

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF DISCOVERY AIR INC.

APPLICANT

**MOTION RECORD
(Amendment to DIP Facility)
(returnable April 26, 2018)**

April 23, 2018

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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APPLICANT

**NOTICE OF MOTION
(Amendment to DIP Facility)
(returnable April 26, 2018)**

Discovery Air Inc. ("**Discovery**" or the "**Applicant**") will make a motion to Justice Hainey of the Commercial List on Thursday, April 26, 2018 at 10am. or as soon as after that time as the motion can be heard, at 330 University Avenue, 8th Floor, Toronto, Ontario.

THE PROPOSED METHOD OF HEARING: The motion is to be heard:

- in writing under subrule 37.12.1(1) because it is made without notice;
- in writing as an opposed motion under subrule 37.12.1(4); or
- orally.

THE MOTION IS FOR AN ORDER:

- (a) abridging the time for service of the Notice of Motion and Motion Record in respect of this motion and dispensing with further service thereof;
- (b) approving the first amending agreement dated as of April 23, 2018 (the "**First Amendment**") to the DIP Term Sheet dated as of March 21, 2018 (the "**DIP Term Sheet**") between the Applicant and CEP IV Co-Investment Limited Partnership (a member of the Clairvest group) (the "**DIP Lender**");

- (c) confirming that advances under the DIP Term Sheet as amended by the First Amendment (the “**Amended DIP Term Sheet**”) are secured by the DIP Lender’s Charge and the Intercompany Charges (as both terms are defined in the Initial Order, defined below); and
- (d) such further and other relief as counsel may request and this Honourable Court deem just;

THE GROUNDS FOR THE MOTION ARE:

- (a) On March 21, 2018 Discovery was granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), pursuant to an initial order (the “**Initial Order**”) of this Honourable Court and KSV Kofman Inc. was appointed as monitor (the “**Monitor**”) in the CCAA proceedings;
- (b) From the outset, Discovery has indicated that the main purpose of its CCAA proceedings will be to conduct a sale process for the sale of Discovery’s remaining assets which are comprised of its equity interests in its wholly owned subsidiaries, its 9.7% minority interest in Top Aces Holdings Inc. and miscellaneous assets;
- (c) The Applicant and its Subsidiaries require interim funding to fund their operating expenses during the CCAA proceedings;
- (d) The DIP Term Sheet provides for an interim facility (the “**DIP Facility**”) of up to \$12.6 million;
- (e) To date, the funding requirements of the Applicant and the Subsidiaries have exceeded the projections set out in the Initial Cash Flow Forecast by approximately \$4.4 million;
- (f) The variance is largely attributable to unforeseen required capital expenditures as well as costs required to stabilize the Subsidiaries’ businesses in the immediate post-filing period;
- (g) The Applicant’s updated cash flow forecast (which will be attached to the Third Report) shows the Applicant’s maximum funding need to arise in June 2018 and to be exceeding \$14 million;
- (h) The immediate issue being faced by the Applicant and the Subsidiaries relates to the funding of their payroll this week and government remittances by mid-next week;

- (i) Absent an increase in the DIP Facility, based on the updated projections, the Applicant and the Subsidiaries will not have sufficient funds to cover these payments;
- (j) In order to address the increased funding need, the DIP Lender has agreed to increase the maximum amount under the DIP Facility to \$15 million;
- (k) The Applicant and the DIP Lender have now entered into the First Amendment which among other things, (a) increases the maximum amount available under the DIP Term Sheet to \$15 million; (b) waives the default arising as a result of the Applicant's failure to make a payment of interest to the DIP Lender under the DIP Facility; and (c) permits the continued non-payment of cash interest to the DIP Lender (all such interest to accrue and be added to the principal obligations under the DIP Term Sheet) provided that there is no further Event of Default (as defined in the DIP Term Sheet);
- (l) The effectiveness of the First Amendment is conditional upon Court approval;

GENERAL

- (m) The provisions of the CCAA; and
- (n) Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

- (a) The affidavit of Paul Bernards, sworn April 23, 2018;
- (b) The initial affidavit of Paul Bernards sworn March 21, 2018 (without exhibits);
- (c) The Initial Order;
- (d) The Third Report of the Monitor, to be filed; and
- (e) Such further and other evidence as counsel may advise and this Honourable Court may permit.

April 23, 2018

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TO: The Attached Service List

**ONTARIO
SUPERIOR COURT OF JUSTICE
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APPLICANT

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IN THE MATTER OF THE COMPANIES' CREDITORS
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Court File No: CV-18-594380-00CL

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced TORONTO

NOTICE OF MOTION
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TAB 2

Court File No.: _____

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APPLICANT

**AFFIDAVIT OF PAUL BERNARDS
(Sworn March 21, 2018)**

I, Paul Bernards, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. This Affidavit is made in support of an Application by Discovery Air Inc. (“**Discovery**”, or the “**Applicant**”) for relief under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). The Applicant has four (4) wholly owned Non-Applicant Subsidiaries (defined and discussed below), as well as a minority interest in a holding company of the Top Aces business, all of which are discussed in further detail below. Although the Non-Applicant Subsidiaries are not part of the filing, they are the operational subsidiaries of the Applicant and have joint and/or several obligations, including, without limitation, in respect of maturing principal debt and other principal debt amounts and guaranteed debt amounts, with the Applicant. As such, the Applicant is seeking to have a limited stay granted in favour of these Non-Applicant Subsidiaries pursuant to this Application to primarily address cross-defaults related to such joint and/or several obligations.

2. I am the Chief Financial Officer of the Applicant, a position that I have held since April 1, 2014. Prior to that time, I was a consultant to Discovery from March 17 to April 1, 2014. I have also held positions as the Senior Vice President of Finance and Chief Financial Officer at Premier Salons Ltd, Shepell FGI LP and Masonite International Corporation. I have over 30

years of experience in corporate finance and public accounting, am a certified public accountant in both the United States and Canada, and have obtained a B.A. in Finance from the University of Toronto and a M.B.A. from York University (now the Schulich School of Business). I also hold the ICD.D designation from the Institute of Corporate Directors of Canada.

3. As such, I have personal knowledge of the matters deposed to in this Affidavit. Where I have relied on other sources of information, I have specifically referred to such sources and verily believe them to be true. In preparing this Affidavit, I have consulted with legal, financial and other advisers of the Applicant and other members of the senior management team of the Applicant.

4. This affidavit is organized as follows:

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5. The exhibits to this affidavit are as follows:

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I. OVERVIEW

(a) Background and Introduction

6. Discovery, through its four wholly-owned subsidiaries (the “**Non-Applicant Subsidiaries**”), Great Slave Helicopters Ltd. (“**GSH**”), Air Tindi Ltd. (“**ATL**”), Discovery Mining Services Ltd. (“**DMS**”) and Discovery Air Technical Services Inc. (“**DATS**”) (Discovery and the Non-Applicant Subsidiaries are collectively referred to herein as the “**Discovery Air Group**”), provides specialty aviation services and logistics support to governments and natural resource and other business customers, operating across Canada and in select locations internationally, including the United States, Bolivia, Australia, and Chile. GSH, ATL and DMS are active subsidiaries, while DATS is presently inactive.

7. Until December 2017, Discovery Air Defence Services Inc. (“**DADS**”) and its subsidiaries were also subsidiaries of Discovery. As discussed below, as of December 2017, DADS is no longer owned by Discovery (other than a remaining small minority interest). On February 1, 2018, DADS rebranded by changing the name of the company back to its original corporate name, “Top Aces Inc.” (together with its subsidiaries, “**Top Aces**”) and the former DADS business now carries on business globally under the Top Aces brand.

8. Since 2014, Discovery has consistently experienced losses ranging between \$16 million and \$29 million annually on a consolidated basis and has not reported a profit. These stresses affecting the Discovery Air Group and Top Aces have resulted from a number of external and internal factors, including a slowdown of the oil and gas and mining sectors, unexpectedly extreme seasonal impacts on the business (particularly those that operate in remote areas of Canada or are dependent on unpredictable fire suppression activities), significant capital expenditures required for ongoing maintenance, depression in the helicopter charter services markets globally, the application of aircraft import controls, and regulatory policy changes (which, in some cases, led to the temporary grounding of aircraft by applicable regulatory authorities and increased expenditures to bring aircraft in compliance with the new policies).

9. Throughout this time, the businesses have required persistent infusions of capital and significant funding to continue operating. Further, the seasonal nature of Discovery's business has contributed to the need for further capital in the slower winter months. The Northern business (carried out through GSH, ATL and DMS) is highly seasonal with approximately 50% of its gross revenue earned in June to September of each year. While the Top Aces business is slightly less seasonal, it required constant funding for capital expenditures and maintenance costs, the financial effects of which were worsened by the temporary groundings of certain of its aircraft in 2017 and its inability to produce revenue while it became compliant with new policies.

10. Since 2014, the Discovery Air Group and Top Aces businesses have been supported and financially sustained directly and indirectly by Clairvest Group Inc. and its affiliates, including certain funds managed by Clairvest Group Inc. (collectively, "**Clairvest**"¹ and references to "**Clairvest**" herein may refer to any or all such affiliates and/or funds, as applicable). Clairvest is a publicly traded private equity investor. In order to maintain the viability of Discovery, Clairvest has provided debt and equity fundings on numerous instances when there were no other viable options in the debt or capital markets. As a result, Clairvest has become the principal owner of, and by far the largest secured lender of, the Discovery Air Group.

¹ As applicable, the term "Clairvest" may also include Mr. G. John Krediet, an individual investor within the Clairvest group.

11. The Discovery Air Group has taken steps to cut costs, improve efficiency and profitability, divest non-essential assets and businesses, raise capital, and hire new executive officers including replacing its CFO twice and its CEO. These initiatives have not been sufficient to address ongoing liquidity and other financial challenges.

12. As set out in further detail below Discovery is presently facing the imminent or near term maturities of the following significant obligations that total more than \$127 million in the aggregate:

- (a) Unsecured Listed Debentures maturing on June 30, 2018: \$34.5 million (plus over \$1.4 million in interest) in unsecured bond debt principal due to public bondholders under the Unsecured Listed Debentures (defined below);
- (b) Roynat Secured Debt maturing on April 15, 2018: \$5.1 million of secured principal indebtedness owing to Roynat Inc.;
- (c) CIBC Secured Debt effectively maturing April 30, 2018:² secured principal indebtedness owing to Canadian Imperial Bank of Commerce (including amounts owing under outstanding letters of credit) which, as of March 16, 2018 was approximately \$10.6 million (plus \$4.2 million in outstanding letters of credit); and
- (d) CV Secured Debentures maturing on May 5, 2018: \$72.7 million of secured principal indebtedness owing to Clairvest (the details of which are set out below).

13. Discovery has no ability to repay these obligations and is unable to refinance this debt given its current circumstances. Among other things, Clairvest has informed Discovery that it will not extend the maturity of its debt or provide additional financing to pay the other maturity obligations, which may result in cross-defaults and debt acceleration.

² See discussion of CIBC maturity date below in paragraph 37.

(b) Purpose of this CCAA Proceeding

14. In light of Discovery's financial distress and inability to continue to service or repay its debt when due, Discovery is seeking protection pursuant to the CCAA in order to pursue sale transactions for the businesses held in GSH, ATL and DMS and its remaining indirect minority interest in Top Aces, following which Discovery itself expects that it – together with certain other inactive wholly-owned subsidiaries – will cease to operate.

15. Discovery intends to effect a series of restructuring transactions principally through a sale solicitation process (“SSP”), which will include four stalking horse bids: one for the indirect minority interest in Top Aces, and separate bids for the shares of each of GSH, ATL, and DMS, respectively, and in each case together with various ancillary assets and contracts that are used and required for the ongoing operation of each business. In order to provide stability and certainty to stakeholders, Discovery has negotiated the terms of proposed stalking horse agreements with Clairvest who, through designated purchasers, will act as stalking horse bidders for each of the transactions. If the Initial CCAA Order is granted, I anticipate that the Applicant will be seeking approval of the SSP on a subsequent motion brought on notice to the service list within one to two weeks after the granting of the Initial CCAA Order.

16. Successful sale transactions for these businesses will benefit employees, customers, suppliers and other business partners, and will avoid the social and economic costs of a liquidation of the businesses and assets of the Non-Applicant Subsidiaries (including as a result of piecemeal lender enforcement processes that might otherwise be taken by lenders having secured claims against the Non-Applicant Subsidiaries). This will be facilitated by the stabilization of the business of the Discovery Air Group for the duration of the CCAA proceeding.

17. Discovery also requires access to interim financing to, among other things, continue to provide needed funding to the Non-Applicant Subsidiaries. Discovery is seeking to authorize interim financing to be provided by Clairvest as part of the Initial CCAA Order which is required immediately. It is intended that the priority of the interim financing will take priority only over the existing secured debt held by Clairvest and obligations to other creditors that are subordinate

to the existing Clairvest debt and security. For greater certainty, the interim financing will not prime any debt or security ranking in priority to Clairvest's existing secured debt.

18. Discovery is also seeking approval of arrangements to ensure the participation of the key management personnel who provide corporate support, managerial and other services throughout the Discovery Air Group and who have background and familiarity with the operations of the Discovery Air Group, such that the input of such personnel will improve the prospects that these proceedings have a successful outcome. To that end, Discovery intends to seek approval of a key employee retention plan ("**KERP**") as part of this Application.

19. It is intended that the key business operations conducted through the Non-Applicant Subsidiaries, will continue to operate in the ordinary course throughout this CCAA proceeding and that creditors of the Non-Applicant Subsidiaries will continue to be paid in the ordinary course during this time, save and except for payments in respect of maturing debt obligations and guarantees that will be stayed.

II. CORPORATE DETAILS OF DISCOVERY AND FINANCIAL STATEMENTS

(a) Corporate Information and Ownership

20. Discovery was incorporated under the laws of the Province of Ontario (the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16 as amended) on November 12, 2004, and was continued under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "**CBCA**") on March 27, 2006. Attached as **Exhibit "A"** is a copy of the organization chart for the Discovery Air Group.

21. Discovery's head office is a leased location in Toronto, near Pearson International Airport.

22. The current directors of Discovery are Kenneth Rotman, Adrian Pasricha, G. John Krediet, Thomas Andrew (Drew) Hickey and Michael Grasty. Messrs. Hickey and Grasty are the independent directors of Discovery. On August 30, 2017, Discovery announced the appointment of Alan D. Torrie as Chief Executive Officer, effective as of August 29, 2017.

23. Discovery has seven employees, three of whom are officers of Discovery.

24. Discovery was initially a public company, but it has been a privately held company since May 2017, although it remains a reporting issuer as a result of its publicly traded bond debt. Through various share acquisitions culminating in the Going Private Transaction (defined below) in May 2017, Clairvest owns approximately 95.5% of the common shares, and certain current and former management of Discovery own the remainder. Further details regarding the Going Private Transaction are discussed below in paragraph 31.

(b) Discovery's Business

25. Discovery is primarily a holding company for the shares of its operating subsidiaries, and for its indirect minority interest in Top Aces, and has historically been the vehicle through which funding has been provided for the businesses of the operating subsidiaries. Discovery provides corporate support functions to the Discovery Air Group and Top Aces, including shared services such as central management, finance, treasury, information technology, legal, human resources and other administrative functions, but does not have an independent business of its own.

(c) Discovery's Financial Position

26. The most recent audited annual consolidated financial statements for Discovery for the fiscal year ending January 31, 2017 are attached at **Exhibit "B"**. Discovery's unaudited consolidated financial statements for its financial year ended January 31, 2018 are attached at **Exhibit "C"** which have been prepared on a preliminary basis and are subject to year end adjustments. Any reference in this affidavit to financial information as of January 31, 2018 is being provided on such a basis and may be subject to further adjustment.

27. On a preliminary basis, as of January 31, 2018, the book value of Discovery's assets, liabilities and accumulated deficit were as follows:

- (a) Working capital deficit: Working Capital deficit of \$102.1 million made up of \$39.0 million in current assets (including \$13.8 million of illiquid aircraft parts inventory) offset by current monetary liabilities of \$141.1 million;
- (b) Net Long-Lived Assets: Net long-lived assets of \$121.5 million made up of illiquid long-lived capital assets of \$155.3 million less non-current liabilities of 33.8 million; and

- (c) Deficit in Retained Earnings: Accumulated deficit in retained earnings of approximately \$80.2 million, including net losses in the prior three fiscal years totalling approximately \$63 million.

28. As set out above, Discovery has been experiencing significant losses for several years. A brief summary of Discovery's financial results (shown in millions of Canadian dollars) since 2014 is as follows:

	Fiscal year ended January 31, 2014 (audited)	Fiscal year ended January 31, 2015 (audited)	Fiscal year ended January 31, 2016 (audited)	Fiscal year ended January 31, 2017 (audited)	Fiscal year ended January 31, 2018 (unaudited) ³
Discovery (consolidated)	Revenue: 213.5 Net Income/(loss): (18)	Revenue: 190.8 Net Income/(loss): (18.9)	Revenue: 182.2 Net Income/(loss): (16)	Revenue: 171.1 Net Income/(loss): (18)	Revenue: 143.1 Net Income/(loss): (29)

III. DISCOVERY'S OUTSTANDING DEBT

(a) Overview of Discovery's and the Non-Applicant Subsidiaries' Secured Debt

29. A summary of the current secured debt structure of the Discovery Air Group as of January 31, 2018 is set out below:

Lender	Principal amount Owing as of January 31, 2018 (unless otherwise indicated below)	Maturity	Borrower(s)	Guarantor(s) (within the Discovery Air Group)	Security & Priority (pursuant to Inter-Creditor Agreement)
Clairvest	\$72.7 million	May 5, 2018	Discovery	GSH ATL DMS DATS	<u>Security</u> : General security on all property, assets and undertakings of all obligors. <u>Priority</u> : (i) first charge on specific aircraft, real estate, certain capitalized parts and proceeds of foregoing; (ii) first charge via share

³ Information provided pursuant to preliminary unaudited financial statements for January 31, 2018 which are subject to adjustment.

Lender	Principal amount Owing as of January 31, 2018 (unless otherwise indicated below)	Maturity	Borrower(s)	Guarantor(s) (within the Discovery Air Group)	Security & Priority (pursuant to Inter-Creditor Agreement)
					pledge of the shares of all of the Non-Applicant Subsidiaries and Top Aces Holdco owned by Discovery; (iii) second charge on accounts receivable, all inventory, enumerated capitalized parts (behind CIBC) and proceeds; and (iv) second charge on certain fixed assets and proceeds (behind Roynat, ECN and Textron, as applicable, with respect to their respective priority collateral, but prior to such parties with respect to all other collateral).
CIBC	\$10.6 million on operating line as of March 16, 2018 plus \$4.2 million outstanding in letters of credit	April 30, 2018 ⁴	Discovery	GSH ATL DMS DATS	<p><u>Security:</u> General security on all personal property and undertaking of all obligors other than the shares of Top Aces Holdco owned by Discovery.</p> <p><u>Priority:</u> (i) first charge on accounts receivable, inventory, and GSH / ATL capitalized parts and proceeds; and (ii) a blanket <i>pari passu</i> second charge on the Clairvest priority collateral and a blanket <i>pari passu</i> third charge on other personal property (behind Clairvest and behind the other lenders with respect to their respective priority collateral only).</p>
Roynat	\$5.1 million	April 15, 2018	Discovery GSH ATL DMS	Nil	<p><u>Security:</u> General security on all personal property and undertaking of all obligors other than the shares of Top Aces Holdco owned by Discovery</p> <p><u>Priority:</u> (i) first charge on specific aircraft financed by Roynat,</p>

⁴ See discussion of CIBC maturity date below in paragraph 37.

Lender	Principal amount Owning as of January 31, 2018 (unless otherwise indicated below)	Maturity	Borrower(s)	Guarantor(s) (within the Discovery Air Group)	Security & Priority (pursuant to Inter-Creditor Agreement)
					including engines and related property and proceeds; and (ii) a blanket <i>pari passu</i> second charge on the Clairvest priority collateral and a blanket <i>pari passu</i> third charge on other personal property (behind Clairvest and behind the other lenders in respect of their respective priority collateral only).
ECN	\$0.7 million and \$7.9 million	April 1, 2020	Discovery	GSH ATL DMS DATS	<p><u>Security:</u> General security on all personal property and undertaking of all obligors other than the shares of Top Aces Holdco owned by Discovery</p> <p><u>Priority:</u> (i) first charge on specific aircraft financed by ECN, including engines and related property; and (ii) a blanket <i>pari passu</i> second charge on the Clairvest priority collateral and a blanket <i>pari passu</i> third charge on other personal priority (behind Clairvest and behind the other lenders in respect of their respective priority collateral only).</p>
Textron	\$13.1 million	April 1, 2023	ATL	Discovery	<p><u>Security:</u> General security on specific personal property and undertaking of ATL</p> <p>Unsecured guarantee by Discovery</p> <p><u>Priority:</u> (i) first charge on specific aircraft of ATL financed by Textron, including engines and related property and the reserve account; and (ii) an unsecured corporate guarantee from Discovery</p>

(b) Clairvest

30. As noted above, Clairvest is presently the majority shareholder of Discovery and Top Aces (indirectly through Top Aces Holdco, defined below), and is the largest secured creditor of the Discovery Air Group. Discovery is the borrower of the debt owing to Clairvest.

31. A summary of the principal transactions involving Clairvest and the Discovery Air Group and applicable timeline is set out in the table below (with each capitalized term defined and described below). Discovery has issued numerous press releases disclosing these transactions, collectively attached as **Exhibit “D”**.

Date	Transaction Description
September 2011	<p>\$70 million private placement of secured convertible debentures (the “CV Secured Debentures”)</p> <ul style="list-style-type: none"> • Guaranteed by all of the Non-Applicant Subsidiaries • Fully secured by all assets of Discovery (including the shares it holds of Top Aces Holdco, defined below and the Non-Applicant Subsidiaries) and the assets of Non-Applicant Subsidiaries • Balance remaining as of January 31, 2018: \$72.7 million • Maturity Date: May 5, 2018
April-May 2014	<p>1st rights offering and equity acquisition by Clairvest of \$13.3 million</p> <ul style="list-style-type: none"> • \$15 million rights offering by Discovery back stopped by Clairvest • Very little take up in market resulting in backstop being called on • Upon exercise of the rights, Clairvest owned 48.8% of common shares of Discovery
March 2015	<p>2nd rights offering and further equity acquisition by Clairvest of \$10.2 million</p> <ul style="list-style-type: none"> • \$11 million rights offering by Discovery • Very little take up in market other than Clairvest • Upon exercise of the rights, Clairvest owned 75.5% of common shares of Discovery

Date	Transaction Description
May 2015	Clairvest guarantee of temporary CIBC facility increase of up to \$10 million
March - June 2015	<p>Clairvest promissory notes to Discovery of \$8.1 million</p> <ul style="list-style-type: none"> • Various promissory notes to assist in aircraft financing and working capital needs • All amounts have been repaid
March 2016	<p>Revolving credit facility (“CV 2016 Credit Facility”) between Discovery and Clairvest:</p> <ul style="list-style-type: none"> • Revolving credit facility of up to \$12 million for working capital, capital expenditures, maintenance and other costs. • Guaranteed by Top Aces and several subsidiaries of Top Aces and security granted on certain aircraft owned by Top Aces subsidiaries. • Refinanced in December 2016 through Top Aces Credit Agreement (defined below).
December 2016	<p>Secured revolving loan agreement (“Top Aces Credit Agreement”) between Clairvest and Top Aces:</p> <ul style="list-style-type: none"> • Revolving credit facility of up to \$25 million provided to Top Aces. • Guaranteed by certain other subsidiaries of Top Aces and secured by various assets owned by Top Aces and the guarantors. • Proceeds used to refinance the CV 2016 Credit Facility and provide additional funding for working capital and operating expenses. • Included conversion feature allowing debt under the Top Aces Credit Agreement to be converted to equity of Top Aces. • Repaid as part of Top Aces Transactions (defined and discussed below).
March 2017	<p>Going Private Transaction</p> <ul style="list-style-type: none"> • By December 2016 - Clairvest owned 87.5% of the listed outstanding common shares of Discovery. • March 24, 2017 - Discovery announces that it has entered into a definitive agreement with Clairvest to effect a plan of arrangement under the CBCA pursuant to which these entities and certain management shareholders would hold all of the issued and outstanding

Date	Transaction Description
	<p>shares in the capital of Discovery (the “Going Private Transaction”).</p> <ul style="list-style-type: none"> • In connection with the Going Private Transaction, Discovery retained Capital Canada Limited as its valuator to provide a formal valuation and fairness opinion (the “Valuation”) of the fair market value of the Discovery shares. • The Going Private Transaction was approved by shareholders of Discovery at a special meeting of shareholders held on May 23, 2017 by 99.84% of the votes cast by shareholders, with only one shareholder dissenting. • The Ontario Superior Court of Justice approved the Going Private Transaction on May 24, 2017, and it was implemented and closed on May 26, 2017. The shares of Discovery were de-listed from the TSX on that date.
June 2017	<p>Subordinated secured revolving credit agreement (the “Top Aces Subordinated Credit Agreement”) between Clairvest and Top Aces:</p> <ul style="list-style-type: none"> • Subordinated secured revolving credit facility of up to \$13 million. • Guaranteed by certain other subsidiaries of Top Aces and secured by various assets owned by Top Aces and the guarantors. • Proceeds used to fund working capital and operating expenses. • Included conversion feature allowing debt under the Top Aces Credit Agreement to be converted to equity of Top Aces. • Discovery entered into a letter agreement dated as of June 5, 2017 with Clairvest (the “Swap Letter”) providing for the ability of Clairvest convert up to \$18.4 million of CV Secured Debentures into common shares of Top Aces with an aggregate value of \$14.7 million. • Repaid as part of Top Aces Transactions (defined and discussed below).
November 2017	<p>\$8 million subordinated secured revolving credit agreement (the “ATL Subordinated Loan Agreement”) between Clairvest and ATL</p> <ul style="list-style-type: none"> • subordinated secured revolving credit agreement. • Guaranteed by Discovery and GSH and secured by all assets of obligors. • \$5 million drawn to repay a portion of the debt owing to ECN (defined

Date	Transaction Description
	<p>and discussed below).</p> <ul style="list-style-type: none"> • Repaid as part of Top Aces Transactions (defined and discussed below).
November 2017	<p>\$8 million subordinated secured revolving credit agreement (the “Top Aces Bridge Agreement”) between Clairvest and Top Aces</p> <ul style="list-style-type: none"> • Bridge funding agreement of up to \$8 million. • \$5 million drawn by Top Aces to pay Discovery as return of capital. • Secured by property of Top Aces. • Repaid as part of Top Aces Transactions (defined and discussed below).

32. This list of transactions does not include the extensive additional ongoing support provided by Clairvest (i.e. repeated waivers of covenants, extensions of debt maturity and other amendments and relief relating to these financing transactions). The net effect of all of these transactions on the obligations owing to Clairvest is that presently only the CV Secured Debentures (defined above) remain outstanding, all such other financing previously provided by Clairvest having been repaid or converted into equity of Top Aces and/or Top Aces Holdco.

33. As of January 31, 2018, the Discovery Air Group owed approximately \$72.7 million of secured debt to Clairvest under the CV Secured Debentures (the “**Clairvest Secured Indebtedness**”). All other obligations that had been owing to Clairvest have been repaid.

(c) Other Secured Indebtedness

34. In addition to Clairvest, the Discovery Air Group has a number of other significant secured creditors; namely (each capitalized term defined below): (a) CIBC – traditional revolving bank facility; (b) Roynat – aircraft-specific financing; (c) ECN – aircraft-specific financing; and (d) Textron – aircraft-specific financing.

35. As with Clairvest, Discovery has been forced to seek the agreement of most of its other secured lenders on an almost quarterly basis to extend and/or modify the terms of their loans (including seeking covenant relief due to a persistent inability to meet covenants set out in the

relevant loan documentation, as well as the granting by several of its lenders of extension of the terms of their loans). Discovery is now facing the impending maturity of its facilities with CIBC and Roynat, both of which mature prior to the end of April 2018.

(i) Canadian Imperial Bank of Commerce

36. Canadian Imperial Bank of Commerce (“CIBC”) is the secured operating lender to the Discovery Air Group pursuant to an amended and restated credit agreement dated May 26, 2015, as amended (as amended and/or restated from time to time, the “CIBC Credit Agreement”) between Discovery, as borrower and CIBC as lender. Pursuant to the CIBC Credit Agreement, each of Discovery, the other members of the Discovery Air Group and Top Aces⁵ (among others) granted general security over all of their personal property.

37. CIBC provides Discovery with a revolving credit facility of at up to \$20 million (the “CIBC Credit Facility”) subject to availability calculated using a borrowing base formula based on the assets of Discovery (and its subsidiaries). The revolver is used by Discovery and its subsidiaries for working capital purposes, capital expenditures and other costs on an ongoing basis. The maturity date and other terms under the CIBC Credit Agreement has been amended from time to time. On December 15, 2017, Discovery announced that the maturity date of the CIBC Credit Facility had been extended to January 31, 2019 subject to acceleration in certain circumstances. Given the current circumstances, the maturity date of the CIBC Credit Facility is effectively April 30, 2018.

38. The principal amount owing to CIBC as at March 16, 2018 was approximately \$10.6 million plus \$4.2 million in letters of credit. The priority of the CIBC secured obligations is summarized above in paragraph 29.

(ii) Roynat Inc.

39. Roynat Inc. (“Roynat”) refinanced certain specific aircraft owned by, *inter alia*, GSH and ATL pursuant to a Loan Agreement dated as of March 26, 2012, as amended. The joint and several co-borrowers include Discovery, ATL, GSH, DMS and DATS, and they have each granted security over all present and after-acquired personal property.

⁵ Top Aces was subsequently removed from the CIBC Credit Agreement.

40. The principal amount owing to Roynat as at January 31, 2018, was approximately \$5.1 million, which debt matures on April 15, 2018.

41. The priority of the Roynat secured obligations is summarized above in paragraph 29.

(iii) ECN Financial Corporation

42. ECN Aviation Inc. (“ECN”), assignee of Element Financial Corporation, financed the acquisition of certain specific aircraft owned by GSH and ATL pursuant to (a) an Aircraft Loan Agreement dated as of January 31, 2014, as amended (the “1st ECN Credit Agreement”); and (b) an Aircraft Loan Agreement dated March 31, 2014, as amended (the “2nd ECN Credit Agreement”, and together with the 1st ECN Credit Agreement, as amended and/or restated from time to time, the “ECN Credit Agreements”). Discovery is the principal borrower and all or substantially all of its then subsidiaries were guarantors (including the Non-Applicant Subsidiaries and, originally, Top Aces) under both of the ECN Credit Agreements. The borrower and guarantors have secured these obligations through a grant of security over all personal property.

43. As of January 31, 2018, ECN is owed approximately \$0.7 million under the 1st ECN Credit Agreement and \$7.9 million under the 2nd ECN Credit Agreement.

44. The priority of the ECN secured obligations is summarized above in paragraph 29.

(iv) Textron Financial Corporation

45. Textron Financial Corporation (“Textron”) financed the acquisition of certain specific aircraft purchased by ATL, which ATL required to service a new contract it had been awarded in December 2014. The Textron loan was evidenced by certain promissory notes. Textron has security against specific aircraft owned by ATL as borrower and an unsecured guarantee as against Discovery. No other subsidiaries of Discovery are guarantors of these obligations. Textron also has an engine overhaul reserve account that holds approximately \$680,000.

46. The principal amount owing to Textron as at January 31, 2018 was approximately \$13.1 million, which debt matures on April 1, 2023.

47. The priority of the Textron secured obligations is summarized above in paragraph 29.

(d) Intercreditor Agreement and Relative Priorities of Secured Debt

48. Each of the Discovery Air Group, Clairvest, CIBC, Textron, ECN and Roynat are party to an Intercreditor Agreement dated March 26, 2012 (as amended and/or restated from time to time, the “**Intercreditor Agreement**”). The Intercreditor Agreement, together with the underlying loan and security documents for each party to the Intercreditor Agreement is detailed and complex. The relative priorities agreed upon pursuant to the Intercreditor Agreement are summarized in the table above in paragraph 29.

(e) Unsecured Listed Debentures

49. The Unsecured Listed Debentures were issued by Discovery in the principal amount of \$34.5 million, pursuant an indenture dated May 12, 2011 (the “**Unsecured Listed Debentures**”). Other than certain intercompany obligations, the Unsecured Listed Debentures is the largest outstanding unsecured obligation of Discovery.

50. The Unsecured Listed Debentures accrue interest at a rate of 8.375% per annum, payable on a semi-annual basis. The Unsecured Listed Debentures are direct, unsecured obligations of Discovery, subordinated to other indebtedness for borrowed money, and rank equally with all other unsecured subordinated indebtedness. Although originally convertible into equity of Discovery, as a result of the Going Private Transaction the Unsecured Listed Debentures are no longer convertible into equity, but are convertible into cash in accordance with the terms of the indenture.

51. The Unsecured Listed Debentures have not been guaranteed by any members of the Discovery Air Group. The Unsecured Listed Debentures are believed by Discovery to be widely held, and neither Clairvest nor any of its direct or indirect subsidiaries owns any of the Unsecured Listed Debentures.

52. In November of 2014, the holders of the Unsecured Listed Debentures voted in favour of amendments to the indenture to: (i) extend the maturity date to June 30, 2018; and (ii) change the definition of “change of control” to permit Clairvest to acquire an equity interest in Discovery of more than 50% (e.g., in connection with the 2nd rights offering and the Going Private Transaction).

53. Discovery has made the interest payments required for the Unsecured Listed Debentures, including most recently in December of 2017 in the amount of approximately \$1.4 million. Discovery would not have been able to make this payment if the Top Ace Transactions had not occurred, which, among other things, provided the liquidity needed to make this interest payment.

54. The Unsecured Listed Debentures mature on June 30, 2018, at which point the principal plus remaining interest will be due. As set out above, Discovery does not have the funds to make these payments and Clairvest has said it will not fund them.

55. As set out in more detail below in paragraph 106, recently a holder of Unsecured Listed Debentures has made unfounded public complaints regarding the recent Top Aces Transactions.

(f) Other Debt of Discovery

(i) Other Unsecured Claims.

56. In addition to the matters noted above, as of January 31, 2018 Discovery has a nominal amount of known unsecured obligations including trade payables and severance obligations of approximately \$2.0 million as well as a small number of litigation matters.

IV. CASH MANAGEMENT

(a) Discovery Air Group Bank Accounts

57. Banking and operating borrowing facilities of Discovery and the Non-Applicant Subsidiaries are with CIBC and have been set up on a consolidating basis, such that the group's net balance at any point in time is the consolidated balances of all the accounts.

58. The main bank accounts of Discovery are with CIBC in London, Ontario. Discovery also has bank accounts with Royal Bank of Canada in Saskatoon, SK. The Discovery Air Group has accounts in both Canadian dollars and US dollars in the names of Discovery, as well as each of GSH, ATL and DMS. All balances in the Discovery Air Group's CIBC bank accounts are pooled into a consolidated cash pooling arrangement used by the group as a whole. Since the Top Aces Transactions, Top Aces and its subsidiaries are no longer part of the cash management system.

(b) Intercompany Obligations

59. The Discovery Air Group has various intercompany balances owing among themselves principally as a result of: (a) amounts originating from Discovery used to fund the operations of the rest of the Discovery Air Group; (b) costs incurred for corporate and back office services performed by Discovery for the benefit of the group; (c) intercompany cash management; (d) push down acquisition debt; (e) debt incurred for capital expenditures; and (f) tax planning.

60. Discovery is a net creditor of its subsidiaries. As of January 31, 2018, the intercompany balances of the Discovery Air Group, on a fully netted basis, are as follows:

- (a) GSH owes Discovery approximately \$138.3 million;
- (b) ATL owes Discovery approximately \$30.3 million;
- (c) Discovery owes DMS approximately \$18.5 million; and
- (d) DATS owes Discovery approximately \$20.2 million.

61. There are also immaterial intercompany balances as between certain of the subsidiaries themselves.

62. Prior to the completion of the Top Aces Transactions, Top Aces also had significant unsecured intercompany balances owing to each of Discovery, GSH and DATS and nominal balances owing to ATL. Discovery also had an unsecured obligation owing to Top Aces. As part of the Top Aces Transactions, the intercompany obligations previously owed by Top Aces have been repaid.

V. THE NON-APPLICANT SUBSIDIARIES

63. The Non-Applicant Subsidiaries are leaders in specialty aviation services, operating across Canada and in select locations internationally, including the United States, Bolivia, Australia, and Chile. As of January 31, 2018, the Discovery Air Group (excluding Top Aces) operates approximately 69 aircraft, employs approximately 460 flight crew, maintenance personnel and support staff, and provides services internationally to governments, airlines, and natural resource and other business customers.

(a) GSH

(i) Corporate Information and Ownership

64. GSH is incorporated pursuant to the CBCA with its head office in Yellowknife. GSH is wholly owned by Discovery.

(ii) Business of GSH

65. GSH is one of the largest onshore helicopter operators in Canada and conducts operations through most parts of western and northern Canada as well as internationally. GSH's main base of operations is in Yellowknife, Northwest Territories. However, it has sub-bases placed strategically throughout northern and western Canada to help support its aircrew and maintenance personnel in the challenging environments and locations where many customers require GSH's services. GSH also has a hangar and office facility in Springbank, Alberta as well as a Chilean subsidiary which operates out of a facility in Rancagua, Chile.

66. GSH derives its revenue from mineral and gas exploration support, forest fire suppression services and the provision of services to government agencies and support for infrastructure work such as power line construction.

67. As of January 31, 2018, GSH employed approximately 250 non-unionized personnel and its fleet is comprised of approximately 51 light, intermediate and medium sized rotary wing aircraft. GSH does not maintain a registered pension plan for its employees.

68. GSH's seasonal forest fire suppression services in Chile peaks from October to April, while its Northern Canadian seasonal work peaks from May through September.

69. Over the last five (5) years, the business of GSH has declined significantly, resulting in the reduction of the fleet due to: a decline in the oil and gas and mining sectors and a decline in the helicopter charter services market. Although GSH has undertaken expansion efforts in recent years primarily in Chile, GSH's business has not been profitable for several years.

(iii) Financial Position of GSH

70. GSH is a guarantor under the CV Secured Debentures. GSH is a guarantor of the debt owing by Discovery to CIBC, a co-borrower of the debt owing to Roynat and a guarantor of the

debt owing to ECN. In connection with its guarantee and co-borrower obligations under these facilities, GSH granted security over all of its personal property to each of Clairvest, CIBC, Roynat and ECN.

71. As set out above, GSH has been historically heavily reliant on Discovery for funding. Discovery has advanced funds to GSH through intercompany loans on an unsecured basis which are discussed above in paragraph 60. GSH has consistently experienced significant losses in all recent years.

(b) ATL

(i) Corporate Information and Ownership

72. ATL is incorporated pursuant to the CBCA with its head office in Yellowknife, Northwest Territories. ATL is wholly owned by Discovery.

(ii) Business of ATL

73. ATL is a commercial fixed-wing charter company with its main base in Yellowknife.

74. ATL operates a diversified fleet of approximately 18 operational fixed-wing aircraft and provides scheduled and charter passenger and cargo services, as well as medevac-equipped aircraft services primarily in northern Canada. Its customers include government agencies, multinational diamond mining companies and various junior mining exploration companies.

75. ATL provides charter services to communities with limited or no overland access. It has developed strong relationships with various indigenous groups culminating in joint ventures that provide benefits to the various stakeholder groups in these communities.

76. ATL operates from two locations in Yellowknife: various facilities at the Yellowknife airport and a float base location on Great Slave Lake that is home to float aircraft in the summer and ski-equipped aircraft in the winter. ATL owns a building and hangers on leased land at the Yellowknife airport, and also owns the float base location on Great Slave Lake subject to water access easements. ATL also owns a hangar facility in Cambridge Bay, Nunavut.

77. In 2014, ATL took cost-cutting measures, including the cessation of executive jet charter services and closing an associated Calgary base. Several aircraft were identified as being underutilized or no longer required and were sold to other subsidiaries.

78. As of January 31, 2018, ATL employs approximately 200 people. ATL does not maintain a registered pension plan for its employees.

79. Given the remote areas of Canada where ATL operates, ATL's business is highly seasonal and heavily dependent on weather conditions. Although ATL's business has continued to be affected by the stresses set out above, the actions taken to right-size ATL since 2014 have assisted in the stabilization of ATL financially on a cash flow basis. However, it is also an obligor under the secured debt owing to Clairvest, CIBC, Roynat, ECN and Textron.

(iii) Financial Position of ATL

80. ATL is the primary borrower under the Textron facility. ATL is a guarantor under the CV Secured Debentures. ATL is a guarantor of the debt owing by Discovery to CIBC, a co-borrower of the debt owing to Roynat and a guarantor of the debt owing to ECN. In connection with its guarantee and co-borrower obligations under these facilities, ATL granted security over all of its personal property to each of Clairvest, CIBC, Roynat and ECN.

81. As set out above, ATL has been historically heavily reliant on Discovery for funding. Discovery has advanced funds to ATL through intercompany loans on an unsecured basis which are discussed above in paragraph 60. ATL has experienced losses in recent years.

(c) DMS

(i) Corporate Information and Ownership

82. DMS is incorporated pursuant to the CBCA with its head office in Yellowknife. DMS is wholly owned by Discovery.

(ii) Business of DMS

83. DMS provides remote exploration camps and expediting, logistics and staking services to a broad spectrum of gold, base metal, uranium and diamond exploration companies as well as government customers operating in the Northwest Territories, Yukon, northern Saskatchewan

and northern Ontario. Its customers typically operate in some of the most remote locations in Canada.

84. DMS's peak season is from June to August and January to March each year. It employs non-unionized contract labour to fulfil the labour needs at each camp and approximately 8 non-unionized full-time employees. DMS does not maintain any registered pension plans for its employees.

85. DMS has modest assets comprised of furniture, vehicles and outfitting or camp assets.

(iii) Financial Position of DMS

86. DMS is a guarantor under the CV Secured Debentures. DMS is a guarantor of the debt owing by Discovery to CIBC, a co-borrower of the debt owing to Roynat and a guarantor of the debt owing to ECN. In connection with its guarantee and co-borrower obligations under these facilities, DMS granted security over all of its personal property to each of Clairvest, CIBC, Roynat and ECN.

87. In recent years, DMS has generated a modest profit (not taking into consideration its guarantee obligations).

(d) DATS

88. DATS is an inactive subsidiary of Discovery which previously owned an aircraft maintenance and repair and overhaul business which provided services to the Discovery Air Group. In January 2016, DATS sold all of its assets to a third party.

89. DATS is a guarantor under the CV Secured Debentures, CIBC facility and ECN facility. DATS is also the tenant for Discovery's head office and has a residual contingent liability for its former leased location in Quebec.

90. DATS is reliant on Discovery for funding as DATS no longer carries on business. Discovery has advanced funds to DATS through intercompany loans on an unsecured basis which are discussed above in paragraph 60.

VI. DEPENDENCIES OF THE DISCOVERY AIR GROUP

91. Although only Discovery is an applicant in this proceeding, the business and operations of Discovery are heavily intertwined with that of the Non-Applicant Subsidiaries. Areas of such inter-connection and inter-dependence within Discovery Air Group include:

- (a) numerous common creditors and financing arrangements containing cross-guarantees, cross-defaults and other linkages throughout the Discovery Air Group, as further detailed above;
- (b) financial support provided by Discovery to the Non-Applicant Subsidiaries, resulting in significant inter-company obligations owing from the Non-Applicant Subsidiaries to Discovery and umbrella insurance policies covering the entire Discovery Air Group;
- (c) Discovery's obligations in respect of the CV Secured Debentures were guaranteed by the other members of the Discovery Air Group, which obligations were secured through a grant of security over all present and after-acquired personal property of Discovery including a pledge of the shares of each of the Non-Applicant Subsidiaries;
- (d) common senior management and reporting structures pursuant to which the Non-Applicant Subsidiaries report to Discovery;
- (e) centralized decision-making by management of Discovery;
- (f) a common back office, including accounting, IT and administration;
- (g) common employee benefit programs;
- (h) centralized cash management, treasury and revolving loan facility provided by CIBC; and
- (i) provision of finance, treasury, cash management, tax compliance, annual KPMG audit / quarterly KPMG review management, loan compliance, forecasting,

budgeting, financial reporting, general accounting support, legal, and information technology support.

92. As discussed below, Discovery has recently undertaken various steps and transactions to make its subsidiaries less dependent upon Discovery for the performance of centralized administrative functions.

VII. TOPACES

(a) Corporate Information and Ownership

93. Top Aces, formerly known as Discovery Air Defence Services Inc., (i.e., DADS, as defined above) is a corporation amalgamated pursuant to the CBCA. It is owned by Top Aces Holdings Inc. ("**Top Aces Holdco**") a corporation incorporated pursuant to the CBCA. The ownership of Top Aces Holdco is discussed in further detail below in paragraph 104(c). The head office of Top Aces is in Dorval, QC.

(b) Business of Top Aces

94. The principal business of Top Aces is the supply of airborne training services, which provide the adversary force required to exercise and train a modern, operationally capable, multi-purpose combat force. Top Aces is the primary supplier of contracted airborne training services to the Canadian Department of National Defence, the German Armed Forces and the Australian Defence Force and a supplier of airborne training services to other militaries around the world.

95. In 2005, the founding partners of Top Aces were awarded the Interim Contracted Airborne Training Services ("**ICATS**") contract to deliver fast air support to the Department of National Defence in 2005.

96. Since 2005, Top Aces has derived its revenue under the ICATS programme from "standing offers", which are offers from Top Aces to provide goods or services at pre-arranged prices and under set terms and conditions, when and if required. The ICATS standing offers were the subject of a new request for proposals in August of 2015. Top Aces continued to provide services under the ICATS agreement pending the award of the new long term Contracted Airborne Training Services ("**CATS**") contract, which award process took over two (2) years to complete. During that competitive process carried out by the Canadian government for the

CATS contract, it was unclear whether Top Aces would be awarded that contract, thus making its viability unknown during that period.

97. On October 27, 2017, Top Aces was selected as the winner of the CATS contract and finalized those arrangements with the Canadian government as of October 30, 2017.

98. Although the CATS contract is the backbone of Top Aces' business, Top Aces has invested significantly to develop other sources of revenue. In recent years, Top Aces has made significant efforts to expand its business internationally based on management's belief that there are significant growth opportunities for Top Aces in the international combat support and adversary training markets.

99. Top Aces presently employs approximately 220 non-unionized flight crew, maintenance, administrative and management personnel situated at premises located across Canada, the United States, Germany and Australia that are either leased or provided by the local operator.

(c) Funding Requirements and Financial Position of Top Aces

100. The Top Aces business is capital intensive given the requirements to maintain and upgrade its aircraft, and for working capital purposes. The specialized nature of its business and its heavy oversight due to the government contracts it services contribute to its capital requirements. Attempts in recent years to obtain separate financing for Top Aces while it remained a subsidiary were unsuccessful due to, among other things, the continued under-performance of the Discovery's business, Discovery's weak balance sheet, as well as the uncertainty through to October 2017 as to whether Top Aces would be awarded the CATS contract. Top Aces was also a guarantor under several of the principal secured debt obligations noted above (i.e. Clairvest, CIBC, ECN) and had granted general security over all of its assets in connection with those obligations further limiting Top Aces' ability to acquire separate financing.

101. As with the Discovery Air Group, Top Aces could not have survived without the extensive financial and other support provided by Clairvest in recent years.

(d) The Top Aces Transactions

(i) Overview of the Top Aces Transactions

102. The award of the CATS contract was essential for Top Aces' continued viability. However, in order to perform under that contract, Discovery determined that Top Aces would require at least an additional \$30 million for capital expenditures and other work. At that time, Top Aces was an obligor under the secured debt owing by Discovery and the other members of the Discovery Air Group to Clairvest, as well as under the CIBC Credit Agreement and the ECN facility. As of November 30, 2017, Top Aces also had outstanding gross intercompany debt owing to the Discovery Air Group of approximately \$62 million (before taking into consideration the gross intercompany debt owing to Top Aces by members of the Discovery Air Group of approximately \$35 million).

103. Culminating in December 2017, Top Aces, Discovery, Clairvest, CIBC and others undertook a series of transactions (the "**Top Aces Transactions**") which achieved three key objectives: (i) deleverage the Top Aces balance sheet to increase the prospects of its long-term viability; (ii) raise additional funding for capital expenditures to perform the CATS contract; and (iii) put in place new bank financing to address the company's working capital requirements.

104. Details regarding the various transactions comprised of the Top Aces Transactions have been disclosed by Discovery through press releases which are attached collectively as **Exhibit "E"**. A brief summary of the Top Aces Transactions is as follows:

- (a) Conversion Transactions: On December 14, 2017, Discovery announced that Clairvest had exercised its conversion rights to exchange (i) a total of \$41.2 million of principal and payment-in-kind interest under the two Top Aces Credit Agreements; and (ii) \$18.4 million of secured debt owing under the CV Secured Debentures pursuant to the Swap Letter, for shares of Top Aces;
- (b) Top Aces/ BNS Credit Agreement: On December 15, 2017, Top Aces entered into a credit agreement with CIBC, as administrative agent, and CIBC and The Bank of Nova Scotia, as co-lead arrangers and co-bookrunners and the other lenders party thereto from time to time (the "**Top Aces/BNS Credit Agreement**") for the

provision of a revolving credit facility up to a maximum of \$15 million, a term loan facility up to a maximum of \$22.5 million and a capex line facility up to a maximum of \$42.5 million and an LC credit commitment of \$1.25 million. In connection with the Top Aces/BNS Credit Agreement, certain Top Aces subsidiaries have granted guarantees and general security over their property assets and undertaking. Top Aces Holdco has also granted a limited guarantee and pledged its shares in Top Aces as security in support of its guarantee;

- (c) Third Party Investment: On December 22, 2017, Discovery announced a new equity subscription for shares of Top Aces whereby: (i) Discovery sold the majority of its remaining shares in Top Aces Holdco⁶ to a group of third party institutional lenders led by JP Morgan Asset Management (the “Investors”) for \$25 million; and (ii) Top Aces Holdco issued an additional \$25 million of shares from treasury to the Investors, resulting in a net \$50 million investment by the Investors to effectively acquire approximately 25% of Top Aces Holdco. With the completion of the transactions with the Investors, the new and current ownership of the equity of Top Aces Holdco is: (i) Clairvest – 64.7%; (ii) JP Morgan Investmentco – 25.6%; and (iii) Discovery – 9.7%;
- (d) Repayment of Intercompany Debt: In order to complete the transactions above with CIBC and the Investors, it was necessary for Top Aces to deleverage its balance sheet, including resolving its outstanding intercompany obligations owing to and from the Discovery Air Group (with a net balance owing by Top Aces to Discovery and other members of the Discovery Air Group of approximately \$27 million). Accordingly, as part of the Top Aces Transactions, the Discovery Air Group and Top Aces set off and repaid its net intercompany indebtedness; and

⁶ Top Aces Holdco is the 100% owners of Top Aces Inc. Top Aces Holdco was incorporated in December 2017 as a result of certain security and ownership requirements required by the Canadian government in connection with the CATS contract, in anticipation of the new equity raise. With the incorporation of Top Aces Holdco, shares of Top Aces held by each of Discovery and Clairvest were exchanged (on a proportionate basis to their previous ownership interests in Top Aces) for shares in Top Aces Holdco, with Top Aces becoming a wholly-owned subsidiary of Top Aces Holdco.

- (e) Release of Secured Debt Obligations: In connection with the Top Aces Transactions, each of the CV Secured Debentures, CIBC Credit Agreement and ECN Credit Agreements were amended and reduced resulting in the release of Top Aces from any and all obligations under its previous guarantees and grants of security.

105. As discussed below, as it relates to Discovery, the impact of the Top Aces Transactions resulted in the reduction of over \$60 million of secured debt previously on Discovery's balance sheet (and similarly benefitting each of the Non-Applicant Subsidiaries, being guarantors of that debt).

(ii) Bondholder Response to Top Aces Transactions and Past Transactions between the Discovery Air Group and Clairvest

106. Discovery is aware of recent complaints from a holder of Unsecured Listed Debentures regarding transactions between the Discovery Air Group and Clairvest, including the Conversion Transactions and the Top Aces Transactions. In particular, Randy Durig of Durig Capital Inc., who has advised me that his company acquired a position in the Unsecured Listed Debentures on a discounted basis in the spring of 2017, wrote to me (among others) on December 19, 2017 to make a number of allegations. A copy of that letter is attached as **Exhibit "F"**.

107. I replied to Mr. Durig's letter on January 4, 2018, a copy of which is attached as **Exhibit "G"**. As noted in my letter, I believe that the allegations made by Mr. Durig are factually incorrect and legally flawed.

108. Discovery is aware of similar complaints and allegations that have been published online in blogs, apparently as part of an attempt by Mr. Durig to organize bondholders. Again, I believe that these complaints and allegations are misguided and unfounded.

(e) **Allocation of Services**

109. Discovery and Top Aces Inc. previously entered into a cost sharing agreement (the "**Cost Sharing Agreement**") dated as of December 21, 2017, providing for the sharing of certain information technology, payroll, governance and other services and the costs related to the personnel who provide such services, and Discovery has to date provided such services to GSH,

ATL, DMS and DATS (collectively, “**Shared Services**”). Discovery is in the process of transferring to Top Aces and the Non-Applicant Subsidiaries (where appropriate) certain agreements, contracts, licenses, information and other assets pursuant to which Discovery provides, or has provided, the Shared Services to ensure that those services will not be interrupted during the course of these proceedings, and to provide for continuity in the provision of the Shared Services until such transfers are complete, and the businesses become adequately self-sufficient in this regard (the “**Transition Process**”). The Transition Process is expected to take up to nine (9) months (the “**Transition Period**”), during which time Top Aces and the Non-Applicant Subsidiaries and any purchaser of any of the businesses thereof may require that Shared Services be provided by one or more of Top Aces, Discovery, or a Non-Applicant Subsidiary.

110. To document the process undertaken to achieve the foregoing result, Discovery, Top Aces and the Non-Applicant Subsidiaries have begun negotiations for a new Shared Services Agreement which will be entered into post-filing. It is anticipated that such agreement would enhance the prospect of attracting prospective purchasers for the businesses of the Non-Applicant Subsidiaries by ensuring the continuity of critical services until such time that the business can operate independently.

VIII. THE PROPOSED CCAA PROCEEDINGS AND REQUESTED RELIEF

111. Discovery continues to face significant challenges as extensively referred to in my affidavit. Ultimately, the timing of this CCAA application by the Applicant is a function principally of insufficient liquidity to pay the very significant obligations imminently coming due.

112. Discovery does not have sufficient liquidity to service the interest payments or repay its existing debt as it matures in the near term, including under the Unsecured Listed Debentures (maturing June 30, 2018), the CV Secured Debentures (maturing May 5, 2018), the Roynat facility (maturing April 15, 2018) and the CIBC Credit Agreement (maturing April 30, 2018).

(a) Discovery is Insolvent

113. I am advised by Mario Forte of Goldman Sloan Nash & Haber LLP, Discovery's legal counsel, that the CCAA requires that: (i) one or more applicants thereunder must be subject to claims that in the aggregate exceed \$5 million; and (ii) the applicants must be insolvent, in order for a CCAA application to be granted and an Initial CCAA Order made by the Court.

114. As noted above, the aggregate claims against the Applicant exceed the requirements of the CCAA. Further, and for the reasons set out in this affidavit, the Applicant is insolvent and will be unable to meet its obligations as they come due without the benefit of an Initial CCAA Order and the receipt of interim financing. If the Applicant is not permitted the opportunity to pursue these restructuring transactions and instead progresses to bankruptcy, the expected proceeds of the Applicant's assets and business would be insufficient to pay in full the claims of its creditors (including those claims arising by virtue of the Applicant's ceasing to operate). The proposed sale process (discussed below) will also allow for the Non-Applicant Subsidiaries and all of their creditors (including the secured creditors) to continue operations without disruption which is best accomplished through the CCAA process.

(b) Discovery's Cash Flow Projections

115. The Applicant, with the assistance of KSV Kofman Inc. ("**KSV**" or the "**Proposed Monitor**"), has prepared a cash flow projection to determine the amount required to finance the Discovery Air Group's operations for the next 13 weeks, assuming the relief sought is granted. The 13-week cash flow forecast is attached as **Exhibit "H"**. Based on the cash flow forecast, if the interim financing (discussed below) is not approved, the Discovery Air Group will have insufficient liquidity to meet its cash flow needs through to the end of the 13-week forecast period.

(c) The Anticipated Sale Process

116. If the Initial CCAA Order is granted, it is Discovery's intention to very shortly file a motion (the "**SSP Motion**") seeking approval of, among other things,

- (a) authorization to enter into four (4) stalking horse agreements with Clairvest (the "**Stalking Horse Agreements**") for the sale (the "**Transactions**") of (i)

Discovery's remaining minority interest in Top Aces Holdco; (ii) Discovery's shares in GSH; (iii) Discovery's shares in ATL; and (iv) Discovery's shares in DMS; in each case along with various ancillary assets, claims and contracts that relate to each subsidiary or its business; and

- (b) a SSP setting out the process for solicitation of bids on any or all of the Transactions and the auction procedures in the event that additional "qualified bids" are received in respect of one or more of the proposed Transactions.

117. In connection with the proposed SSP, Discovery has been negotiating the terms of the Stalking Horse Agreements with Clairvest, who has agreed to act as the stalking horse bidder in connection with each transaction and will be bidding and/or proposing an assumption of some or all of the remainder of its secured debt as the purchase price under the Stalking Horse Agreements. The proposed sale of each of the businesses of GSH, ATL and DMS under the Stalking Horse Agreements will be as a "share sale" resulting in the continuing operations of the businesses, employment of employees and ongoing servicing of debt (including the cross guaranteed secured debt) at the subsidiary level. The Proposed Monitor has been kept apprised of the negotiation of the Stalking Horse Agreements.

118. If the SSP Motion is approved, it is contemplated that the Proposed Monitor (once appointed) will conduct, supervise and run the SSP. Although I anticipate Discovery will have consultative rights during this process, the allocation of responsibility to the Proposed Monitor will ensure a fair and impartial sale process is conducted and any conflicts of interest will be avoided.

119. Although I understand that many times, these processes require a certain degree of flexibility, it is currently anticipated that the proposed sale process under the SSP would last approximately 90 to 120 days.

(d) Proposed Initial CCAA Order

120. Discovery is seeking the Initial CCAA Order substantially in the form of the model order adopted for CCAA proceedings commenced in Toronto, Ontario, subject to certain changes as

reflected in the proposed form of order contained in Discovery's Application Record. Certain key relief sought is set out below.

(i) Stay of Proceedings for Discovery and the Non-Applicant Subsidiaries

121. A stay of proceedings is needed while the Discovery Air Group navigates its restructuring and ensures the stability and preservation of the value of the business.

122. As noted herein, the principal purpose of these proceedings is to permit an orderly sale of the businesses carried on through the Non-Applicant Subsidiaries and Discovery's interest in Top Aces. It is essential that the businesses of the Non-Applicant Subsidiaries be protected while that sale process is being conducted because, among other things, certain of the contracts at the subsidiary level may have cross defaults which could be triggered as a result of a filing by Discovery. Many of the Non-Applicant Subsidiaries officers and directors are also officers and directors of Discovery.

123. Accordingly, the Applicant is seeking to extend the benefit of a limited stay of proceedings in these proceedings to the Non-Applicant Subsidiaries and their officers and directors in order to: (i) ensure stability through this restructuring process; and (ii) avoid a situation in which the insolvency of Discovery and the commencement of these proceedings are relied upon as the basis for commencing adversarial proceedings, contract terminations, or other adverse steps as against the Non-Applicant Subsidiaries and their respective businesses. Essentially, the Applicant is seeking to extend a stay to the Non-Applicant Subsidiaries only with respect to any rights or remedies triggered by reason of the Applicant being insolvent or having commenced this CCAA proceeding, or the maturity of any existing secured debt occurring during the course of the CCAA proceedings. The extension of a limited stay of proceedings to the Non-Applicant Subsidiaries is intended solely to preserve the status quo – in all other respects, it is intended to be "business as usual" for the key business operations of the Discovery Air Group.

124. A limited stay of proceedings is not being sought at this time for Top Aces, due principally to the fact that: (i) Discovery owns only a small interest in Top Aces and the sale of that minority interest (and the insolvency of the owner of that minority interest) is unlikely to

trigger adverse consequences for Top Aces or its business; and (ii) Top Aces is not a principal debtor or guarantor with respect to any of the debt of the Discovery Air Group.

(ii) Administration Charge

125. It is proposed that the Monitor, its counsel, and the Applicant's counsel be granted a super priority court-ordered charge on the assets of Discovery as security for their fees and disbursements relating to the services rendered in respect of Discovery in an amount not to exceed \$750,000 in the aggregate (the "**Administration Charge**"). The Administration Charge is intended to secure the fees of the Monitor, its counsel, and the Applicant's counsel associated with the preparation for these CCAA proceedings and activities during the proceedings.

126. The Applicant worked with the proposed Monitor to estimate the proposed quantum of the Administration Charge and believes it to be reasonable and appropriate in view of the complexities of Discovery's CCAA proceedings and the services to be provided by the beneficiaries of the Administration Charge.

(iii) Protection of Directors and Officers

127. To ensure the ongoing stability of the Discovery Air Group's business during the CCAA proceeding and to enhance the prospects of a successful restructuring, the Applicant requires the continued participation and guidance of the respective directors and officers of the Discovery Air Group. Accordingly, the Applicant is seeking typical provisions staying all proceedings against the directors and officers of the Discovery Air Group with respect to all claims against the directors or officers that relate to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in such capacity.

128. In addition, I am advised by my legal counsel, and believe that, in certain circumstances, directors can be held liable for certain obligations of a company owing to employees and government entities, which may include unpaid accrued wages, unpaid accrued vacation pay; and unremitted sales, goods and services, and harmonized sales taxes.

129. The Applicant maintains an existing insurance policy with respect to directors' and officer's liability. This policy covers an aggregate annual limit of \$25,000,000, which covers a variety of circumstances where the Applicant's directors and officers might face claims for

liability. Furthermore, in the present circumstances, it is not practicable to obtain at reasonable cost further coverage that is satisfactory.

130. In light of the potential liabilities, the ambiguity under the policy and the difficulty in obtaining additional coverage on acceptable terms and costs, the Applicant's directors and officers have indicated that their continued service and involvement in the CCAA proceedings is conditional upon the granting of an Order under the CCAA that grants a super priority charge in favour of the directors and officers of the Applicant in the amount of \$100,000 on the assets, property, undertaking and business of the Applicant (the "**Directors' Charge**"). The Directors' Charge constitutes security for indemnification obligations for the directors' and officers' potential liabilities as set out above and allows the Applicant to continue to benefit from the expertise and knowledge of its directors and officers.

131. The quantum of the proposed Directors' Charge has been discussed with the proposed Monitor, and the proposed Monitor has informed me that it concurs with the reasonableness of this amount in the circumstances. Similarly, the Applicant views the quantum of the Directors' Charge as reasonable in the circumstances.

(iv) The Monitor

132. KSV has consented to act as the Court-appointed Monitor of Discovery, subject to Court approval. KSV has also prepared a Pre-Filing Report in order to assist this Court with its consideration of the Applicant's application and the relief requested by the Applicant in connection with its CCAA filing.

133. KSV is a trustee within the meaning of Section 2 of the *Bankruptcy and Insolvency Act* (Canada), as amended, and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA.

134. KSV has been working with the Discovery Air Group, Clairvest and their respective legal counsel in the lead-up to the making of this CCAA application and has familiarity with the Discovery Air Group's business and operations. KSV has assisted the Discovery Air Group with the preparation of a 13-week cash flow projection, as required by the CCAA, that shows Discovery can continue to operate during that period with the benefit of interim financing. KSV

is experienced with this type of proceeding, and is well suited to the role of Court-appointed Monitor in these particular proceedings.

135. KSV, as proposed monitor, is supportive of the relief being sought in the Initial Order, including, among other things, the existence and amounts of the proposed Court-ordered charges.

(v) Interim Financing

136. In order to continue to operate during these proceeding, it is apparent from the 13-week cash flow projection that the Applicant requires interim financing (“**Interim Financing**”) as there would otherwise be insufficient monies to pay the operating expenses of the Discovery Air Group and costs associated with the CCAA proceedings. The Applicant requires this interim financing to provide an immediate source of cash funding and to provide stability during the CCAA proceeding. As a result, in the lead-up to the CCAA proceeding, Discovery negotiated with CEP IV Co-Investment Limited Partnership (a member of the Clairvest group) (the “**DIP Lender**”) regarding its interest in providing financing to the Applicant that is required in connection with the CCAA proceeding.

137. Pursuant to a DIP term sheet dated as of March 21, 2018 (the “**DIP Term Sheet**”) entered into by the Applicant and the DIP Lender, the DIP Lender is prepared to advance interim financing (the “**DIP Facility**”) of up to \$12.6 million on the terms and conditions set out therein. Advances under the DIP Facility will bear interest of 10% per annum and the obligations will be fully payable on the maturity date which is the earliest of (a) the occurrence of an event of default under the DIP Term Sheet; (b) completion of the Transactions; and (c) December 21, 2018. A copy of the DIP Term Sheet is attached as **Exhibit “I”**.

138. The Applicant is seeking a charge on its assets, property, undertaking and business to secure the DIP Facility (the “**DIP Charge**”). The DIP Lender has requested that such DIP Charge be granted on a super-priority basis only over the assets over which Clairvest already has first-priority security. Any first priority security held by any of the other secured lenders would continue to take priority even over the DIP Charge.

139. It is a condition of the DIP Credit Agreement that the Applicant obtain approval of the DIP Credit Agreement and the DIP Charge in the Initial CCAA Order.

140. The Applicant believes that having access to the DIP Facility will provide flexibility and sufficient time to pursue its restructuring objectives. The Applicant consulted with its advisors and the proposed Monitor regarding the DIP Facility, and it anticipates that the DIP Facility will satisfy its funding requirements at this time and for the foreseeable future.

141. I understand that in some cases, it may be common to solicit debtor in possession financing from multiple sources to ensure the best financing terms are obtained. However, in Discovery's case, where, among other things, (a) there is a complex secured debt structure involving multiple lenders who have differing priorities; (b) the only entity filing for CCAA protection is the parent company and operating companies are not applicants; and (c) there is very little liquidity and no remaining unencumbered assets, I believe that attempting to obtain any such financing would be virtually impossible. To the extent that any lender did consider providing financing, based on my experience as a CFO, I would expect such lender to require extensive diligence, additional fees and want priority security on all assets including the subsidiaries.

142. KSV has been kept apprised of the negotiations regarding the DIP Facility and I understand will include an analysis in its pre-filing report as to pricing of this DIP Facility, the lack of any other realistic prospects and other matters including the review of Clairvest's existing security by KSV's counsel.

143. In my view, the DIP Facility is crucial to a successful restructuring as described in my affidavit and is in the best interests of the substantial majority of stakeholders.

(vi) Cash Management and Intercompany Financing

144. During the CCAA period, the Non-Applicant Subsidiaries will continue to require funding from Discovery as well as the provision of ongoing corporate and back office services from Discovery in the ordinary course. This will require those Non-Applicant Subsidiaries to access funds in accordance with the pooling arrangements under its cash management system and for Discovery to fund those companies from time to time. The proposed Initial CCAA Order allows the use of such accounts to continue without any liability to the Discovery Air Group's operating bank.

145. The funding provided by Discovery to its Non-Applicant Subsidiaries will largely be financed through the provision of Interim Financing which would not be available to Discovery absent the granting of the DIP Charge. As such, Discovery is also requesting that the advances that it makes to its Non-Applicant Subsidiaries be secured by a court-ordered charge (the “**Intercompany Charge**”) resulting in the Non-Applicant Subsidiary receiving any such funds having a secured obligation to repay such funds to Discovery. That intercompany security will also be assigned to Clairvest as part of the security package under the DIP Credit Agreement.

146. Similarly, given the structure of the operating accounts, Discovery will need to continue to access the CIBC operating line. As set out in the 13-week cash flow forecast, it is anticipated that Discovery will remain in an over-advance position such that all funding available to it will be through the DIP Financing. However, to the extent that additional revenue is generated to increase Discovery’s borrowing base during that period, any corresponding reduction in the over-advance may be drawn on by Discovery from time to time. The proposed Initial CCAA Order confirms and clarifies that CIBC remains in first priority with respect to its currently held priority security for any technical post-filing “borrowing” that may occur in this scenario.

(vii) Post-Filing Interest Payments on Secured Debt Facilities

147. During the course of the CCAA Proceeding, Discovery intends to continue to make interest payments on its secured debt facilities with CIBC, ECN and Roynat but no payments will be made in respect of the CV Secured Indebtedness. Discovery will make scheduled payments in respect of the Interim Financing as set out in the DIP Term Sheet. ATL will continue to make its required payments in connection with the Textron facility.

148. Discovery also intends to make the final principal payment on the Roynat facility due on April 15, 2018 but the maturity of the loan will be subject to the stay. Discovery does not make periodic payments of principal on any of its other secured debt facilities.

(viii) KERP

149. As set out above, Discovery continues to provide certain key corporate, managerial, legal, financial and other services to the Non-Applicant Subsidiaries and, to a lesser degree, Top Aces. In order to facilitate and complete the proposed sale process and execute successful transactions,

Discovery requires the ongoing support of such key personnel. As such, Discovery has negotiated the terms of a KERP with the six (6) Discovery employees (being all of the Discovery employees including myself but excluding Alan Torrie) (the “**KERP Employees**”) for the period needed to complete the transactions. The KERP has been considered and recommended by Discovery’s human resources committee.

150. Pursuant to the proposed KERP, provided that each KERP Employee remains with Discovery and performs his or her contractual duties, each of the KERP Employees will be entitled to receive a lump sum payment (a “**Retention Award**”) the earliest of certain agreed upon events set out in the KERP (the “**Payment Date**”). The maximum aggregate obligation under the KERP is approximately \$1.65 million. Copies of the KERP (attached to the form of letter agreement entered into with each of the KERP Employees) and the individual entitlements under the KERP are attached hereto as **Exhibit “J”** and **Confidential Exhibit “K”** respectively. The individual entitlements to the KERP Employees on the Confidential Exhibit contain sensitive personal compensation information. As such, Discovery is asking that the Confidential Exhibit be sealed pending further Order of this Court.

151. In connection with the KERP, Top Aces has agreed to be responsible for approximately 40% of the KERP amount as the KERP Employees have historically and will continue to provide certain support functions to Top Aces.

152. As security for the Applicant’s obligation under the KERP, the Applicant is seeking a super priority charge (the “**KERP Charge**”) on the Applicant’s property to secure its payment and performance obligations under the KERP. The proposed KERP Charge has been discussed with the proposed Monitor who has informed me that it believes such a charge is reasonable in the circumstances.

(ix) Ranking of Court-Ordered Charges and Comeback Motion

153. The Applicant is seeking approval of the court-ordered charges set out above including priority over all other obligations of the Applicant as follows:

- (a) First, the Administration Charge;

- (b) Second, the Directors' Charge; and
- (c) Third, the KERP Charge.

154. With respect to the DIP Charge the Applicant is requesting that the DIP Charge be given priority over the security held by Clairvest in respect of the Clairvest Secured Indebtedness but is not requesting that the DIP Charge take priority over any of the other charges or any other secured indebtedness of the Applicant including the security held by CIBC, Roynat, ECN and Textron to the extent that such security has priority over the Clairvest security. Similarly, the Applicant is requesting that the Intercompany Charge be given priority over the security held by Clairvest in respect of the Clairvest Secured Indebtedness owing by the Non-Applicant Subsidiaries but is not requesting that such charge take priority over any other priority security held against the assets of the Non-Applicant Subsidiaries. Clairvest has consented to the proposed priority of the charges including the DIP Charge and the Intercompany Charge.

(xi) Chapter 15 Proceedings

155. A Chapter 15 recognition proceeding under the U.S. Bankruptcy Code may be necessary in respect of the Discovery Air Group as a result of creditors or other matters in the United States. Although no application is currently planned, to prevent delay should a Chapter 15 proceeding prove necessary, the Applicant is seeking in the Initial CCAA Order to have the Monitor authorized, but not required, to act as a foreign representative in any ancillary proceedings without further Order of the Court. Such relief will further aid in the stabilization of the Discovery Air Group's business and enhance the prospects of a successful restructuring to the benefit of the Applicant's stakeholders.

IX. CONCLUSION

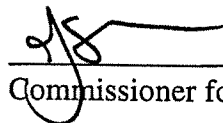
156. As is evident from the above, for the last several years, the Applicant has been able to survive only with the repeated and extensive assistance, support and accommodation provided by Clairvest. The Applicant is now faced with the incontrovertible fact that it is unable to service, repay or refinance its maturing debt obligations. Clairvest has informed Discovery that it will not fund the amounts required to repay the obligations coming due or grant further waivers or other relief to the Discovery Air Group, and clearly Discovery's existing debt structure will not allow

it to refinance in a way that such obligations could be satisfied. As such, a CCAA proceeding is required to transition Discovery's remaining businesses into safe (and solvent) hands.

157. The relief sought in the Initial CCAA Order, including the stay of proceedings and the DIP Facility, has been tailored to the Applicant's particular circumstances and will provide the Applicant with the protections and breathing room that it needs in order to pursue its restructuring efforts. This relief: (a) is necessary to enable the Discovery Air Group to operate while in the CCAA proceeding with minimum disruptions to its business; (b) is important to the Discovery Air Group's goal of implementing the proposed Transactions or other value-maximizing transactions pursuant to the SSP; and (c) best serves the interests of stakeholders in the ongoing operating businesses in GSH, ATL and DMS, including its employees, landlords, customers and suppliers.

158. I am confident that the granting of the Initial CCAA Order, with the relief requested, is in the best interests of the Discovery Air Group and its many stakeholders.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, this 21st day of March, 2018.



Commissioner for taking affidavits



PAUL BERNARDS

TAB 3

Court File No.: CV-18-594380-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF DISCOVERY AIR INC.

APPLICANT

**AFFIDAVIT OF PAUL BERNARDS
(sworn April 23, 2018)**

I, Paul Bernards, of the City of Toronto, in the Province of Ontario, MAKE OATH AND
SAY:

1. I am the Chief Financial Officer of Discovery Air Inc. ("**Discovery**" or the "**Applicant**"), a position that I have held since April 1, 2014. Prior to that time, I was a consultant to Discovery from March 17 to April 1, 2014. As such, I have personal knowledge of the matters to which I hereinafter depose in this Affidavit. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

2. This Affidavit is sworn in support of a motion by Discovery for an order approving the First Amendment to the DIP Term Sheet (as both terms are defined below) and related relief.

BACKGROUND

3. On March 21, 2018 (the "**Filing Date**"), Discovery was granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), pursuant to an initial order (the "**Initial Order**") of this Honourable Court and KSV Kofman Inc. ("**KSV**") was appointed as monitor (the "**Monitor**") in the CCAA proceedings (the "**CCAA Proceedings**").

4. Further details regarding the background of Discovery and the facts leading up to these CCAA Proceedings are set out in my initial affidavit sworn March 21, 2018 (my “**Initial Affidavit**”), and therefore not repeated herein.

EVENTS SINCE FILING

5. Several of the events since filing have been set out in my affidavits sworn in connection with prior motions including:

- (a) The efforts of management in connection with the ongoing stabilization of the operating businesses in the Applicant’s wholly owned subsidiaries, Great Slave Helicopters Ltd. (“**GSH**”), Air Tindi Ltd. (“**ATL**”) and Discovery Mining Services Ltd. (“**DMS**” and collectively, the “**Subsidiaries**”);
- (b) The approval of a sale solicitation process (“**SSP**”) and stalking horse agreements for the sale of Discovery’s interest in its Subsidiaries as well as its remaining 9.7% minority interest in its former defence business;
- (c) The extension of the stay of proceedings to June 30, 2018; and
- (d) The decision of the Toronto Stock Exchange to de-list the securities of Discovery and the Applicant’s cessation of certain of its public reporting obligations.

STATUS OF DIP FACILITY

6. As set out in my Initial Affidavit, absent interim financing, the Applicant and its Subsidiaries would be unable to fund their operating expenses during the CCAA Proceedings. As such, the initial DIP Term Sheet dated as of March 21, 2018 (the “**DIP Term Sheet**”) between the Applicant and CEP IV Co-Investment Limited Partnership (a member of the Clairvest group) (the “**DIP Lender**”) provided for an interim facility (the “**DIP Facility**”) of up to \$12.6 million. Based on the Applicant’s cash flow forecast at the time (the “**Initial Cash Flow Forecast**”), it appeared that funding would be sufficient for the 13 week period ending June 30, 2018. A copy of the DIP Term Sheet is attached hereto as **Exhibit “A”**.

7. The Subsidiaries’ businesses and, in particular, the GSH business, are difficult to forecast as they are subject to a number of factors including, without limitation, weather and customer

operational requirements. The businesses also require significant and often unforeseen capital expenditures to maintain their aircraft and to fund their operations, which can be hard to predict. Since the filing, the funding requirements of the Applicant and the Subsidiaries have exceeded the projections set out in the Initial Cash Flow Forecast by approximately \$4.4 million. The variance is largely attributable to unforeseen required capital expenditures as well as costs required to stabilize the Subsidiaries' businesses in the immediate post-filing period. Additional details relating to the negative variance are or will be set out in the third report of the Monitor (the "**Third Report**") which I understand will be filed in support of this motion. As a result, the Applicant's updated cash flow forecast (which I understand will be attached to the Third Report) shows the Applicant's maximum funding need to arise in June, 2018 and to be approximately \$14 million.

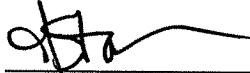
8. The immediate issue being faced by the Applicant and the Subsidiaries relates to the funding of their payroll this week and government remittances by mid-next week. Absent an increase in the DIP Facility, based on the updated projections, the Applicant and the Subsidiaries will not have sufficient funds to cover these payments.


9. In order to address the increased funding need, the DIP Lender has agreed to increase the maximum amount under the DIP Facility to \$15 million. The Applicant and the DIP Lender have now entered into a first amending agreement dated as of April 23, 2018 (the "**First Amendment**") to the DIP Term Sheet pursuant to which the parties have agreed to, among other things, (a) increase the maximum amount available under the DIP Term Sheet to \$15 million; (b) waive the default arising as a result of the Applicant's failure to make a payment of interest to the DIP Lender under the DIP Facility; and (c) permit the continued non-payment of cash interest to the DIP Lender (all such interest to accrue and be added to the principal obligations under the DIP Term Sheet) provided that there is no further Event of Default (as defined in the DIP Term Sheet). The effectiveness of the First Amendment is conditional upon Court approval. Attached hereto as Exhibit "B" is a copy of the First Amendment.

10. It should be noted that the funding requirements of the Applicant in early June are at their highest of any point in the cash flow forecast. The Subsidiaries' businesses are seasonal and its funding requirements generally decline in late June due to payment of receivables during the busy

spring and summer flying season. As such, I believe that the increase of the DIP Facility to \$15 million will be sufficient for the Applicant and the Subsidiaries through July 31, 2018.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, this 23rd day of April, 2018.



Commissioner for taking affidavits

PAUL BERNARDS

EXHIBIT A

DIP TERM SHEET

Dated as of March 21, 2018

WHEREAS the Borrower (as defined below) has requested and the DIP Lender (as defined below) has agreed to provide funding in order to fund certain obligations of the Borrower in the context of its proceedings under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA", and such proceedings, the "CCAA Proceedings") before the Ontario Superior Court of Justice (Commercial List) (the "Court") in accordance with the terms set out herein;

NOW THEREFORE the parties, in consideration of the foregoing and the mutual agreements contained herein (the receipt and sufficiency of which are hereby acknowledged), agree as follows:

- 1. **DIP BORROWER:** Discovery Air Inc. (the "**Borrower**").
- 2. **DIP LENDER:** CEP IV Co-Investment Limited Partnership (the "**DIP Lender**").
- 3. **PURPOSE:** As set out in Section 13(c) below.
- 4. **DIP FACILITY AND MAXIMUM AMOUNT** A non-revolving, secured credit facility (the "**DIP Facility**") in the amount of \$12,600,000 (the "**Maximum Amount**").

Advances under the DIP Facility (a "**DIP Advance**") made in accordance herewith shall be deposited to the Borrower's current account with Canadian Imperial Bank of Commerce (the "**Bank**") or such other account with a financial institution approved in advance by the DIP Lender (the "**Borrower's Account**") and withdrawn by the Borrower in accordance with the terms hereof.

- 5. **REPAYMENT:** The aggregate principal amount owing under the DIP Facility, all accrued and unpaid interest, prepayment penalties, if applicable, and all fees and expenses incurred by the DIP Lender in connection with the DIP Facility (the "**DIP Obligations**") shall be repaid in full on the earlier of: (i) the occurrence of any Event of Default hereunder that is continuing and has not been cured or waived in writing by the DIP Lender, in its sole discretion; (ii) the closing of one or more sale transactions for all or substantially all of the assets of the Borrower; and (iii) December 21, 2018 (the "**Maturity Date**"). The Maturity Date may be extended at the request of the Borrower and with the prior written consent of the DIP Lender, in its sole discretion, for such period and on such terms and conditions as the Borrower and the DIP Lender may agree.

The commitment in respect of the DIP Facility shall expire on the Maturity Date and all DIP Obligations shall be repaid in full on the Maturity Date, without the DIP Lender being required to make demand upon the Borrower or to give notice that the DIP Facility has expired and/or that the DIP Obligations are due and payable.

This is Exhibit "A" referred to in the affidavit of Paul Bernards sworn before me at Toronto this 23rd day of April, 2018

JCA
A Commissioner for taking Affidavits for Ontario

All payments received by the DIP Lender shall be applied first to any fees and expenses due hereunder, then to accrued and unpaid interest and then, after all such fees, expenses and interest are brought current, to principal.

It is acknowledged that some or all of the DIP Obligations may be satisfied by the making of a credit bid for the assets of the Borrower pursuant to the sale and solicitation process to be implemented in the CCAA Proceedings, in the DIP Lender's sole discretion.

6. CASH FLOW PROJECTIONS:

The Borrower, with assistance of KSV Kofman Inc., in its capacity as court-appointed monitor (the "**Monitor**") in the CCAA Proceedings, has provided to the DIP Lender the cash flow projections attached at Schedule "A" hereto, which are in form and substance satisfactory to the DIP Lender and which have been filed with the Court, reflecting the projected cash requirements of the Borrower from March 19, 2018, through the period ending June 30, 2018, calculated on a weekly basis (the "**CCAA Cash Flow Projection**").

The Borrower shall keep the DIP Lender apprised on a weekly basis of its cash flow requirements by providing: (i) an updated cash flow projection for the same period as the CCAA Cash Flow Projection, such updated cash flow projection to be in a form consistent with the CCAA Cash Flow Projection (a "**Proposed Amended Cash Flow Projection**"); (ii) actual cash flow results from the immediately preceding week; and (iii) a comparison of the actual cash flow results from the immediately preceding week as against the DIP Agreement Cash Flow Projection (as defined below) for such week, such information to be delivered to the DIP Lender by no later than 5:00 p.m. (Toronto time) on the Tuesday of each week.

The DIP Lender in its sole discretion may approve or object to any Proposed Amended Cash Flow Projection that varies from the DIP Agreement Cash Flow Projection by providing written notice to the Borrower and Monitor within two (2) business days of receipt of such Proposed Amended Cash Flow Projection. In the event that a Proposed Amended Cash Flow Projection is objected to by the DIP Lender, the Borrower may submit to the DIP Lender a further revised Proposed Amended Cash Flow Projection within one (1) business day of receipt of such a written notice of objection, or such other time as the DIP Lender may agree to in writing. Unless and until a Proposed Amended Cash Flow Projection has been approved by the DIP Lender in accordance herewith, the then-current DIP Agreement Cash Flow Projection shall remain the DIP Agreement Cash Flow Projection.

If the DIP Lender approves a Proposed Amended Cash Flow Projection, such Proposed Amended Cash Flow Projection will supersede the CCAA Cash Flow Projection and any previously approved Proposed Amended Cash Flow Projection.

At any given time, the cash flow projection in force and effect (whether the CCAA Cash Flow Projection or any subsequent Proposed Amended Cash Flow Projection that has been approved by the DIP Lender in accordance herewith) shall be the "**DIP Agreement Cash Flow Projection**".

For greater certainty, the DIP Lender shall not be required to initiate any DIP Advances pursuant to a Proposed Amended Cash Flow Projection, nor is the Borrower entitled to utilize any DIP Advances to make payments set out in a Proposed Amended Cash Flow Projection, unless and until it has been approved in writing by the DIP Lender in accordance herewith and become the DIP Agreement Cash Flow Projection.

7. AVAILABILITY UNDER DIP FACILITY:

DIP Advances drawn by the Borrower shall be in increments in the principal amount of \$500,000 and are to be funded within two business days following delivery of the drawdown certificate for the related DIP Advance in accordance with paragraph 7(d) below, unless within one (1) business day of delivery of such drawdown certificate the DIP Lender delivers to the Borrower and the Monitor a notice of non-consent to such DIP Advance as a result of one or more of the conditions precedent not being met or the occurrence of an Event of Default that is continuing and such notice shall include reasonable details outlining any such unsatisfied condition precedent or Event of Default. The DIP Lender may also consent to the making of a DIP Advance prior to the second business day following delivery of the drawdown certificate by providing its written consent to same to the Monitor and the Borrower.

The proceeds of each DIP Advance shall be applied by the Borrower solely in accordance with the DIP Agreement Cash Flow Projection, or as may be otherwise agreed to in writing by the DIP Lender, in its sole discretion, from time to time.

The following conditions precedent shall be satisfied, or waived in writing by the DIP Lender, in its sole discretion, prior to each DIP Advance hereunder:

- (a) Each DIP Advance (together with all previous DIP Advances) must be no greater in the aggregate than the Maximum Amount and shall be subject to the terms and conditions hereof;
- (b) The Court shall have issued an initial order in substantially the form attached as Schedule "B" hereto (the "**Initial Order**") on or before March 21, 2018, the effect of which, among other things, is to authorize and approve the DIP Facility on the terms and conditions hereof and creating the DIP Charge (as defined below) with the priority contemplated herein, and such Initial Order shall have been obtained on notice to all parties entitled thereto pursuant to the CCAA or otherwise identified for such service by the DIP Lender;
- (c) Neither the Initial Order nor any other Court order pertaining to the DIP Facility has been vacated, stayed or otherwise caused to become ineffective or is amended in a manner prejudicial to the DIP Lender;
- (d) Delivery to the DIP Lender with a copy to the Monitor of a drawdown certificate, in substantially the form set out in Schedule "C" hereto, executed by an officer on behalf of the Borrower,

certifying, *inter alia*, that the proceeds of the DIP Advance requested thereby will be applied solely in accordance with the DIP Agreement Cash Flow Projection and Section 3 of the DIP Term Sheet, and that the Borrower is in compliance with the CCAA Court Orders (as defined below) and that no Default or Event of Default has occurred or is continuing;

- (e) There is no Default or Event of Default that has occurred and is continuing, nor will any such event occur as a result of the DIP Advance;
- (f) No material adverse change in the financial condition or operation of the Borrower or otherwise affecting the Borrower shall have occurred after the date of the issue of the Initial Order;
- (g) There are no pending motions for leave to appeal, appeals, injunctions or other legal impediments relating to the DIP Facility, or pending litigation seeking to restrain, vary or prohibit the operation of all or any part of this DIP Term Sheet;
- (h) The DIP Lender has received, as and when required hereunder, all information to which it is entitled hereunder (including, without limitation, the information and cash flow projections required pursuant to Section 7 herein); and
- (i) Each of the representations and warranties made in this DIP Term Sheet shall be true and correct as of the date made or deemed made.

The following conditions precedent shall be satisfied, or waived in writing by the DIP Lender, in its sole discretion, prior to the Borrower lending any proceeds of DIP Advances to the Subsidiary Borrowers (as defined below):

- (a) The Borrower and any such Subsidiary Borrower shall have entered into loan agreements and/or promissory notes and general security agreements, in forms satisfactory to the DIP Lender (collectively, the “**Subsidiary Loan and Security Documents**”);
- (b) The Subsidiary Loan and Security Documents shall have been assigned by the Borrower to the DIP Lender such that the DIP Lender shall be capable of enforcing the obligations of the Subsidiary Borrower thereunder; and
- (c) The Initial Order shall: (i) authorize and approve the lending of proceeds of DIP Advances by the Borrower to the Subsidiary Borrowers; (ii) grant a Court-ordered charge to secure any such intercompany borrowings (each, an “**Intercompany Loan Charge**”) over all present and after-acquired property, assets and undertakings of the applicable Subsidiary Borrower (including for greater certainty and without limitation, insurance proceeds, any tax refunds and those assets set forth on the financial statements of such Subsidiary Borrowers), including all proceeds therefrom and all

causes of action of such Subsidiary Borrower; and (iii) grant such priority to the Intercompany Loan Charges as may be required by the DIP Lender.

All proceeds of DIP Advances shall be deposited by the DIP Lender by way of wire transfer into the Borrower's Account using the following wire instructions (subject to any change approved by the DIP Lender):

BENEFICIARY ADDRESS: 195 DUFFERIN AVE, SUITE 400,
LONDON ONTARIO, N6A 1K7

BENEFICIARY BANK ADDRESS: UNIT 177 - 355
WELINGTON STREET, LONDON, ONTARIO, N6A 3N7

CAD BANK ACCOUNT:

INSTITUTION #: 010

TRANSIT #: 00082ACCOUNT #: 71-02216

SWIFTCODE: CIBCCATT0010

The DIP Lender shall initiate wire transfers as and when required in accordance with this DIP Term Sheet, but the DIP Lender shall have no liability for any delay in the receipt of such wired funds by the Borrower.

Notwithstanding the foregoing or any other provisions of this DIP Term Sheet, to the extent that an emergency cash need arises in the Borrower's business that is not contemplated in the DIP Agreement Cash Flow Projection, the Borrower may request a DIP Advance from the DIP Lender by providing written particulars relating to such emergency cash need to the DIP Lender and the Monitor, which DIP Advance shall only be permitted with the prior written consent of the DIP Lender delivered to the Borrower and the Monitor, in its sole and absolute discretion, and provided further that in no case shall the Maximum Amount be exceeded.

**8. VOLUNTARY
PREPAYMENTS:**

The Borrower may prepay the DIP Obligations at any time prior to the Maturity Date in minimum amounts of \$500,000 and in increments of \$100,000 in excess thereof, without premium or penalty, and any amounts so prepaid may not be re-borrowed by the Borrower hereunder.

9. INTEREST RATE:

The outstanding principal amount of all DIP Advances shall bear interest at a rate per annum equal to ten percent (10%), and upon the occurrence and during the continuance of an Event of Default at a rate per annum equal to fourteen percent (14%), calculated and payable monthly in arrears on the last business day of each calendar month.

Interest on each DIP Advance shall accrue daily from and after the date of advance of such DIP Advance to the Borrower to, but excluding, the date of repayment, as well as before and after maturity, demand and default and before and after judgment, and shall be calculated and compounded on a

daily basis on the principal amount of such DIP Advance and any overdue interest remaining unpaid from time to time and on the basis of the actual number of days elapsed in a year of 365 days.

For the purposes of the *Interest Act* (Canada), the annual rates of interest referred to in this DIP Term Sheet calculated in accordance with the foregoing provisions of this DIP Term Sheet, are equivalent to the rates so calculated multiplied by the actual number of days in a calendar year and divided by 365.

If any provision of this DIP Term Sheet or any ancillary document in connection with this DIP Term Sheet would obligate the Borrower to make any payment of interest or other amount payable to the DIP Lender in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the DIP Lender of interest at a criminal rate (as such terms are construed under the *Criminal Code* (Canada)) then, notwithstanding such provision, such amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or so result in a receipt by the DIP Lender of interest at a criminal rate and any such amounts actually paid by the Borrower in excess of the adjusted amount shall be forthwith refunded to the Borrower.

10. DIP SECURITY:

All obligations of the Borrower under or in connection with the DIP Facility and this DIP Term Sheet shall be secured by a Court-ordered charge (the "**DIP Charge**") over all present and after-acquired property, assets and undertakings of the Borrower (including for greater certainty and without limitation, insurance proceeds, any tax refunds and those assets set forth on the financial statements of the Borrower), including all proceeds therefrom and all causes of action of the Borrower (collectively, the "**Collateral**"), provided that the DIP Charge shall rank ahead of the Existing Clairvest Debt (as defined herein) and behind: (A) the Permitted Encumbrances as defined on Schedule "D" hereto (other than the Existing Clairvest Debt), but only to the extent that such Permitted Encumbrances rank ahead of the Existing Clairvest Debt; (B) an administration charge (the "**Administration Charge**") in the maximum amount of \$750,000 to secure payment of the fees, expenses and disbursements of: (I) the Borrower's counsel and its agents; and (II) the Monitor and its counsel and agents; (C) a charge in an amount not to exceed \$100,000 in favour of the officers and directors of the Borrower (the "**D&O Charge**") to secure the customary obligations and liabilities that they may incur in such capacity from and after the filing date as a backstop to any available directors' and officers' insurance and to the extent that any funds in trust for such persons are not sufficient to satisfy such claims; (D) a charge in an amount not to exceed \$1,650,000 in favour of certain key employees who are subject to a key employee retention plan (the "**KERP**", and such charge, the "**KERP Charge**", and together with the D&O Charge and the Administration Charge, collectively, the "**Court Ordered Charges**"); (E) any claims that would otherwise have priority to the foregoing debt claims including, for greater certainty, any purchase money security interests; and (F) claims having express priority ahead of the

DIP Charge pursuant to the Initial Order (the charges set out in the foregoing items (A) through (F) being collectively, the “**Priority Charges**”).

11. MANDATORY REPAYMENTS:

The proceeds of any debt or equity issuance by the Borrower that occurs from and after the date hereof, and the proceeds of Collateral (for greater certainty, net of reasonable costs and closing adjustments, as applicable), including, without limitation, arising from: (i) any sale of Collateral out of the ordinary course of business (including for greater certainty, any sale of all or substantially all of the Collateral); or (ii) insurance proceeds in respect of any damage, loss or destruction of the Collateral (collectively, the “**Net Proceeds**”) shall be paid: (i) first, to satisfy the Priority Charges in the manner and order set out in the applicable CCAA Order; (ii) second, to satisfy the DIP Obligations; and (iii) third, to the Borrower or such other persons as are entitled thereto in accordance with applicable law.

The Maximum Amount shall be permanently reduced in an amount equal to the Net Proceeds so paid to the DIP Lender. For greater certainty, any mandatory repayments shall not be subject to any premium or penalty.

12. REPRESENTATIONS AND WARRANTIES:

The Borrower represents and warrants to the DIP Lender, upon which the DIP Lender relies in entering into this DIP Term Sheet, that subject to the entry of the Initial Order:

- (a) The Borrower is a corporation duly incorporated and validly existing under the laws of its governing jurisdiction and is duly qualified, licensed or registered to carry on business under the laws applicable to it in all jurisdictions in which the nature of its assets or business makes such qualification necessary, except where the failure to have such qualification, license or registration would not have a Material Adverse Effect. For the purpose of this DIP Term Sheet, “**Material Adverse Effect**” means a material adverse effect on: (i) the financial condition, business or assets of the Borrower; or (ii) the ability of the Borrower to comply with its obligations hereunder or under any CCAA Court Order;
- (b) Subject to the granting of the Initial Order, the Borrower has all requisite corporate or other power and authority to: (i) carry on its business; (ii) own property, borrow monies and enter into agreements therefor; and (iii) execute and enter into the DIP Term Sheet and observe and perform the terms and provisions thereof;
- (c) Subject to the granting of the Initial Order, the execution and delivery of this DIP Term Sheet by the Borrower and the performance by the Borrower of its obligations hereunder has been duly authorized by all necessary corporate or other action and any actions required under applicable laws. Except as has been obtained and is in full force and effect, no registration, declaration, consent, waiver or authorization of, or filing with or notice to, any governmental body is required to be obtained in connection with the

performance by the Borrower of its obligations under this DIP Term Sheet;

- (d) Subject to the granting of the Initial Order, this DIP Term Sheet has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable against it in accordance with its terms, subject only to any limitation under applicable laws relating to (i) bankruptcy, insolvency, reorganization, moratorium or creditors' rights generally; (ii) the fact that specific performance and injunctive relief may only be given at the discretion of the courts; and (iii) the equitable or statutory powers of the courts to stay proceedings before them and to stay the execution of judgments;
- (e) The execution and delivery of this DIP Term Sheet by the Borrower and the performance by the Borrower of its obligations hereunder and compliance with the terms, conditions and provisions hereof, will not conflict with or result in a breach in any material respect of any of the terms, conditions or provisions of: (i) its constating documents (including any shareholders' agreements) or by-laws; (ii) any applicable laws; (iii) any contractual restriction binding on or affecting it or its material properties; or (iv) any material judgment, injunction, determination or award which is binding on it;
- (f) The Borrower is in compliance with all applicable laws of each jurisdiction in which its business has been or is being carried on, non-compliance with which would reasonably be expected to have a Material Adverse Effect;
- (g) There are no actions, suits or proceedings pending, taken or, to the Borrower's knowledge, threatened, before or by any governmental body or by any elected or appointed public official or private person in Canada or elsewhere, whether or not having the force of law, which would reasonably be expected to have a Material Adverse Effect and have not been stayed pursuant to the CCAA Proceedings;
- (h) The DIP Agreement Cash Flow Projection includes a provision for payment of all projected obligations of any kind whatsoever reasonably anticipated by the Borrower on the date hereof that, if not paid, could result in statutory liens ranking in priority to the DIP Charge, except for purchase money security interests;
- (i) As at the date of the Initial Order, the Borrower has good and marketable title to all of the Collateral free from any liens except for: (i) Permitted Encumbrances; and (ii) title defects or irregularities that do not, individually or in the aggregate, materially affect the operation of the business of the Borrower;
- (j) The Borrower has filed all material tax returns that are required to be filed and has in all material respects paid all taxes, interest and

penalties, if any, which have become due pursuant to such returns or pursuant to any assessment received by it, except any such assessment that is being contested in good faith by proper legal proceedings. Without limiting the foregoing, all employee source deductions (including in respect of income taxes, employment insurance and Canada Pension Plan) payroll taxes and workers' compensation dues are currently paid and up to date;

- (k) There are no actions, suits or proceedings (including any tax-related matter) by or before any arbitrator or governmental authority or by any other person pending against or threatened against or affecting the Borrower that could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect that have not been stayed pursuant to the CCAA Proceedings;
- (l) The Borrower maintains insurance policies and coverage that: (i) is sufficient for compliance with any applicable law and all material agreements to which it is a party; and (ii) provide adequate insurance coverage in at least such amounts and against at least such risks as are usually insured against in the same general area by persons engaged in the same or similar business to the assets and operations of the Borrower;
- (m) All factual information provided by or on behalf of the Borrower to the DIP Lender for the purposes of or in connection with this DIP Term Sheet or any transaction contemplated herein, is true and accurate in all material respects on the date as of which such information is dated or certified and remains true as of the date provided and is not incomplete by omitting to state any fact necessary to make such information (taken as a whole) not materially misleading at such time in light of the circumstances under which such information was provided. With respect to any projections, future business plans or forward looking financial statements, the Borrower is not guaranteeing in giving this representation and warranty that the actual future results will be as forecast or projected (but, for greater certainty, the DIP Lender has all of its rights hereunder in the event that such actual future results are not as forecast or projected, including, without limitation, as provided for in Section 17(e) herein);
- (n) As of the date hereof, the Borrower does not administer any pension plans and does not have any outstanding payment obligations in respect of special payments or amortization payments, including without limitation, in respect of pension plans, payments related to post-retirement benefits, solvency deficiencies or wind-up shortfalls in relation to any pension plan; and
- (o) As of the date hereof, each of the representations and warranties of the Borrower in the stalking horse asset purchase agreements remain true and correct in all material respects.

13. AFFIRMATIVE COVENANTS:

The Borrower covenants and agrees to do the following until such time as the DIP Obligations are repaid in full:

- (a) Keep the DIP Lender apprised on a timely basis of all material developments with respect to the Collateral and the business and affairs of the Borrower and all of its direct and indirect wholly- and partially-owned subsidiaries (the “**Subsidiaries**”);
- (b) Perform its obligations hereunder as and when required and in the manner required;
- (c) Use the proceeds of the DIP Facility (at all times solely in accordance with the terms hereof and the DIP Agreement Cash Flow Projections) only for the purpose of funding: (i) transaction costs and expenses incurred by the DIP Lender in connection with the DIP Facility, (ii) professional fees and expenses incurred by the Borrower and the Monitor in respect of the DIP Facility and the CCAA Proceedings, (iii) the operating costs, expenses, capital expenditures and ordinary course liabilities (including, without limitation, wages, bonuses, vacation pay, active employee benefits and entitlements under the KERP) of the Borrower; and (iv) the making of intercompany loans to any one or more of Great Slave Helicopters Ltd., Air Tindi Ltd. and Discovery Mining Services Ltd. (collectively, the “**Subsidiary Borrowers**”) where such Subsidiary Borrowers require intercompany loans in order to fund their respective operating costs, expenses, capital expenditures and ordinary course liabilities;
- (d) Comply with the provisions of the court orders made in connection with the CCAA Proceedings (collectively, the “**CCAA Court Orders**” and each a “**CCAA Court Order**”);
- (e) Preserve, renew and keep in full force Borrower’s and Subsidiaries’ respective corporate or other existence and all material licenses, permits, approvals, etc. required in respect of their respective business, properties, assets or any activities or operations carried out therein;
- (f) Maintain the insurance in existence of the date hereof with respect to the Collateral;
- (g) Conduct all activities in accordance with the DIP Agreement Cash Flow Projection and the credit limits established under the DIP Facility as set out hereunder, or as may be otherwise agreed to by the DIP Lender;
- (h) Forthwith notify the DIP Lender and the Monitor of the occurrence of any Event of Default, or of any event or circumstance (a “**Default**”) that may, with the passage of time or the giving of notice, constitute an Event of Default;

- (i) Forthwith notify the DIP Lender and the Monitor of the commencement of, or receipt of notice of intention to commence, any action, suit, investigation, litigation or proceeding before any court, governmental department, board, bureau, agency or similar body affecting the Borrower or any Subsidiary;
- (j) Promptly after the same is available, but in no event later than the day that is two (2) business days prior to the date on which the same is to be served, provide copies to the DIP Lender of all pleadings, motion records, application records, judicial information, financial information and other documents filed by or on behalf of the Borrower in the CCAA Proceedings;
- (k) Subject to the CCAA and the CCAA Court Orders, comply and cause each Subsidiary to comply in all material respects with all applicable laws, rules and regulations applicable to its business, including, without limitation, health and safety, aviation and environmental laws;
- (l) Except where a stay of proceedings applies, pay and cause each Subsidiary to pay when due all statutory liens, trust and other Crown claims including employee source deductions, GST, HST, PST, employer health tax, and work place safety and insurance premiums, but only with respect to: (i) payments that rank in priority to the DIP Charge; or (ii) payments that are otherwise authorized pursuant to the Initial Order;
- (m) Treat as unaffected the DIP Obligations in any plan of compromise or arrangement, proposal or any other restructuring whatsoever;
- (n) At all times be and remain subject to the CCAA Proceedings;
- (o) Ensure that all motion records, pleadings, application records, orders and other documents (the "**Court Documents**") filed, proposed, sought, served, and obtained by the Borrower or in respect of which the Borrower consents or does not object, in or in connection with the CCAA Proceedings shall be in form and substance reasonably satisfactory to the DIP Lender, and provide to the DIP Lender copies of such Court Documents as soon as practicable prior to any filing or service in the CCAA Proceedings, but in no event later than the day that is two (2) business days prior to the date on which the same is to be served; and
- (p) Grant the DIP Lender and its professional advisors reasonable access to the Collateral and to the Subsidiaries' business, properties, and books and records.

14. NEGATIVE COVENANTS:

The Borrower covenants and agrees not to do the following or permit any Subsidiary to do the following while any DIP Obligations remain

outstanding, other than with the prior written consent of the DIP Lender or an Order of the Court:

- (a) Transfer, lease or otherwise dispose of all or any part of its property, assets or undertaking except: (i) where permitted pursuant to the Initial Order; and (ii) where such transaction results in the repayment of DIP Obligations in accordance with the provisions herein under the paragraph entitled "Mandatory Repayments";
- (b) Make any payment of principal or interest in respect of any indebtedness outstanding prior to the commencement of the CCAA Proceedings ("**Existing Indebtedness**") other than as may be permitted herein or by a CCAA Court Order, provided that it is acknowledged that the Borrower may make all payments owing to:
 - (i) the DIP Lender in its capacity as lender in respect of the Existing Clairvest Debt, as provided for herein; and
 - (ii) secured lenders that have security with express priority ahead of the DIP Charge pursuant to the Initial Order, but only to the extent that such payments are in respect of interest amounts and are not in respect of other amounts, including, without limitation, amounts in respect of maturity payments or amortization payments.
- (c) Create or permit to exist indebtedness for borrowed money other than: (i) Existing Indebtedness; (ii) debt contemplated by this DIP Facility; (iii) post-filing trade credit obtained in the ordinary course of business, in accordance with the DIP Agreement Cash Flow Projection;
- (d) Permit any new liens to exist on any Collateral other than the Priority Charges;
- (e) Either: (i) change its name, amalgamate, consolidate with or merge into, or enter into any similar transaction with any other entity; or (ii) make any changes to its organizational documents that would be adverse to the DIP Lender;
- (f) Make any acquisitions, investments or loans to any person or guarantee the obligations of any person, other than those in existence on the date hereof and disclosed to the DIP Lender in writing;
- (g) Enter into any transaction with any Subsidiary or affiliate other than: (i) any transaction on terms and conditions at least as favourable to the Borrower as could reasonably be obtained in an

arms-length transaction, or (ii) those in existence on the date hereof and disclosed to the DIP Lender in writing;

- (h) Pay any dividends, distributions or advances to shareholders of the Borrower, or any management bonus or similar payments, except to the extent provided for in the DIP Agreement Cash Flow Projection;
- (i) Hold or use any bank accounts other than as disclosed to the DIP Lender in writing in advance of such holding or use;
- (j) Engage in new businesses;
- (k) Change its fiscal year or accounting practices;
- (l) Issue any equity; and
- (m) Take any action (or in any way support the taking of any action by another person) that has, or may have, a material adverse impact on the rights and interests of the DIP Lender, including, without limitation, any action in furtherance of challenging the validity, enforceability or amount of the obligations owing in respect of the DIP Facility.

15. EXISTING CLAIRVEST DEBT

The Borrower acknowledges its existing debt as at January 31, 2018, in the aggregate principal amount of \$72,700,000, plus interest, fees, costs and expenses payable in addition to this amount (the “**Existing Clairvest Debt**”) under the secured debentures issued by the Borrower to Clairvest Equity Partners IV Limited Partnership, CEP IV Co-Investment Limited Partnership, Clairvest Equity Partners IV-A Limited Partnership, DA Holdings Limited Partnership and G. John Krediet (as so amended and in effect immediately prior to the effectiveness of this Agreement, the “**Loan Agreement**”). The Borrower further acknowledges that the Existing Clairvest Debt is due and payable as at May 5, 2018.

The Borrower shall not contest, challenge or in any way oppose (or support any other person in contesting, challenging or opposing): (i) the amount of the DIP Lender’s claim for the Existing Clairvest Debt as hereby acknowledged and agreed, together with all other amounts that may become due or payable in respect of the Existing Clairvest Debt following the date hereof; and (ii) the validity and enforceability of the Existing Clairvest Debt or of any loan, security or other documents relating thereto. The Borrower further covenants to, and does hereby, release the DIP Lender and its respective predecessors, successors, agents, advisors, representatives and assigns of and from all claims and liabilities relating to any act or omission prior to the date of this DIP Term Sheet and arising solely in respect thereof.

16. INDEMNITY AND RELEASE:

The Borrower agrees to indemnify and hold harmless the DIP Lender (in its capacity as DIP Lender) and each of its directors, officers, employees, agents, attorneys, advisors and affiliates (all such persons and entities being referred to hereafter as "**Indemnified Persons**") from and against any and all actions, suits, proceedings (including any investigations or inquiries), claims, losses, damages, liabilities or expenses of any kind or nature whatsoever (excluding indirect or consequential damages and claims for lost profits) which may be incurred by or asserted against or involve any Indemnified Person as a result of or arising out of or in any way related to or resulting from any bankruptcy or insolvency proceedings, this DIP Term Sheet or any advance made hereunder, and, upon demand, to pay and reimburse any Indemnified Person for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, defending or preparing to defend any such action, suit, proceeding (including, without limitation, any inquiry or investigation) or claim (whether or not any Indemnified Person is a party to any action or proceeding out of which any such expenses arise); provided, however, the Borrower shall not be obligated to indemnify pursuant to this paragraph any Indemnified Person against any loss, claim, damage, expense or liability to the extent it resulted from the gross negligence or willful misconduct of such Indemnified Person as finally determined by a court of competent jurisdiction.

The indemnities granted under this DIP Term Sheet shall survive any termination of the DIP Facility.

17. EVENTS OF DEFAULT:

The occurrence of any one or more of the following events, without the prior written consent of the DIP Lender, shall constitute an event of default ("**Event of Default**") under this DIP Term Sheet:

- (a) The issuance of an order terminating the CCAA Proceedings or lifting the stay in the CCAA Proceedings to permit the enforcement of any security against the Borrower or the Collateral, or the appointment of a receiver and manager, receiver, interim receiver or similar official or the making of a bankruptcy order against the Borrower or any Subsidiary or the Collateral;
- (b) The issuance of an order granting a lien of equal or superior status to that of the DIP Charge, other than as provided in section 10 hereof;
- (c) The issuance of any CCAA Court Order: (i) staying, reversing, vacating or otherwise modifying the DIP Charge; or (ii) that adversely impacts or could reasonably be expected to adversely impact the rights and interests of the DIP Lender in connection with the Collateral or under this DIP Term Sheet or the Initial Order, as determined by the DIP Lender in its sole discretion; provided, however, that any such order that provides for payment in full forthwith of all of the obligations of the Borrower under the DIP Facility shall not constitute an Event of Default;

- (d) Failure of the Borrower to pay any principal, interest, fees or any other amounts, in each case when due and owing hereunder;
- (e) Any update to the DIP Agreement Cash Flow Projection required to be made in accordance with Section 6 hereof indicating that the Borrower would require additional funding above the Maximum Amount to meet its obligations at any time during the period of the DIP Agreement Cash Flow Projection;
- (f) Any representation or warranty by the Borrower herein or in any certificate delivered by the Borrower to the DIP Lender shall be incorrect or misleading in any material respect as of the date made or deemed made;
- (g) A court order is made (whether in the CCAA Proceedings or otherwise), a liability arises or an event occurs, including any change in the business, assets, or conditions, financial or otherwise, of the Borrower or any Subsidiary, that has or will have a Material Adverse Effect;
- (h) Any material violation or breach of any CCAA Court Order upon receipt by the Borrower of notice from the DIP Lender of such violation or breach;
- (i) Failure of the Borrower to perform or comply with any other term or covenant under this DIP Term Sheet and such default shall continue unremedied for a period of three (3) business days (irrespective of notice of such failure being given by the DIP Lender to the Borrower);
- (j) Any change of control of the Borrower; or
- (k) The seeking or support by the Borrower, or the issuance, of any court order (in the CCAA Proceedings or otherwise) that is adverse to the interests of the DIP Lender (including, without limitation, in respect of the validity, enforceability or quantum of the Existing Clairvest Debt).

18. REMEDIES:

Upon the occurrence of an Event of Default, whether or not there is availability under the DIP Facility, without any notice or demand whatsoever, the right of the Borrower to receive any DIP Advance or other accommodation of credit from the DIP Lender shall be terminated, subject to the Initial Order. With the leave of the Court sought on not less than two (2) business days' notice to the Borrower and the Monitor, the DIP Lender shall have the right to enforce the DIP Charge and to exercise all other rights and remedies in respect of the DIP Obligations and the DIP Charge, including the right to realize on all Collateral and to apply to the Court for the appointment of a Court-appointed receiver (subject to the application of proceeds of realization to Priority Charges, as applicable). No failure or delay by the DIP Lender in exercising any of its rights hereunder or at law

shall be deemed a waiver of any kind, and the DIP Lender shall be entitled to exercise such rights in accordance with this DIP Term Sheet at any time.

19. FEES:

Except as provided for below regarding legal fees, the DIP Lender shall not charge any fees under the DIP Facility.

20. LEGAL FEES:

The Borrower shall pay all reasonable out-of-pocket expenses, including all reasonable legal expenses on a solicitor-client basis, incurred by the DIP Lender in connection with the CCAA Proceedings, this DIP Term Sheet and the transactions contemplated herein, including those with any respect to any enforcement of the terms hereof or of the DIP Charge or otherwise incurred in connection with the DIP Facility.

All fees shall be non-refundable under all circumstances.

For greater certainty, the fees above shall be paid as and when set out above by way of a deemed advance under the DIP Facility, and shall reduce by such amounts the total availability under the DIP Facility, without the need for the Borrower to draw down the funds in question in accordance with this DIP Term Sheet and then return the funds to the DIP Lender in payment of such fees.

21. DIP LENDER APPROVALS:

Any consent, approval, instruction or other expression of the DIP Lender to be delivered in writing may be delivered by any written instrument, including by way of email, by the DIP Lender pursuant to the terms hereof.

22. TAXES:

All payments by the Borrower under this DIP Term Sheet to the DIP Lender, including any payments required to be made from and after the exercise of any remedies available to the DIP Lender upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country, but excluding any reduction for any amount required to be paid by the Borrower under subsection 224(1.2) of the *Income Tax Act* (Canada) or a similar provision of that or any other taxation statute (collectively "Taxes").

23. FURTHER ASSURANCES:

The Borrower shall, at its expense, from time to time do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents and things as the DIP Lender may reasonably request for the purpose of giving effect to this DIP Term Sheet. Without limiting the foregoing, the Borrower agrees that if so requested by the DIP Lender, acting reasonably, it shall promptly execute and deliver to the DIP Lender any general security agreement or other security documents securing its obligations to the DIP Lender hereunder in forms reasonable and customary for debtor in possession financings, provided however that the execution of any such security document shall not be a condition precedent to funding the Maximum Amount or DIP Advances hereunder. Without limiting the foregoing, upon request of the DIP Lender the Borrower agrees to enter into

a formal credit agreement evidencing the terms hereof and containing such other terms and conditions as are customary for credit facilities of the type contemplated hereby and are reasonably requested by the DIP Lender (in which case the entering into of such credit agreement shall be a condition to the availability of future DIP Advances).

**24. ENTIRE AGREEMENT;
CONFLICT:**

This DIP Term Sheet, including the schedules hereto constitutes the entire agreement between the parties relating to the subject matter hereof.

**25. AMENDMENTS,
WAIVERS, ETC.:**

No waiver or delay on the part of the DIP Lender in exercising any right or privilege hereunder will operate as a waiver hereof or thereof unless made in writing and delivered in accordance with the terms of this DIP Term Sheet. Any amendment to the terms of this DIP Term Sheet shall be made in writing and signed by the parties hereto.

26. ASSIGNMENT:

The DIP Lender may assign this DIP Term Sheet and its rights and obligations hereunder, in whole or in part, to any party acceptable to the DIP Lender in its sole and absolute discretion, provided that the Monitor is satisfied that such assignee has the financial capacity to act as DIP Lender. Neither this DIP Term Sheet nor any right and obligation hereunder may be assigned by the Borrower.

27. SEVERABILITY:

Any provision in this DIP Term Sheet that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**28. COUNTERPARTS
AND SIGNATURES:**

This DIP Term Sheet may be executed in any number of counterparts and by electronic transmission, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same instrument. Any party may execute this DIP Term Sheet by signing any counterpart of it.

29. NOTICES:

Any notice, request or other communication hereunder to any of the parties shall be in writing and be well and sufficiently given if delivered personally or sent by electronic mail to the attention of the person as set forth below:

(a) In the case of the Borrower:

Discovery Air Inc.
170 Attwell Drive, Suite 370
Toronto, Ontario M9W 5Z5

Attention: David Kleiman
Email: david.kleiman@discoveryair.com

With a copy to:

Goldman Sloan Nash & Haber LLP
480 University Ave Suite 1600
Toronto, Ontario M5G 1V2

Attention: Mario Forte / Michael Rotsztain
Email: forte@gsnh.com / rotsztain@gsnh.com

And with a copy to the Monitor:

KSV Kofman Inc.
150 King Street West, Suite 2308
Toronto, Ontario, M5H 1J9

Attention: Bobby Kofman / David Sieradzki
Email: bkofman@ksvadvisory.com /
dsieradzki@ksvadvisory.com

And with a copy to the Monitor's Counsel:

Goodmans LLP
3400-333 Bay Street
Toronto, Ontario, M5H 2S7

Attention: L. Joseph Latham / Bradley Wiffen
Email: jlatham@goodmans.ca / bwiffen@goodmans.ca

(b) In the case of the DIP Lender:

c/o Clairvest Group Inc.
22 St. Clair Avenue East
Suite 1700
Toronto, Ontario
M4T 2S3

Attention: James H. Miller, General Counsel and Corporate Secretary
Email: jmiller@clairvest.com

With a copy to:

Torys LLP
79 Wellington Street East
Suite 3000
Toronto, ON M5K 1N2

Attention: David Bish / Adam Slavens
Email: dbish@torys.com / aslavens@torys.com

Any such notice shall be deemed to be given and received, when received, unless received after 5:00 EST or on a day other than a business day, in which case the notice shall be deemed to be received the next business day.

30. GOVERNING LAW AND JURISDICTION:

This DIP Term Sheet shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

- signature pages follow -


IN WITNESS HEREOF, the parties hereby execute this DIP Term Sheet as at the date first above mentioned.

DISCOVERY AIR INC.

By: 

Name:

Title:

By: 

Name:

Title:

CEP IV CO-INVESTMENT LIMITED PARTNERSHIP, by its general partner, CLAIRVEST GENERAL PARTNER IV L.P., by its general partner, CLAIRVEST GP (GPLP) INC.

By: _____

Name:

Title:

IN WITNESS HEREOF, the parties hereby execute this DIP Term Sheet as at the date first above mentioned.



DISCOVERY AIR INC.

By: _____

Name:

Title:

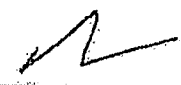
By: _____

Name:

Title:



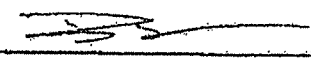
CEP IV CO-INVESTMENT LIMITED PARTNERSHIP, by its general partner, **CLAIRVEST GENERAL PARTNER IV L.P.**, by its general partner, **CLAIRVEST GP (GPLP) INC.**

By: _____ 

Name:

B. Jeffrey Parr

Title: **Vice Chairman and Managing Director**

By: _____ 

Daniel Cheng

Chief Financial Officer

SCHEDULE "A"
CCAA Cash Flow Projection

Discovery Air Inc.
Cash Flow Forecast
For the Period Ending June 30, 2018
(Unaudited, C\$)

Notes	25-Mar-18	1-Apr-18	8-Apr-18	15-Apr-18	22-Apr-18	29-Apr-18	6-May-18	13-May-18	20-May-18	27-May-18	3-Jun-18	10-Jun-18	17-Jun-18	24-Jun-18	30-Jun-18	Total
Receipts																
Collections from Non-Applicant Subsidiaries																
HST collections																
Total Receipts	1,040,384	1,151,933	1,044,782	2,111,239	955,782	1,100,782	900,782	1,392,512	2,161,239	1,567,512	1,225,782	1,422,275	2,399,912	1,627,275	1,522,275	21,624,466
	1,040,384	1,151,933	1,044,782	2,111,239	955,782	1,100,782	900,782	1,392,512	2,161,239	1,567,512	1,225,782	1,422,275	2,399,912	1,627,275	1,522,275	21,624,466
									28,000			270,000	28,000			354,000
									2,189,239	1,567,512	1,225,782	1,692,275	2,427,912	1,627,275	1,522,275	21,978,466
Disbursements																
Payments to Non-Applicant Subsidiaries for operations	2,693,459	2,676,992	2,321,066	1,693,755	1,892,688	812,190	3,835,250	1,013,602	2,579,685	876,417	2,780,359	2,051,266	1,562,191	1,820,897	1,986,167	30,595,984
Payroll costs	-	10,000	-	10,000	-	-	10,000	-	10,000	-	10,000	-	10,000	-	10,000	70,000
Occupancy costs	-	13,373	-	-	-	-	13,373	-	-	-	-	-	-	-	-	40,119
Other sundry expenses	50,000	50,000	50,000	100,000	50,000	50,000	50,000	50,000	100,000	50,000	50,000	50,000	50,000	50,000	50,000	850,000
Debt service payments	-	73,105	-	204,000	-	-	116,711	-	39,000	-	147,685	-	39,000	-	-	619,501
Professional fees	-	325,000	-	-	-	-	235,000	-	-	-	225,000	-	-	-	-	785,000
Total Disbursements	2,743,459	3,148,470	2,371,066	2,007,755	1,942,688	862,190	4,260,334	1,063,602	2,728,685	976,417	3,226,417	2,101,266	1,661,191	1,870,897	2,046,167	32,960,603
	(1,703,075)	(1,996,536)	(1,326,284)	(131,484)	(986,906)	(238,592)	(3,359,532)	(328,910)	(539,446)	(641,095)	(2,000,633)	(408,991)	(766,721)	(243,622)	(523,892)	(10,982,137)
Net Cash Flow																
	11,426,956	13,130,031	15,126,568	16,452,851	16,321,568	17,308,273	17,069,681	20,429,233	20,100,323	20,639,769	19,998,675	21,998,509	22,408,500	21,641,579	21,885,201	30,595,984
	(1,703,075)	(1,996,536)	(1,326,284)	(131,484)	(986,906)	(238,592)	(3,359,532)	(328,910)	(539,446)	(641,095)	(2,000,633)	(408,991)	(766,721)	(243,622)	(523,892)	(10,982,137)
	13,130,031	15,126,568	16,452,851	16,321,368	17,308,273	17,069,681	20,429,233	20,100,323	20,639,769	19,998,675	21,999,309	22,408,500	21,641,579	21,885,201	22,409,093	30,595,984
	11,794,280	10,364,456	10,364,456	10,364,456	10,364,456	10,564,456	10,347,456	10,582,072	10,582,072	10,582,072	10,007,072	11,001,072	11,001,072	11,001,072	11,001,072	11,001,072
	(1,335,751)	(4,762,111)	(6,088,395)	(5,936,911)	(6,943,817)	(6,705,225)	(10,081,777)	(9,518,251)	(10,057,697)	(9,416,602)	(11,992,237)	(11,407,228)	(10,640,507)	(10,884,129)	(11,408,021)	(10,982,137)
DIP Funding Requirement																
Opening funding requirement																
Net cash flow																
Closing funding requirement																
Permitted borrowings under CIBC facility																
DIP funding requirement																

Discovery Air Inc.
Notes to Cash Flow Forecast
For the Period Ending June 30, 2018
(Unaudited; \$C)

Purpose and General Assumptions

1. The purpose of this analysis is to present a cash flow forecast for Discovery Air Inc. (the "Company") for the period March 19, 2018 to June 30, 2018 in respect of its proceedings under the Companies' Creditors Arrangement Act. The Company is the only applicant in the proposed proceedings. The cash flow reflects the cash management system used by the Company and the Non-Applicant Subsidiaries (the "Non-Applicant Subsidiaries"), being Great Slave Helicopter Ltd ("GSH"), Air Tindi Ltd. ("ATL") and Discovery Mining Services Ltd ("DMS").

The cash flow forecast has been prepared based on hypothetical assumptions developed and prepared by the Company's management.

Hypothetical Assumptions

2. Represents projected accounts receivable collections for GSH, ATL and DMS, which are assumed to be collected in accordance with existing customer payment terms and practices.
3. Represents net HST refundable.
4. Represents funding by the Company for the operating expenses of the Non-Applicant Subsidiaries, including payroll costs, aircraft maintenance and equipment purchases, fuel, occupancy costs, insurance, travel, employee training, aircraft and vehicle leases and debt service costs in respect of ATL's loan facility with Textron Financial Corporation. All such expenses are projected to be paid in the normal course in accordance with existing terms and payment practices.
5. Represents net payroll for the Company's employees.
6. Represents rent for the Company's head office in Toronto, Ontario and for a leased office premises in London, Ontario.
7. Represents costs related to telecommunications, technology, office supplies, utilities, accounting and other sundry expenses incurred by the Company.
8. Represents debt service payments on the Company's secured credit facilities, as follows:
 - (a) interest to ECN Aviation Inc.;
 - (b) interest, standby letter of credit fees and a standby overdraft fee to Canadian Imperial Bank of Commerce ("CIBC");
 - (c) final scheduled principal payment (\$189,000) owing to Roynat Inc. ("Roynat"), which facility matures on April 15, 2018. The projection contemplates continued interest payments to Roynat during the projection period; and
 - (d) interest on the DIP facility (10%).
9. Represents payment of the estimated professional fees of the Monitor, its legal counsel and the Company's legal counsel.
10. Net assets available for borrowing is calculated in accordance with CIBC's existing lending formula. The DIP facility is structured to fund any amounts required in excess of the Company's borrowing base.

SCHEDULE "B"
Initial CCAA Order

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 21st
JUSTICE HAINEY) DAY OF MARCH, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF DISCOVERY AIR INC.

APPLICANT

INITIAL ORDER

THIS APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Paul Bernards, sworn March 21, 2018, and the Exhibits thereto (the "**Bernards Affidavit**"), and on reading the consent of KSV Kofman Inc. ("**KSV**") to act as the Monitor (in such capacity, the "**Monitor**"), and upon reading the pre-filing report of KSV dated March 21, 2018, in its capacity as the proposed Monitor, and on hearing the submissions of counsel for the Applicant and those subsidiaries set out in Schedule "A" hereto (each a "**Non-Applicant Subsidiary**" and collectively the "**Non-Applicant Subsidiaries**", and together with the Applicant the "**Discovery Air Group**"), the proposed Monitor and Clairvest Group Inc., no one appearing for any other party although duly served as appears from the affidavit of service of Katie Parent sworn March 21, 2018,

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Subsidiaries shall enjoy certain benefits of the protections and authorizations provided by this Order, as set out herein.

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system including, subject to the Definitive Documents (as hereinafter defined), the operating facility with Canadian Imperial Bank of Commerce (“**CIBC**”) and borrowings that may be made under that facility as well as the cash pooling arrangements currently in place as described in the Bernards Affidavit or replace it with another substantially

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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 Discovery Air Group 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 Discovery Air Group, 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 (and, in particular, in its capacity as the operating facility lender), an unaffected creditor under the Plan or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* R.S.C. 1985 c. B-3, as amended (“**BIA**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System. For greater certainty, any security held by CIBC in connection with the foregoing shall continue to retain its priority in respect of any usage or borrowings made from and after the date of this Order.

6. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant shall be entitled but not required to pay the following expenses whether 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; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course, prior to, on or after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

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- (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 Applicant following the date of this Order.

8. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant 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 which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, 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 which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall 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

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payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, once a month on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that the Applicant shall be entitled but not obligated to continue to make payments of interest at current rates in place as of the date of this Order (and, for greater certainty, not at any default rate) owing to each of Roynat Inc. (“**Roynat**”) and ECN Aviation Inc. (“**ECN**”) in connection with the secured credit facilities that it has with each such lender and, in the case of Roynat, its regularly scheduled payment of principal on April 15, 2018 provided, for greater certainty, that the maturity of the Roynat facility on such date is stayed as set out herein (all as contemplated by the cash flow forecast attached to the Bernards Affidavit).

10A **THIS COURT ORDERS** that the Applicant shall continue to make payments of interest at current rates in place as of the date of this Order (and, for greater certainty, not at any default rate) and other repayments of borrowings from time to time outstanding pursuant to the terms of the operating facility with CIBC provided, for greater certainty, that the maturity of and the final repayment of principal upon maturity or any acceleration under the CIBC facility is stayed as set out herein.

11. **THIS COURT ORDERS** that other than as set out in paragraphs 10 and 10A, and except as may otherwise specifically be permitted herein, the Applicant is 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 Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

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- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) with the approval of the Monitor, enter into one or more agreements for the provision of shared services with any or all of Top Aces Inc. and/or the Non-Applicant Subsidiaries; and
- (d) pursue all avenues of refinancing of its 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 Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

13. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant’ 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 and, if the landlord disputes the Applicant’ 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 Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it 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 of the lease shall be without prejudice to the Applicant’ claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours’ prior written notice, and (b) at

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the effective time of the disclaimer, 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 Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE DISCOVERY AIR GROUP OR THEIR PROPERTY

15. **THIS COURT ORDERS** that until and including April 20, 2018, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

16. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceedings shall be commenced or continued against or in respect of the Non-Applicant Subsidiaries, 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-Applicant Subsidiaries’ Property**”, and together with the Non-Applicant Subsidiaries’ businesses, collectively, the “**Non-Applicant Subsidiaries’ Property and Business**”), arising upon or as a result of (i) the insolvency of the Applicant; (ii) the making or filing of these proceedings or of any order in these proceedings; (iii) any default or event of default arising as a result of or pursuant to either of (i) or (ii) or any default under the terms of any document entered into in connection with any of Discovery’s or the Non-Applicant Subsidiaries’ secured debt facilities including any guarantee thereunder to which any of the Applicant or the Non-Applicant Subsidiaries are a party; or (iv) any default arising out of a contract or agreement to which the Applicant and one or more Non-Applicant Subsidiaries is a party (collectively the “**Non-Applicant Subsidiary Default Events**”). Without limitation, the operation of any provision of a contract or agreement between a Non-Applicant Subsidiary and any other Person that purports to effect or cause a

termination or cessation of any rights of the Non-Applicant Subsidiary, or to accelerate, terminate, discontinue, alter, interfere with, repudiate, cancel, suspend, amend or modify such contract or agreement, in each case as a result of one or more Non-Applicant Subsidiary Default Events, is hereby stayed and restrained during the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that 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”) against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

17A **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the Non-Applicant Subsidiaries, or affecting the Non-Applicant Subsidiaries’ Property and Business, as a result of a Non-Applicant Subsidiary Default Event are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Non-Applicant Subsidiaries to carry on any business which the Non-Applicant Subsidiaries are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

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18A **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any other party as a result of a Non-Applicant Subsidiary Default Event, except with the written consent of the Applicant and the Monitor, or leave of this Court.

18B. **THIS COURT ORDERS** that, notwithstanding paragraphs 15 to 18A or any other provisions of this Order, upon the occurrence of an event of default under the CIBC operating facility other than a default which may arise as a result of, or otherwise relate to, the insolvency of the Applicant, the commencement of the Applicant's proceedings under the CCAA or any relief granted in these proceedings occurring after the date hereof, CIBC shall immediately upon notice to the Applicant and the Monitor be entitled to cease making advances to the Applicant and, upon 2 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant, the Non-Applicant Subsidiaries, the Property or the Non-Applicant Subsidiaries' Property under or pursuant to the CIBC operating facility and any and all security granted thereunder, including without limitation, set off and/or consolidate any amounts owing by CIBC to the Applicant against the obligations of the Applicant or the Non-Applicant Subsidiaries to CIBC under the operating facility, to make demand, accelerate payment and give other notices, provided however, that CIBC may not take any further steps to enforce its security without leave of this Court, including without limitation, applying for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and/or the Non-Applicant Subsidiaries and for the appointment of a trustee in bankruptcy of the Applicant and/or the Non-Applicant Subsidiaries; and the foregoing rights and remedies of CIBC shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant, the Non-Applicant Subsidiaries, the Property, the Business or the Non-Applicant Subsidiaries' Property and Business.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility

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

19A **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with one or more Non-Applicant Subsidiaries or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any Non-Applicant Subsidiaries, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Non-Applicant Subsidiaries as a result of a Non-Applicant Subsidiary Default Event, and that the Non-Applicant Subsidiaries 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 normal prices or charges for all such goods or services received after the date of this Order are paid by the Non-Applicant Subsidiaries in accordance with normal payment practices of the Non-Applicant Subsidiaries or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person 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 Applicant or any Non-Applicant

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Subsidiary. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant or of the Non-Applicant Subsidiaries with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant or of the Non-Applicant Subsidiaries 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 Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. **THIS COURT ORDERS** that the directors and officers of the Applicant 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 \$100,000, as security for the indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 48 and 50 herein.

24. **THIS COURT ORDERS** that, 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 Applicant's 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 22 of this Order.

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APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Discovery Air Group's receipts and disbursements;
- (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;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender (as defined herein) and its counsel and CIBC and its counsel on a periodic basis of financial and other information as agreed to between the Applicant and the DIP Lender that may be used in these proceedings, including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender or CIBC, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel and CIBC and its counsel on a periodic basis, as agreed to by the DIP Lender;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

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- (g) 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 Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) conduct, supervise and carry out any sales process(es) with respect to the Property and the Business;
- (i) 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;
- (j) commence applications for recognition of these proceedings outside of Canada in its capacity as foreign representative without further Order of this Court; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property or the Non-Applicant Subsidiaries' Property and shall take no part whatsoever in the management or supervision of the management of the Business or the Non-Applicant Subsidiaries' Property and Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the foregoing, or any part thereof.

28. **THIS COURT ORDERS** that nothing herein contained 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 or the Non-Applicant Subsidiaries' Property that might be environmentally contaminated, might be a pollutant or a contaminant, 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 of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure

imposed by applicable Environmental Legislation. 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 or the Non-Applicant Subsidiaries' Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant 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 Applicant 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 Applicant may agree.

30. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out 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. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements incurred prior to or following the date hereof, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis or at such other intervals as the Applicant and the Monitor may agree.

32. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$750,000, as

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security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, 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 48 and 50 hereof.

34. **THIS COURT ORDERS** that KSV in its capacity as Monitor in these proceedings be and hereby is authorized to act as a foreign representative of the Applicant and of these proceedings for the purpose of having these proceedings recognized outside of Canada.

INTERCOMPANY FINANCING

35. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant may advance funds to its Non-Applicant Subsidiaries after the date of this Order, whether through operation of the Cash Management System, an intercompany loan, including, without limitation, loans made pursuant to the DIP Term Sheet, or otherwise (“**Intercompany Advances**”). The Applicant’s accounts and records shall constitute, in the absence of manifest error, *prima facie* evidence of the balance of the Intercompany Advances.

36. **THIS COURT ORDERS** that the Intercompany Advances to each Non-Applicant Subsidiary shall be secured by a charge in favour of the Applicant (each, an “**Intercompany Charge**”) over the applicable Non-Applicant Subsidiary’s Property to the extent of each of their respective indebtedness to the Applicant for Intercompany Advances. The Intercompany Charges shall have the priority set out in paragraph 50 hereof.

DIP FINANCING

37. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from CEP IV Co-Investment Limited Partnership (the “**DIP Lender**”) in order to finance the Applicant’s working capital requirements and other general corporate purposes and capital expenditures and the Intercompany Advances, provided that borrowings under such credit facility shall not exceed \$12.6 million unless permitted by further Order of this Court.

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38. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicant and the DIP Lender dated as of March 21, 2018 (the “**DIP Term Sheet**”), filed.

39. **THIS COURT ORDERS** that the Applicant and the Non-Applicant Subsidiaries, as applicable, are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents, including, without limitation, in connection with the Intercompany Advances (collectively and including the DIP Term Sheet, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant and the Non-Applicant Subsidiaries, as applicable, are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

40. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 48 and 50 hereof. Without limiting the generality of the foregoing, the Applicant’s obligations under the DIP Term Sheet and the Intercompany Advances shall also be secured by the assignment by the Applicant to the DIP Lender of the Intercompany Charges and the repayment obligations of the Non-Applicant Subsidiaries to the Applicant in respect of the Intercompany Advances, each of which are hereby assigned.

41. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge, the Intercompany Charges or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents, the DIP Lender’s Charge or the Intercompany Charges, the DIP Lender shall immediately

upon notice to the Applicant and the Monitor be entitled to cease making advances to the Applicant and, upon 2 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant, the Non-Applicant Subsidiaries, the Property or the Non-Applicant Subsidiaries' Property under or pursuant to the DIP Term Sheet, Definitive Documents, the DIP Lender's Charge or the Intercompany Charges, including without limitation, set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant or the Non-Applicant Subsidiaries to the DIP Lender under the DIP Term Sheet, the Definitive Documents, the DIP Lender's Charge or the Intercompany Charges, 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 Applicant and/or the Non-Applicant Subsidiaries and for the appointment of a trustee in bankruptcy of the Applicant and/or the Non-Applicant Subsidiaries; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant, the Non-Applicant Subsidiaries, the Property, the Business or the Non-Applicant Subsidiaries' Property and Business.

42. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan or any proposal filed by the Applicant under the BIA, with respect to any advances made under the Definitive Documents.

KEY EMPLOYEE RETENTION PLAN

43. **THIS COURT ORDERS** that the Applicants' Key Employee Retention Plan ("KERP"), as described in the Bernards Affidavit is hereby approved.

44. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to enter into the KERP with KERP Employees (as defined in the Bernards Affidavit).

45. **THIS COURT ORDERS** that the amounts payable to the Key Employees pursuant to the KERP are hereby secured by a charge (the "**KERP Charge**") on the Property, in favour of

the Key Employees. The KERP Charge shall have the priority set out in paragraphs 48 and 50 hereof

46. **THIS COURT ORDERS** that the aggregate amount secured by the KERP Charge granted to secure the Applicants’ obligations under the KERP shall be in an amount of no more than CDN\$1.65 million.

47. **THIS COURT ORDERS** that Confidential **Exhibit “K”** to the Bernards Affidavit be and is hereby sealed pending further order of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

48. **THIS COURT ORDERS** that the priorities of the Directors’ Charge, the Administration Charge, the KERP Charge and the DIP Lender’s Charge, as among them, against the Property shall be as follows:

First – Administration Charge (to the maximum amount of \$750,000);

Second – Directors’ Charge (to the maximum amount of \$100,000);

Third – KERP Charge (to the maximum amount of \$1.65 million); and

Fourth – DIP Lender’s Charge.

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors’ Charge, the Administration Charge, the KERP Charge, the DIP Lender’s Charge or the Intercompany Charges (collectively, the “**Charges**”) shall not be required, and that 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.

50. **THIS COURT ORDERS** that:

- a) each of the Administration Charge, the Directors’ Charge and the KERP Charge (all as constituted and defined herein) shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) of the Applicant in favour

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of any Person other than (i) any Person with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or similar provincial legislation or (ii) any statutory super priority deemed trusts and liens for unremitted employee source deductions;

- b) the DIP Lender's Charge shall rank immediately in priority to Clairvest's Encumbrances granted by or against the Applicant or the Property and any other Encumbrances that rank behind such Clairvest Encumbrances; provided, for greater certainty, that the DIP Lender's Charge shall rank subordinate to any Encumbrances that have priority over such Clairvest Encumbrances; and
- c) the Intercompany Charges shall rank immediately in priority to Clairvest's Encumbrances granted by or against any Non-Applicant Subsidiary or the Non-Applicant Subsidiaries' Property and any other Encumbrances that rank behind such Clairvest Encumbrances; provided, for greater certainty, that the Intercompany Charges shall rank subordinate to any Encumbrances that have priority over such Clairvest Encumbrances with respect to the Non-Applicant Subsidiaries' Property.

51. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant and the Non-Applicant Subsidiaries shall not grant any Encumbrances over any Property or Non-Applicants Subsidiaries' Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge, the KERP Charge, the DIP Lender's Charge or the Intercompany Charges, unless the Applicant also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors' Charge, the beneficiaries of the KERP Charge, and the Administration Charge, or further Order of this Court.

52. **THIS COURT ORDERS** that the Directors' Charge, the Administration Charge, the DIP Term Sheet, the Definitive Documents, the DIP Lender's Charge and the Intercompany Charges 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 DIP 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 herein; (b) any application(s) for

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bankruptcy order(s) issued pursuant to 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**”) which binds the Applicant or the Non-Applicant Subsidiaries, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant or the Non-Applicant Subsidiaries of any Agreement to which they are a party;
- (b) 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 Applicant entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant or the Non-Applicant Subsidiaries pursuant to this Order, the DIP Term Sheet 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.

53. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the interests of the Applicant or of the Non-Applicant Subsidiaries in such real property leases.

SERVICE AND NOTICE

54. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in The Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five 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 Applicant of more than \$1000, and (C) prepare a list showing the

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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.

55. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<http://www.ksvadvisory.com/insolvency-cases/discovery-air/>’.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant’s creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

57. **THIS COURT ORDERS** that the Applicant 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.

58. **THIS COURT ORDERS** that 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 Applicant, the Business or the Property.

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59. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other jurisdiction, to give effect to this Order and to assist the Applicant, 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 Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

60. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is 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 the foreign representative of the Applicant for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

61. **THIS COURT ORDERS** that any interested party (including the Applicant 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.

62. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

Schedule "A" – Non- Applicant Subsidiaries

1. Great Slave Helicopters Ltd.
2. Air Tindi Ltd.
3. Discovery Mining Services Ltd.
4. Discovery Air Technical Services Inc.

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

Court File No.:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DISCOVERY AIR INC. (the "APPLICANT")

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

INITIAL ORDER

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Jennifer Stam (LSUC#: #46735J)
Tel: 416.597.5017
Email: stam@gsnh.com

Lawyers for the Applicant

SCHEDULE "C"

Form of Drawdown Certificate

DRAWDOWN CERTIFICATE

TO: CEP IV CO-INVESTMENT LIMITED PARTNERSHIP (the "DIP Lender")

FROM: DISCOVERY AIR INC. (the "Borrower")

DATE: ■, 2018

1. This certificate is delivered to you, as DIP Lender, in connection with a request for a DIP Advance pursuant to the DIP Term Sheet made as of March 21, 2018, between the Borrower and the DIP Lender, as amended, supplemented, restated or replaced from time to time (the "**DIP Term Sheet**"). All defined terms used, but not otherwise defined, in this certificate shall have the respective meanings set forth in the DIP Term Sheet, unless the context requires otherwise.
2. The Borrower hereby requests a DIP Advance as follows:
 - (a) Date of DIP Advance: _____
 - (b) Aggregate amount of DIP Advance: \$■

to be transferred into the Borrower's Account using the following wire transfer instructions:

BENEFICIARY ADDRESS: 195 DUFFERIN AVE, SUITE 400, LONDON ONTARIO, N6A 1K7

BENEFICIARY BANK ADDRESS: UNIT 177 - 355 WELINGTON STREET, LONDON, ONTARIO, N6A 3N7

CAD BANK ACCOUNT:

INSTITUTION #: 010

TRANSIT #: 00082ACCOUNT #: 71-02216

SWIFTCODE: CIBCCATT0010

3. All of the representations and warranties of the Borrower as set forth in the DIP Term Sheet are true and correct as at the date hereof, as though made on and as of the date hereof (except for any representations and warranties made as of a specific date, which shall be true and correct as of the specific date made).
4. All of the covenants of the Borrower contained in the DIP Term Sheet and all other terms and conditions contained in the DIP Term Sheet to be complied with by the Borrower, and not properly waived in writing by or on behalf of the DIP Lender, have been fully complied with.
5. The Borrower is in compliance with the CCAA Court Orders.

- 6. The proceeds of the DIP Advance hereby requested will be applied solely in accordance with the DIP Agreement Cash Flow Projection, or as has been otherwise agreed to by the DIP Lender.
- 7. No Default or Event of Default has occurred and is continuing nor will any such event occur as a result of the DIP Advance hereby requested.

} **DISCOVERY AIR INC.**
By: _____
Name:
Title:

cc: KSV Kofman Inc., in its capacity as the Court-appointed monitor of the Borrower in the CCAA Proceedings.

SCHEDULE "D"**Permitted Encumbrances**

"Permitted Encumbrances" means:

- (i) liens or hypothecs for taxes, assessments or governmental charges incurred in the ordinary course of business that are not yet due and payable or the validity of which is being actively and diligently contested in good faith by the Borrower or in respect of which the Borrower has established on its books reserves considered by it and its auditors to be adequate therefor;
- (ii) construction, mechanics', carriers', repairers', storers' warehousemen's and materialmen's liens or hypothecs, and liens or hypothecs in respect of vacation pay, workers' compensation, unemployment insurance or similar statutory obligations, provided the obligations secured by such liens are not yet due and payable and, in the case of construction liens, have not yet been filed or for which the Borrower has not received written notice of a lien;
- (iii) deposits to secure public or statutory obligations or in connection with any matter giving rise to a lien described in (ii) above;
- (iv) any liens, security interests, encumbrances, hypothecs or other charges in favour of the DIP Lender;
- (v) any lien or hypothec, other than a construction lien, payment of which has been provided for by deposit with a bank of an amount in cash, or the obtaining of a surety bond or letter of credit satisfactory to the DIP Lender, sufficient in either case to pay or discharge such lien or upon other terms satisfactory to the DIP Lender;
- (vi) normal and customary rights of setoff or compensation upon deposits in favour of depository institutions, and liens of a collecting bank on cheques and other payment items in the course of collection;
- (vii) as at the date hereof, any existing security interests, hypothecs, mortgages, pledges, encumbrances, liens and charges evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry in any provinces or territories in Canada or under the Civil Code of Quebec;
- (viii) liens given to a public utility or any municipality or governmental authority when required by such utility or authority in connection with the operations of that person in the ordinary course of its business;
- (ix) liens arising from: (A) operating leases, conditional sales agreements and financing leases and the precautionary PPSA or equivalent financing statement filings or similar registrations in respect thereof; and (B) equipment or other materials which are not owned by the Borrower located on the premises of the Borrower from time to time in the ordinary course of business of the Borrower and the precautionary PPSA or equivalent financing statement filings or similar registrations in respect thereof;
- (x) any Priority Charges created under the CCAA Court Orders;

- (xi) any other lien or hypothec that the DIP Lender approves in writing as a Permitted Encumbrance;
- (xii) undetermined or inchoate liens and charges incidental to construction or repairs or operations which have not at such time been filed pursuant to law against the Borrower or which relate to obligations not due or delinquent;
- (xiii) the right reserved to or vested in any municipality or government, or to any statutory or public authority, by the terms of any lease, license, franchise, grant or permit acquired by the Borrower or any statutory provision to terminate any such lease, license, franchise, grant or permit, or to require annual or other periodic payments as a condition to the continuance thereof;
- (xiv) the reservations, limitations, provisos and conditions (if any) expressed in any original grant from the Crown;
- (xv) servitudes, easements, rights of way or similar rights in land granted to or reserved by other persons; and
- (xvi) post-Initial Order liens securing purchase money obligations, provided such liens charge only the assets subject to the purchase money obligation and the proceeds thereof and no other asset.

EXHIBIT B

This is Exhibit "B" referred to in the affidavit of Paul Bernardi sworn before me at Toronto this 23rd day of April, 2018. [Signature] A Commissioner for taking Affidavits for Ontario

FIRST AMENDING AGREEMENT

THIS FIRST AMENDING AGREEMENT, dated as of April 23, 2018 (this "Agreement"), is entered into by and between Discovery Air Inc. (the "Borrower") and CEP IV Co-Investment Limited Partnership (the "DIP Lender").

RECITALS:

WHEREAS the Borrower and the DIP Lender have entered into the debtor-in-possession loan term sheet dated as of March 21, 2018 (the "DIP Credit Agreement"), pursuant to which the DIP Lender agreed, *inter alia*, to provide funding in order to fund certain obligations of the Borrower in the context of its CCAA Proceedings;

AND WHEREAS the Court authorized the Borrower to enter into the DIP Credit Agreement;

AND WHEREAS the Borrower's funding requirements have exceeded forecasted results, thereby requiring an increase to the Maximum Amount of the DIP Facility in order to provide for sufficient available funding during the CCAA Proceedings;

AND WHEREAS the Borrower has failed to pay to the DIP Lender interest when due and owing under the DIP Credit Agreement pursuant to section 17(d) thereof, which failure is an Event of Default pursuant to section 17 of the DIP Credit Agreement (the "17(d) Event of Default");

AND WHEREAS, in order to ease the liquidity pressures faced by the Borrower and to provide funding during the CCAA Proceedings which is projected to be sufficient to meet the Borrower's requirements during the CCAA Proceedings, the Borrower has requested that the DIP Lender: (i) waive the 17(d) Event of Default and consent on the terms set out herein to the non-payment of interest in cash by the Borrower to the DIP Lender during the term of the DIP Facility, with all such interest instead to accrue and be added to the principal obligations outstanding thereunder, and which interest and principal are to be paid on the Maturity Date (the "Revised Interest Accrual and Payment Obligation"); and (ii) provide additional available funding under the DIP Credit Agreement so as to increase the Maximum Amount of the DIP Facility from \$12,600,000 to \$15,000,000;

NOW, THEREFORE, in consideration of the premises set forth above, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

1. **Capitalized Terms.** Capitalized terms used and not otherwise defined herein have the meanings assigned to them in the DIP Credit Agreement.
2. **Waiver and Consent.** The DIP Lender hereby: (a) waives the 17(d) Event of Default; and (b) consents to the Revised Interest Accrual and Payment Obligation for so long as there is no Event of Default (other than the 17(d) Event of Default, which has been waived in accordance with section 2(a) herein) under the DIP Credit Agreement, subject to the terms of this

Agreement and the DIP Credit Agreement. In the event of an Event of Default from and after the date hereof, the DIP Lender shall – in addition to any other remedies available to the DIP Lender – be entitled to require the payment by the Borrower of all accrued interest to and including the date thereof and the resumption by the Borrower of periodic cash payments of interest as and when required pursuant to the DIP Credit Agreement thereafter.

3. **Amendment to Section 4 of the DIP Credit Agreement.** Section 4 of the DIP Credit Agreement is hereby amended by deleting the amount of “\$12,600,000” and replacing it with the amount of “\$15,000,000” in reference to the Maximum Amount of the DIP Facility.

4. **Representations and Warranties.** In order to induce the DIP Lender to enter into this Agreement, the Borrower represents and warrants to the DIP Lender that: (a) after giving effect to this Agreement, no Event of Default (other than the 17(d) Event of Default) exists as of the date hereof; and (b) except as specifically set forth above, the DIP Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith remain in full force and effect and are hereby ratified and confirmed.

5. **Conditions to Effectiveness.** This Agreement shall not become effective until the date (the “**Effective Date**”) on which the following events shall have occurred: (a) this Agreement shall have been executed by the Borrower and the DIP Lender; and (b) the Court shall have granted an order, in form and substance satisfactory to the DIP Lender, approving this Agreement.

6. **Ratification.** This Agreement is only in respect of the matters expressly referred to herein and shall not in any way be construed as an amendment or consent to, or a waiver of, any other matter or provision relating to, or contained in, the DIP Credit Agreement and all other documents, instruments and agreements executed and/or delivered in connection therewith. This Agreement shall not be deemed to prejudice any right or rights that the DIP Lender may now have or have in the future under or in connection with the DIP Credit Agreement or any of the other documents, instruments and agreements executed and/or delivered in connection therewith. Whenever the DIP Credit Agreement is referred to in the DIP Credit Agreement or in any of the other documents, instruments and agreements executed and/or delivered in connection therewith, such reference shall be deemed to mean the DIP Credit Agreement as modified by this Agreement.

7. **Costs and Expenses.** The Borrower agrees that its obligations set forth in Section 20 of the DIP Credit Agreement shall extend to the preparation, execution and delivery of this Agreement.

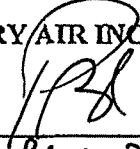
8. **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the law of the Province of Ontario and the federal laws of Canada applicable therein.

9. **Counterparts.** This Agreement may be executed in any number of counterparts and delivered by facsimile or PDF via email, each of which will be deemed to be an original.

[Signature Page Follows]

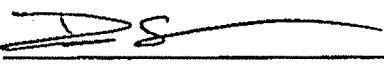
IN WITNESS WHEREOF the undersigned have executed this Agreement as of the date stated on the first page above.

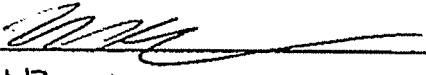
DISCOVERY AIR INC.

By: 
 Name: PAUL BERNARDS
 Title: CFO

By: _____
 Name:
 Title:

CEP IV CO-INVESTMENT LIMITED PARTNERSHIP, by its general partner, CLAIRVEST GENERAL PARTNER IV L.P., by its general partner, CLAIRVEST GP (GPLP) INC.

By: 
 Name: Daniel Cheng
 Title: Chief Financial Officer

By: 
 Name: Michael Wagman
 Title: President and Managing Director

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

Court File No.: CV-18-594380-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DISCOVERY
AIR INC. (the "APPLICANT")

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

AFFIDAVIT OF PAUL BERNARDS
(SWORN APRIL 23, 2018)

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Lawyers for the Applicant

TAB 4

Court File No. CY-18-594380-0001

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 21st
JUSTICE HAINEY) DAY OF MARCH, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF DISCOVERY AIR INC.

APPLICANT



INITIAL ORDER

THIS APPLICATION, made by the Applicant, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Paul Bernards, sworn March 21, 2018, and the Exhibits thereto (the "**Bernards Affidavit**"), and on reading the consent of KSV Kofman Inc. ("**KSV**") to act as the Monitor (in such capacity, the "**Monitor**"), and upon reading the pre-filing report of KSV dated March 21, 2018, in its capacity as the proposed Monitor, and on hearing the submissions of counsel for the Applicant and those subsidiaries set out in Schedule "A" hereto (each a "**Non-Applicant Subsidiary**" and collectively the "**Non-Applicant Subsidiaries**", and together with the Applicant the "**Discovery Air Group**"), the proposed Monitor and Clairvest Group Inc., no one appearing for any other party although duly served as appears from the affidavit of service of Katie Parent sworn March 21, 2018,

SERVICE AND DEFINED TERMS

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies. Although not Applicants, the Non-Applicant Subsidiaries shall enjoy certain benefits of the protections and authorizations provided by this Order, as set out herein.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicant is authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Applicant shall be entitled to continue to utilize the central cash management system including, subject to the Definitive Documents (as hereinafter defined), the operating facility with Canadian Imperial Bank of Commerce ("**CIBC**") and borrowings that may be made under that facility as well as the cash pooling arrangements currently in place as described in the Bernards Affidavit or replace it with another substantially

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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 Discovery Air Group 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 Discovery Air Group, 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 (and, in particular, in its capacity as the operating facility lender), an unaffected creditor under the Plan or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* R.S.C. 1985 c. B-3, as amended (“**BIA**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System. For greater certainty, any security held by CIBC in connection with the foregoing shall continue to retain its priority in respect of any usage or borrowings made from and after the date of this Order.

6. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant shall be entitled but not required to pay the following expenses whether 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; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course, prior to, on or 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 Applicant following the date of this Order.

8. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant 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 which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, 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 which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, until a real property lease is disclaimed in accordance with the CCAA, the Applicant shall 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 to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time (“Rent”), for the period commencing from and including the date of this Order, once a month on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

10. **THIS COURT ORDERS** that the Applicant shall be entitled but not obligated to continue to make payments of interest at current rates in place as of the date of this Order (and, for greater certainty, not at any default rate) owing to each of Roynat Inc. (“Roynat”) and ECN Aviation Inc. (“ECN”) in connection with the secured credit facilities that it has with each such lender and, in the case of Roynat, its regularly scheduled payment of principal on April 15, 2018 provided, for greater certainty, that the maturity of the Roynat facility on such date is stayed as set out herein (all as contemplated by the cash flow forecast attached to the Bernards Affidavit).

10A **THIS COURT ORDERS** that the Applicant shall continue to make payments of interest at current rates in place as of the date of this Order (and, for greater certainty, not at any default rate) and other repayments of borrowings from time to time outstanding pursuant to the terms of the operating facility with CIBC provided, for greater certainty, that the maturity of and the final repayment of principal upon maturity or any acceleration under the CIBC facility is stayed as set out herein.

11. **THIS COURT ORDERS** that other than as set out in paragraphs 10 and 10A, and except as may otherwise specifically be permitted herein, the Applicant is 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 Applicant to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. **THIS COURT ORDERS** that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents, have the right to:

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- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) with the approval of the Monitor, enter into one or more agreements for the provision of shared services with any or all of Top Aces Inc. and/or the Non-Applicant Subsidiaries; and
- (d) pursue all avenues of refinancing of its 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 Applicant to proceed with an orderly restructuring of the Business (the "**Restructuring**").

13. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with notice of the Applicant' 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 and, if the landlord disputes the Applicant' 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 Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it 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 of the lease shall be without prejudice to the Applicant' claim to the fixtures in dispute.

14. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at

the effective time of the disclaimer, 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 Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE DISCOVERY AIR GROUP OR THEIR PROPERTY

15. **THIS COURT ORDERS** that until and including April 20, 2018, or such later date as this Court may order (the **“Stay Period”**), no proceeding or enforcement process in any court or tribunal (each, a **“Proceeding”**) shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

16. **THIS COURT ORDERS** that during the Stay Period, except with the written consent of the Applicant and the Monitor, or with leave of this Court, no Proceedings shall be commenced or continued against or in respect of the Non-Applicant Subsidiaries, 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-Applicant Subsidiaries’ Property”**), and together with the Non-Applicant Subsidiaries’ businesses, collectively, the **“Non-Applicant Subsidiaries’ Property and Business”**), arising upon or as a result of (i) the insolvency of the Applicant; (ii) the making or filing of these proceedings or of any order in these proceedings; (iii) any default or event of default arising as a result of or pursuant to either of (i) or (ii) or any default under the terms of any document entered into in connection with any of Discovery’s or the Non-Applicant Subsidiaries’ secured debt facilities including any guarantee thereunder to which any of the Applicant or the Non-Applicant Subsidiaries are a party; or (iv) any default arising out of a contract or agreement to which the Applicant and one or more Non-Applicant Subsidiaries is a party (collectively the **“Non-Applicant Subsidiary Default Events”**). Without limitation, the operation of any provision of a contract or agreement between a Non-Applicant Subsidiary and any other Person that purports to effect or cause a

termination or cessation of any rights of the Non-Applicant Subsidiary, or to accelerate, terminate, discontinue, alter, interfere with, repudiate, cancel, suspend, amend or modify such contract or agreement, in each case as a result of one or more Non-Applicant Subsidiary Default Events, is hereby stayed and restrained during the Stay Period.

NO EXERCISE OF RIGHTS OR REMEDIES

17. **THIS COURT ORDERS** that 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") against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

17A **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the Non-Applicant Subsidiaries, or affecting the Non-Applicant Subsidiaries' Property and Business, as a result of a Non-Applicant Subsidiary Default Event are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Non-Applicant Subsidiaries to carry on any business which the Non-Applicant Subsidiaries are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

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18A **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any other party as a result of a Non-Applicant Subsidiary Default Event, except with the written consent of the Applicant and the Monitor, or leave of this Court.

18B. **THIS COURT ORDERS** that, notwithstanding paragraphs 15 to 18A or any other provisions of this Order, upon the occurrence of an event of default under the CIBC operating facility other than a default which may arise as a result of, or otherwise relate to, the insolvency of the Applicant, the commencement of the Applicant's proceedings under the CCAA or any relief granted in these proceedings occurring after the date hereof, CIBC shall immediately upon notice to the Applicant and the Monitor be entitled to cease making advances to the Applicant and, upon 2 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant, the Non-Applicant Subsidiaries, the Property or the Non-Applicant Subsidiaries' Property under or pursuant to the CIBC operating facility and any and all security granted thereunder, including without limitation, set off and/or consolidate any amounts owing by CIBC to the Applicant against the obligations of the Applicant or the Non-Applicant Subsidiaries to CIBC under the operating facility, to make demand, accelerate payment and give other notices, provided however, that CIBC may not take any further steps to enforce its security without leave of this Court, including without limitation, applying for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and/or the Non-Applicant Subsidiaries and for the appointment of a trustee in bankruptcy of the Applicant and/or the Non-Applicant Subsidiaries; and the foregoing rights and remedies of CIBC shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant, the Non-Applicant Subsidiaries, the Property, the Business or the Non-Applicant Subsidiaries' Property and Business.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility

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

19A **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with one or more Non-Applicant Subsidiaries or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any Non-Applicant Subsidiaries, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Non-Applicant Subsidiaries as a result of a Non-Applicant Subsidiary Default Event, and that the Non-Applicant Subsidiaries 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 normal prices or charges for all such goods or services received after the date of this Order are paid by the Non-Applicant Subsidiaries in accordance with normal payment practices of the Non-Applicant Subsidiaries or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person 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 Applicant or any Non-Applicant

Subsidiary. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant or of the Non-Applicant Subsidiaries with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant or of the Non-Applicant Subsidiaries 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 Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. **THIS COURT ORDERS** that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. **THIS COURT ORDERS** that the directors and officers of the Applicant 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 \$100,000, as security for the indemnity provided in paragraph 22 of this Order. The Directors' Charge shall have the priority set out in paragraphs 48 and 50 herein.

24. **THIS COURT ORDERS** that, 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 Applicant's 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 22 of this Order.

APPOINTMENT OF MONITOR

25. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein and that the Applicant and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Discovery Air Group's receipts and disbursements;
- (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;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender (as defined herein) and its counsel and CIBC and its counsel on a periodic basis of financial and other information as agreed to between the Applicant and the DIP Lender that may be used in these proceedings, including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the DIP Lender or CIBC, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel and CIBC and its counsel on a periodic basis, as agreed to by the DIP Lender;
- (e) advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

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- (g) 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 Applicant, to the extent that is necessary to adequately assess the Applicant's business and financial affairs or to perform its duties arising under this Order;
- (h) conduct, supervise and carry out any sales process(es) with respect to the Property and the Business;
- (i) 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;
- (j) commence applications for recognition of these proceedings outside of Canada in its capacity as foreign representative without further Order of this Court; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

27. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property or the Non-Applicant Subsidiaries' Property and shall take no part whatsoever in the management or supervision of the management of the Business or the Non-Applicant Subsidiaries' Property and Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the foregoing, or any part thereof.

28. **THIS COURT ORDERS** that nothing herein contained 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 or the Non-Applicant Subsidiaries' Property that might be environmentally contaminated, might be a pollutant or a contaminant, 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 of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario Water Resources Act*, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure

imposed by applicable Environmental Legislation. 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 or the Non-Applicant Subsidiaries' Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the Applicant and the DIP Lender with information provided by the Applicant 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 Applicant 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 Applicant may agree.

30. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out 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. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements incurred prior to or following the date hereof, in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a bi-weekly basis or at such other intervals as the Applicant and the Monitor may agree.

32. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and the Applicant's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$750,000, as

security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, 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 48 and 50 hereof.

34. **THIS COURT ORDERS** that KSV in its capacity as Monitor in these proceedings be and hereby is authorized to act as a foreign representative of the Applicant and of these proceedings for the purpose of having these proceedings recognized outside of Canada.

INTERCOMPANY FINANCING

35. **THIS COURT ORDERS** that, subject to the terms of the Definitive Documents, the Applicant may advance funds to its Non-Applicant Subsidiaries after the date of this Order, whether through operation of the Cash Management System, an intercompany loan, including, without limitation, loans made pursuant to the DIP Term Sheet, or otherwise (“**Intercompany Advances**”). The Applicant’s accounts and records shall constitute, in the absence of manifest error, *prima facie* evidence of the balance of the Intercompany Advances.

36. **THIS COURT ORDERS** that the Intercompany Advances to each Non-Applicant Subsidiary shall be secured by a charge in favour of the Applicant (each, an “**Intercompany Charge**”) over the applicable Non-Applicant Subsidiary’s Property to the extent of each of their respective indebtedness to the Applicant for Intercompany Advances. The Intercompany Charges shall have the priority set out in paragraph 50 hereof.

DIP FINANCING

37. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from CEP IV Co-Investment Limited Partnership (the “**DIP Lender**”) in order to finance the Applicant’s working capital requirements and other general corporate purposes and capital expenditures and the Intercompany Advances, provided that borrowings under such credit facility shall not exceed \$12.6 million unless permitted by further Order of this Court.

38. **THIS COURT ORDERS** that such credit facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicant and the DIP Lender dated as of March 21, 2018 (the “**DIP Term Sheet**”), filed.

39. **THIS COURT ORDERS** that the Applicant and the Non-Applicant Subsidiaries, as applicable, are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents, including, without limitation, in connection with the Intercompany Advances (collectively and including the DIP Term Sheet, the “**Definitive Documents**”), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant and the Non-Applicant Subsidiaries, as applicable, are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

40. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraphs 48 and 50 hereof. Without limiting the generality of the foregoing, the Applicant’s obligations under the DIP Term Sheet and the Intercompany Advances shall also be secured by the assignment by the Applicant to the DIP Lender of the Intercompany Charges and the repayment obligations of the Non-Applicant Subsidiaries to the Applicant in respect of the Intercompany Advances, each of which are hereby assigned.

41. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge, the Intercompany Charges or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents, the DIP Lender’s Charge or the Intercompany Charges, the DIP Lender shall immediately

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upon notice to the Applicant and the Monitor be entitled to cease making advances to the Applicant and, upon 2 days' notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant, the Non-Applicant Subsidiaries, the Property or the Non-Applicant Subsidiaries' Property under or pursuant to the DIP Term Sheet, Definitive Documents, the DIP Lender's Charge or the Intercompany Charges, including without limitation, set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant or the Non-Applicant Subsidiaries to the DIP Lender under the DIP Term Sheet, the Definitive Documents, the DIP Lender's Charge or the Intercompany Charges, 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 Applicant and/or the Non-Applicant Subsidiaries and for the appointment of a trustee in bankruptcy of the Applicant and/or the Non-Applicant Subsidiaries; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant, the Non-Applicant Subsidiaries, the Property, the Business or the Non-Applicant Subsidiaries' Property and Business.

42. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Plan or any proposal filed by the Applicant under the BIA, with respect to any advances made under the Definitive Documents.

KEY EMPLOYEE RETENTION PLAN

43. **THIS COURT ORDERS** that the Applicants' Key Employee Retention Plan ("**KERP**"), as described in the Bernards Affidavit is hereby approved.

44. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to enter into the KERP with KERP Employees (as defined in the Bernards Affidavit).

45. **THIS COURT ORDERS** that the amounts payable to the Key Employees pursuant to the KERP are hereby secured by a charge (the "**KERP Charge**") on the Property, in favour of

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the Key Employees. The KERP Charge shall have the priority set out in paragraphs 48 and 50 hereof

46. **THIS COURT ORDERS** that the aggregate amount secured by the KERP Charge granted to secure the Applicants' obligations under the KERP shall be in an amount of no more than CDN\$1.65 million.

47. **THIS COURT ORDERS** that Confidential Exhibit "K" to the Bernards Affidavit be and is hereby sealed pending further order of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

48. **THIS COURT ORDERS** that the priorities of the Directors' Charge, the Administration Charge, the KERP Charge and the DIP Lender's Charge, as among them, against the Property shall be as follows:

First – Administration Charge (to the maximum amount of \$750,000);

Second – Directors' Charge (to the maximum amount of \$100,000);

Third – KERP Charge (to the maximum amount of \$1.65 million); and

Fourth – DIP Lender's Charge.

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the KERP Charge, the DIP Lender's Charge or the Intercompany Charges (collectively, the "Charges") shall not be required, and that 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.

50. **THIS COURT ORDERS** that:

- a) each of the Administration Charge, the Directors' Charge and the KERP Charge (all as constituted and defined herein) shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") of the Applicant in favour

of any Person other than (i) any Person with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or similar provincial legislation or (ii) any statutory super priority deemed trusts and liens for unremitted employee source deductions;

- b) the DIP Lender’s Charge shall rank immediately in priority to Clairvest’s Encumbrances granted by or against the Applicant or the Property and any other Encumbrances that rank behind such Clairvest Encumbrances; provided, for greater certainty, that the DIP Lender’s Charge shall rank subordinate to any Encumbrances that have priority over such Clairvest Encumbrances; and
- c) the Intercompany Charges shall rank immediately in priority to Clairvest’s Encumbrances granted by or against any Non-Applicant Subsidiary or the Non-Applicant Subsidiaries’ Property and any other Encumbrances that rank behind such Clairvest Encumbrances; provided, for greater certainty, that the Intercompany Charges shall rank subordinate to any Encumbrances that have priority over such Clairvest Encumbrances with respect to the Non-Applicant Subsidiaries’ Property.

51. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant and the Non-Applicant Subsidiaries shall not grant any Encumbrances over any Property or Non-Applicants Subsidiaries’ Property that rank in priority to, or *pari passu* with, any of the Directors’ Charge, the Administration Charge, the KERP Charge, the DIP Lender’s Charge or the Intercompany Charges, unless the Applicant also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors’ Charge, the beneficiaries of the KERP Charge, and the Administration Charge, or further Order of this Court.

52. **THIS COURT ORDERS** that the Directors’ Charge, the Administration Charge, the DIP Term Sheet, the Definitive Documents, the DIP Lender’s Charge and the Intercompany Charges 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 DIP 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 herein; (b) any application(s) for

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bankruptcy order(s) issued pursuant to 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**”) which binds the Applicant or the Non-Applicant Subsidiaries, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicant or the Non-Applicant Subsidiaries of any Agreement to which they are a party;
- (b) 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 Applicant entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicant or the Non-Applicant Subsidiaries pursuant to this Order, the DIP Term Sheet 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.

53. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the interests of the Applicant or of the Non-Applicant Subsidiaries in such real property leases.

SERVICE AND NOTICE

54. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in The Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five 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 Applicant of more than \$1000, and (C) prepare a list showing the

[21]

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.

55. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<http://www.ksvadvisory.com/insolvency-cases/discovery-air/>’.

56. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicant and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicant’s creditors or other interested parties at their respective addresses as last shown on the records of the Applicant and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

57. **THIS COURT ORDERS** that the Applicant 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.

58. **THIS COURT ORDERS** that 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 Applicant, the Business or the Property.

59. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other jurisdiction, to give effect to this Order and to assist the Applicant, 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 Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

60. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is 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 the foreign representative of the Applicant for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

61. **THIS COURT ORDERS** that any interested party (including the Applicant 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.

62. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

ENTERED AT / INSCRIT À TORONTO
 ON / BOOK NO:
 LE / DANS LE REGISTRE NO:

MAR 21 2018

PER / PAR:

Schedule "A" – Non- Applicant Subsidiaries

1. Great Slave Helicopters Ltd.
2. Air Tindi Ltd.
3. Discovery Mining Services Ltd.
4. Discovery Air Technical Services Inc.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DISCOVERY AIR INC. (the "APPLICANT")

Court File No.:

CV-18-59438D-COOL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

INITIAL ORDER

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Lawyers for the Applicant

TAB 5

Court File No. CV-18-594380-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)	THURSDAY, THE 26 TH
)	
JUSTICE HAINEY)	DAY OF APRIL, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF DISCOVERY AIR INC.

APPLICANT

ORDER
(Amendment to DIP Facility)

THIS MOTION, made by Discovery Air Inc. (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, *inter alia*, approving the first amending agreement dated as of April 23, 2018 (the "**First Amendment**") to the DIP Term Sheet dated as of March 21, 2018 between the Applicant and CEP IV Co-Investment Limited Partnership (a member of the Clairvest group) (the "**DIP Lender**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicant, the affidavit of Paul Bernards sworn April 23, 2018, and the Exhibits thereto (the "**Bernards Affidavit**"), the Third Report of KSV Kofman Inc. ("**KSV**"), in its capacity as Monitor (the "**Monitor**") dated April __, 2018 (the "**Third Report**"), filed, and on hearing the submissions of counsel for the Applicant, the Monitor, Clairvest Group Inc., the DIP Lender and those other parties present although duly served as appears from the Affidavit of Service of Jennifer Stam sworn April __, 2018, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the Third Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

FIRST AMENDMENT TO DIP TERM SHEET

2. **THIS COURT ORDERS** that the First Amendment be and is hereby approved. The Applicant is hereby authorized and empowered to execute and deliver the First Amendment and any other documents reasonably required by the DIP Lender pursuant to the terms thereof.

3. **THIS COURT ORDERS** that without limiting the generality of the Initial Order dated March 21, 2018 (the “**Initial Order**”), any advances made by the DIP Lender under the DIP Term Sheet as amended by the First Amendment are secured by the DIP Lender’s Charge and the Intercompany Charges on the terms set out in the Initial Order.

MISCELLANEOUS

4. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, or any other jurisdiction, to give effect to this Order and to assist the Applicant, 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 Applicant 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 Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

5. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is 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 proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

Court File No.: CV-18-594380-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DISCOVERY AIR INC. (the "APPLICANT")

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

**ORDER
(Amendment to DIP Facility)**

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IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF DISCOVERY AIR INC.

Court File No: CV-18-594380-00CL

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced TORONTO

**MOTION RECORD
(Amendment to DIP Facility)
(returnable April 26, 2018)**

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