 2024; and
- f) Implementation Order (as defined below) hearing:
 - (if no LOI is submitted) – by no later than 9 days after the LOI Deadline subject to Court availability.
 - (if there is no Auction) – by no later than 9 days after the Qualified Bid Deadline, subject to Court availability.
 - (if there is an Auction) – by no later than 9 days after completion of the Auction, subject to Court availability.

7. In order to constitute a Qualified Bid, a bid must comply with the following:

- a. it provides for (i) the payment in full in cash on closing of the DIP Financing (as defined in the Support Agreement), the Expense Reimbursement, and the Break-up Fee, plus cash consideration equal to at least \$250,000; (ii) payment in full in cash of all amounts outstanding under the Credit Agreement, unless otherwise agreed to by the lenders thereunder in their sole discretion; (iii) the payment in full in cash on closing of any claims ranking in priority to the foregoing, including any claims secured by Court-ordered charges, unless otherwise agreed to by the applicable holders thereof in their sole discretion (the proposal set out above, a “**Superior Proposal**”);
- b. it provides a detailed sources and uses schedule that identifies, with specificity, the amount of cash consideration (the “**Cash Consideration Value**”) and any assumptions that could reduce the net consideration payable;

- c. it is reasonably capable of being consummated within 30 days after completion of the Auction if selected as the Successful Bid;
- d. it contains:
 - i. duly executed binding transaction document(s);
 - ii. the legal name and identity (including jurisdiction of existence) and contact information of the bidder, full disclosure of its direct and indirect principals, and the name(s) of its controlling equityholder(s);
 - iii. a redline to the Stalking Horse Purchase Agreement, unless the bid is in the form of a plan of arrangement, in which case copies of the plan of arrangement and all documentation that is contemplated to be executed in connection therewith shall be provided;
 - iv. evidence of authorization and approval from the bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, the bidder's equityholder(s);
 - v. disclosure of any connections or agreements with the COPL Entities or any of its affiliates, any known, potential, prospective bidder, or any officer, manager, director, or known equity security holder of the COPL Entities or any of its affiliates; and
 - vi. such other information reasonably requested by the COPL Entities or the Monitor;
- e. it includes a letter stating that the bid is submitted in good faith, is binding and is irrevocable until the selection of the Successful Bid; provided, however, that if such bid is selected as the Successful Bid, it shall remain irrevocable until the closing of the Successful Bid;
- f. it provides written evidence of a bidder's ability to fully fund and consummate the transaction and satisfy its obligations under the transaction documents, including binding equity/debt commitment letters and/or guarantees covering the full value of all cash consideration and the additional items (in scope and amount) covered by the guarantees provided by affiliates of the Purchaser in connection with the Stalking Horse Purchase Agreement;
- g. it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
- h. it is not conditional upon:
 - i. approval from the bidder's board of directors (or comparable governing body) or equityholder(s);
 - ii. the outcome of any due diligence by the bidder; or
 - iii. the bidder obtaining financing;
- i. it includes an acknowledgment and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its bid, and that the transaction that is the subject of the bid shall be on an "as is, where is" basis and without surviving representations, warranties, covenants or indemnities of any kind, nature or description by the COPL Entities, except to the extent set forth in a written agreement as between the Purchaser and the COPL Entities (as applicable).
- j. it specifies any regulatory or other third-party approvals the party anticipates would be required to complete the transaction (including the anticipated timing necessary

- to obtain such approvals and any approvals/authority to hold oil and gas licenses and permits);
- k. it includes full details of the bidder's intended treatment of the COPL Entities' employees under the proposed bid;
 - l. it is accompanied by a cash deposit (the "**Deposit**") by wire transfer of immediately available funds equal to 10% of the Cash Consideration Value, which Deposit shall be retained by the Monitor in a non-interest bearing trust account in accordance with this SISP;
 - m. a statement that the bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction, and by submitting its bid is agreeing to refrain from and waive any assertion or request for reimbursement on any basis; and
 - n. it is received by the Qualified Bid Deadline.
8. The COPL Entities, in consultation with the Monitor, may waive compliance with any one or more of the requirements specified in Section 7 above and deem a non-compliant bid to be a Qualified Bid, provided that the COPL Entities shall not waive compliance with the requirements specified in Subsections 7(a), (b), (d), (e), (f), (g), (i) or (l) without the prior written consent of the Stalking Horse Bidder and Consenting Lenders.
 9. Notwithstanding the requirements specified in Section 7 above, the transaction contemplated by the Stalking Horse Purchase Agreement (the "**Stalking Horse Transaction**"), is deemed to be a Qualified Bid, provided that, for greater certainty, no Deposit shall be required to be submitted in connection with the Stalking Horse Transaction.
 10. If one or more Qualified Bids (other than the Stalking Horse Transaction) has been received by the COPL Entities on or before the Qualified Bid Deadline, the COPL Entities shall proceed with an auction process to determine the successful bid(s) (the "**Auction**"), which Auction shall be administered in accordance with Schedule "A" hereto. The successful bid(s) selected within the Auction shall constitute the "**Successful Bid**". Forthwith upon determining to proceed with an Auction, the COPL Entities shall provide written notice to each party that submitted a Qualified Bid (including the Stalking Horse Transaction), along with copies of all Qualified Bids and a statement by the COPL Entities specifying which Qualified Bid is the leading bid.
 11. If, by the LOI Deadline no LOI has been received, then the SISP shall be deemed to be terminated and the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Purchase Agreement. If no Qualified Bid (other than the Stalking Horse Transaction) has been received by the COPL Entities on or before the Qualified Bid Deadline, then the Stalking Horse Transaction shall be the Successful Bid and shall be consummated in accordance with and subject to the terms of the Support Agreement and the Stalking Horse Purchase Agreement.

12. Following selection of a Successful Bid, the COPL Entities, with the assistance of its advisors, shall seek to finalize any remaining necessary definitive agreement(s) with respect to the Successful Bid in accordance with the key milestones set out in Section 6. Once the necessary definitive agreement(s) with respect to a Successful Bid have been finalized, as determined by the COPL Entities, in consultation with the Monitor, the COPL Entities shall apply to the Court for an order or orders approving such Successful Bid and/or the mechanics to authorize the COPL Entities to complete the transactions contemplated thereby, as applicable, and authorizing the COPL Entities to (i) enter into any and all necessary agreements and related documentation with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid (each, an **“Implementation Order”**).
13. All Deposits shall be retained by the Monitor in a non-interest bearing trust account. If a Successful Bid is selected and an Implementation Order authorizing the consummation of the transaction contemplated thereunder is granted, any Deposit paid in connection with such Successful Bid will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid, be applied to the cash consideration to be paid in connection with such Successful Bid or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid. Any Deposit delivered with a Qualified Bid that is not selected as a Successful Bid, will be returned to the applicable bidder as soon as reasonably practicable (but not later than ten (10) business days) after the date upon which the Successful Bid is approved pursuant to an Implementation Order or such earlier date as may be determined by the COPL Entities, in consultation with the Monitor.
14. The COPL Entities shall provide the Consenting Lenders with such information relating to the SISP as is required under the Support Agreement.
15. Any amendments to this SISP may only be made by: (a) the COPL Entities with the written consent of the Monitor and after consultation with the Consenting Lenders, provided that the COPL Entities shall not amend Subsections 7(a), (b), (d), (e), (f), (g), (i) or (l) or Section 13 without the prior written consent of the Stalking Horse Bidder and the Consenting Lenders.

SCHEDULE "A": AUCTION PROCEDURES

1. **Auction.** If the COPL Entities receive at least one Qualified Bid (other than the Stalking Horse Transaction), the Monitor will conduct and administer the Auction in accordance with the terms of the SISP. Instructions to participate in the Auction, which will take place via video conferencing, will be provided to Qualified Parties (as defined below) not less than 24 hours prior to the Auction.

2. **Participation.** Only parties that provided a Qualified Bid by the Qualified Bid Deadline, including the Stalking Horse Transaction (collectively, the "**Qualified Parties**"), shall be eligible to participate in the Auction. No later than 5:00 p.m. Mountain Time on the day prior to the Auction, each Qualified Party (other than the Stalking Horse Bidder) must inform the Monitor and the COPL Entities whether it intends to participate in the Auction. The Monitor will promptly thereafter inform in writing each Qualified Party who has expressed its intent to participate in the Auction of the identity of all other Qualified Parties that have indicated their intent to participate in the Auction. If no Qualified Party provides such expression of intent, the Stalking Horse Transaction shall be the Successful Bid.

3. **Auction Procedures.** The Auction shall be governed by the following procedures:

- a. **Attendance.** Only the COPL Entities, the Qualified Parties, the Monitor and each of their respective advisors will be entitled to attend the Auction, and only the Qualified Parties will be entitled to make any subsequent Overbids (as defined below) at the Auction;
- b. **Minimum Overbid.** The Auction shall begin with the Qualified Bid that represents the highest or otherwise best Qualified Bid as determined by the COPL Entities, in consultation with the Monitor (the "**Initial Bid**"), and any bid made at the Auction by a Qualified Party subsequent to the COPL Entities' announcement of the Initial Bid (each, an "**Overbid**"), must proceed in minimum additional cash increments of \$250,000;
- c. **Bidding Disclosure.** The Auction shall be conducted such that all bids will be made and received in one group video-conference, on an open basis, and all Qualified Parties will be entitled to be present for all bidding with the understanding that the true identity of each Qualified Party will be fully disclosed to all other Qualified Parties and that all material terms of each subsequent bid will be fully disclosed to all other Qualified Parties throughout the entire Auction; provided, however, that the Monitor, in its discretion, may establish separate video conference rooms to permit interim discussions between the COPL Entities and individual Qualified Parties with the understanding that all formal bids will be delivered in one group video conference, on an open basis;
- d. **Bidding Conclusion.** The Auction shall continue in one or more rounds and will conclude after each participating Qualified Party has had the

opportunity to submit one or more additional bids with full knowledge and written confirmation of the then-existing highest bid(s); and

- e. **No Post-Auction Bids.** No bids will be considered for any purpose after the Auction has concluded.
- f. **Auction Cancellation/Postponement.** The COPL Entities, in consultation with the Consenting Lenders, and with the approval of with the Monitor, reserve the right to cancel or postpone the Auction.
- g. **Additional Rules.** Except as otherwise set forth herein, the COPL Entities may establish additional rules for conducting the Auction, provided that such rules are: (a) disclosed to each participating Qualified Party; (b) designed, in the COPL Entities' business judgment, to result in the highest and otherwise best offer; (c) approved by the Monitor; and (d) not contrary to any material term set out herein.

4. **Selection.** Before the conclusion of the Auction, the COPL Entities, in consultation with the Monitor, will: (a) review each Qualified Bid, considering the factors set out in Section 7 of the SISF and, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in prong (i) above; (iii) the likelihood of the Qualified Party's ability to close a transaction within thirty (30) days after completion of the Auction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; availability of financing and financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Successful Bid, and (v) any other factors the COPL Entities may, consistent with its fiduciary duties, reasonably deem relevant; and (b) identify the highest or otherwise best bid received at the Auction (the "**Successful Bid**" and the Qualified Party making such bid, the "**Successful Party**").

5. **Acknowledgement.** The Successful Party shall complete and execute all agreements, contracts, instruments or other documents evidencing and containing the terms and conditions upon which the Successful Bid was made within one business day of the Successful Bid being selected as such, unless extended by the COPL Entities, after consultation with the Monitor, subject to the milestones set forth in Section 6 of the SISF.