

**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
ARRANGMENT OF GREAT SLAVE HELICOPTERS LTD.

APPLICANT

**RESPONDING MOTION RECORD
OF GWICH'IN DEVELOPMENT CORPORATION,
(Opposition to Approval and Vesting Order)
(Returnable November 23, 2018)**

November 22, 2018

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TO: SERVICE LIST

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Court File No. CV-18-604434-00CL

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AFFIDAVIT OF JAMES THORBOURNE
(Sworn November 22, 2018)

I, JAMES THORBOURNE, of the Town of Inuvik, in the Northwest Territories, MAKE
OATH AND SAY:

1. I am the Chief Executive Officer of Gwich'in Development Corporation ("**GDC**") and as such have personal knowledge of the matters herein deposed, except where I have stated that my knowledge is based on information I have received from others, and in all such cases I believe the information to be true.

Background to GDC

2. GDC is 100% owned by the Gwich'in Tribal Council and was created shortly after the Gwich'in Comprehensive Land Claim Agreement was signed with the Governments of Northwest Territories and Canada in 1992. Essentially, GDC is an investment company with the goals to generate wealth and create opportunities that enrich the lives of people in the Gwich'in Settlement

Area. The wealth creation will be by generating business through acquisitions, investments and partnerships.

3. By forming partnerships with experienced companies who have an interest in resources and opportunities existing within the Gwich'in Settlement Area, GDC continues to accomplish its goals. Each partnership has proven to be successful in the competitive economy by combining outside expertise and technology with traditional knowledge and experience of geography and culture.

4. Currently, GDC has eight operating subsidiary companies that conduct business in five major industries including construction, real estate, hospitality, and transportation. GDC's headquarters is in Inuvik with operations being conducted in Inuvik, Fort McPherson, Yellowknife and Edmonton.

GDC Joint Venture with Great Slave Helicopters

5. Gwich'in Helicopters Ltd. ("GHL") is a joint venture corporation owned 51% by GDC and 49% by Great Slave Helicopters Ltd. ("Great Slave"). The purpose of this corporation is to provide helicopter services to the Gwich'in people and to businesses operating within their territory, using as much as possible local labour and knowledge, and ultimately to make a profit while assisting in the economic, cultural and human needs of the Gwich'in people. Helicopter services are an essential service in the Gwich'in territory, much of which is largely inaccessible by road.

6. GHL is subject to an amended and restated unanimous shareholders agreement ("USA"), a copy of which is appended as **Exhibit 1**. Some of the key terms of the USA include the following:

- (a) GDC and the Gwich'in Tribal Council are required to make commercially reasonable efforts to help GHIL succeed by identifying and providing opportunities;
- (b) Great Slave is to provide Pilot and Aircraft Maintenance training and employment to certain Gwich'in Participants, as that term is defined in the USA;
- (c) Shareholder votes on a broad variety of matters require unanimity;
- (d) Subject to limited exceptions, shares are non-transferable without consent, unless such transfer is subject to a right of first refusal (the "ROFR"); and
- (e) Great Slave shall be hired as manager of the business of the GHIL.

7. The ROFR provision is found under section 8 of the USA and provides as follows:

8.1 Except as otherwise expressly permitted in this Agreement, no Shareholder shall sell, transfer or otherwise dispose or offer to sell, transfer or otherwise dispose of any of its Interest unless that Shareholder (the "Offeror") first offers by notice in writing (the "Offer") to the other Shareholder (the "Offeree") the prior right to purchase, receive or otherwise acquire the same. For the purposes of this Agreement, the term "Interest" means all of the right, title and interest of a Shareholder in and to any of the shares of the Corporation, any Loan and accrued interest thereon and any other right or claim a Shareholder may have against the Corporation as a Shareholder and the Shareholder's interest in and to this Agreement. For the purposes of this Agreement, "Loan" means at the relevant time any amounts advanced and outstanding by a Shareholder to the Corporation.

8.2 The Offer shall set forth:

- a) the Interest offered for sale (which Interest must represent 100% of the Interest then held by the Offeror);
- b) the sale price expressed only in lawful money of Canada;
- c) the terms and conditions of the sale;
- d) that the Offer shall be either accepted in its entirety or not at all;

- e) that the Offer is open for acceptance for a period of 45 days after receipt of the Offer by the Offeree (the "**45 day period**"); and
- f) the name and residence of any prospective purchaser of the Interest.

8.3 The Offeree shall, within 45 days from receipt of the Offer give notice to the Offeror stating whether or not it accepts the Offer.

8.4 If the Offeree has elected to buy the Interest, the Offeror shall sell to the Offeree the Interest at the price and upon the terms and conditions contained in the Offer, such sale and purchase to be closed not later than 15 days after the expiration of the 45 day period (or such other date as the parties may agree) at which time the Offeree or parties shall pay the sale price to the Offeror in return for the conveyance by the Offeror of the Interest, free and clear of all encumbrances together with delivery by the Offeror of such documents as may be reasonably required to effect and complete the sale of the Interest.

8.5 If at the expiration of the 45 day period, the Offeree has not elected to buy the Interest on the terms and conditions contained in the Offer, the Offer shall be conclusively deemed to have been declined by the Offeree and the Offeror shall then have the right to sell the Interest to any party (the "**Third Party**") within 90 days following the expiration of the 45 day period for a price and on terms and conditions no more favourable than those set forth in the Offer.

8.6 No disposition of any Interest permitted by this Article 8 shall be made unless the Third Party has entered into an agreement with the Offeree by which the Third Party shall be bound by and be entitled to the benefit of the provisions of this Agreement and the Offeree shall enter into such an agreement.

8.7 If the Offeror fails to dispose of the Interest within the aforesaid 90 day period, the right to dispose of the Interest shall expire and the Offeror may not then dispose of the Interest unless it has again complied, in full with the provisions of this Article 8 and so on from time to time; provided always that no fresh offer may be given less than 30 days following the expiration of any 90 day period.

8.8 Any Shareholder who has disposed of all of its Interest in compliance with the provisions of this Agreement shall be entitled to the benefit of and be bound only by the rights and obligations which arose pursuant to this Agreement prior to such disposition.

8. Great Slave is appointed Manager of GHL under the USA. The restated management agreement (the "**Management Agreement**"), which is a part of the USA, provides broad authority and discretion to Great Slave, and the unrestricted right to provide helicopter services in the Gwich'in Settlement Area. By its very nature, and especially in conjunction with the terms of the

USA, GDC and GHL are extremely vulnerable to the actions of the Manager. Regrettable examples of this vulnerability have occurred both before and within this process. These include financial irregularities, failure to register security, difficulty dealing with insurance proceeds and other issues. It is clearly very important that GDC has the final say in who will be its joint venture partner and manager. A copy of the Management Agreement is appended as **Exhibit 2**.

9. As of the last provided financial statement on August 30, 2018, the primary assets of GHL include the following:

- (a) Approximately \$1,800,065 in cash, derived primarily from insurance proceeds from a destroyed helicopter leased to Great Slave;
- (b) One helicopter bearing Canadian Registration Number C-GGSA, leased to Great Slave (the "**GHL Helicopter**");
- (c) A hanger in Inuvik leased to Great Slave; and
- (d) A settlement agreement between Great Slave and GHL pursuant to which approximately \$562,000 remains owing from Great Slave to GHL (the "**Settlement Agreement**").

10. The primary obligations of GHL are the following:

- (a) CIBC secured loan of approximately \$480,000;
- (b) GDC shareholder loan of approximately \$248,054;
- (c) Great Slave shareholder loan of approximately \$238,327; and

- (d) Current liabilities (likely owed to Great Slave) of approximately \$562,381.

Discussions with the Monitor regarding SISP and ROFR

11. GDC tried to deal with this unusually large cash position with the Monitor earlier in these proceedings, in accordance with the parties' prior agreements. Attached as **Exhibit 3** is a copy of correspondence written from my counsel to Joseph Latham, counsel for the Monitor. It proposed a reasonable solution which left the company with sufficient working capital to continue through the process and beyond, without inducing buyers who might otherwise simply be looking at the cash available without the corresponding obligations and agreements.

12. The Monitor refused to deal with the cash in GHIL as requested, at the time expressing concern about the "optics" of moving the cash. GDC acquiesced to this position, upon receiving assurances that no funds would be used outside the ordinary course of business without its consent. Attached as **Exhibit 4** is correspondence from my counsel to this effect.

13. Exhibit 4 also includes correspondence indicating GDC wished to bid on the joint venture interests and agreements, either on its own, or by a collective bid on behalf of all the indigenous groups (something the Monitor wished to occur). In this correspondence, the importance of the ROFR to GDC is stressed, and the willingness of GDC to participate in the process was made subject to ensuring such participation did not impact its ROFR.

14. Following sending this correspondence, I received access to the data room. This led me to believe the terms had been accepted. My counsel followed up with an email as to how to deal with making sure other potential indigenous group bidders were to be dealt with under the Non-Disclosure Agreement (the "NDA"). A copy of this email is appended as **Exhibit 5**.

15. After sending this email, counsel for the Monitor orally advised my counsel that the terms of Exhibit 4 were not acceptable. As a result, GDC made clear in unequivocal terms that it did not wish to be part of the process unless the ROFR was recognized. A copy of that correspondence is appended as **Exhibit 6**.

16. In response to this, counsel for the Monitor responded by email appended as **Exhibit 7**, the salient part of which is the following passage:

...the Monitor has considered these issues further and has discussed the matter further with the Company. In these circumstances, the Monitor is prepared to acknowledge the ROFR, solely on the basis that your client agrees that it has a period of 15 days to respond after it receives a notice suggesting that the Company and the Monitor wish to proceed with a transaction involving the shares in the capital of Gwich'in Helicopters. As you know, time is of the essence in this restructuring.

[emphasis added]

17. These terms were agreed in writing by return email dated November 10, 2018, a copy of which is appended as **Exhibit 8**.

18. As a result of this agreement, the NDA was effective and I, on behalf of GDC, made significant efforts to bring the Northern communities together for a joint bid. There was largely consensus, but in the end there was not enough time to deal with the complexities of presenting a bid from 7-8 entities, each of which has its own governance council.

19. GDC did provide a bid, which largely addressed the issues set out in Exhibit 4. A copy of the correspondence with the bid, deposit confirmation and blackline to the standard form is appended as **Exhibit 9**.

20. About a week after sending the bid, I was advised that the GHL Helicopter owned by GHL and leased to Great Slave was in Prince Rupert, BC, with one of its engines removed and located in Springbank, Alberta for servicing/maintenance. GHL's interest in the helicopter was protected by a registration in the International Registry, but there is doubt about whether this registry is effective for engines separated from aircraft. Through my counsel, GDC registered GHL's interest through the Alberta Personal Property registry. I do question why the aircraft was dismantled and stored in two separate provinces in the middle of these proceedings, particularly now that it appears that Great Slave will disclaim the Lease.

Proposed transaction ignores ROFR

21. On November 14, 2018, I was advised through my counsel that he had been advised by counsel for the Monitor, Mr. Latham, that an agreement for the purchase of Great Slave's assets had been concluded, and that no provision had been made for either allocation of the purchase price or the ROFR. It was suggested that I meet with Mr. Campling, the principal of the purchaser of the assets the following day and work out a deal. My counsel sent correspondence of this date, setting out GDC's position and advising that we were open to discussions. A copy of this correspondence is appended as **Exhibit 10**.

22. On November 16, 2018, I spoke with a Mr. Gillespie from the purchaser, who advised he was not aware of any ROFR. Through my counsel, GDC indicated that it expected the ROFR to be complied with in good faith, and that the absence of an allocation, the apparent lack of knowledge of the purchaser and the position of the Monitor that no ROFR Notice would be sent did not meet that expectation.

23. I finally spoke with the principal of the purchaser, Mr. Campling, on November 19, 2018. I am open to be convinced but am not at this point satisfied that the purchaser is a suitable joint venture partner.

24. Materials regarding the present application were served on Friday, November 16, 2018. I note that the proposed Agreement of Purchase and Sale (the "APS") includes the following terms:

- (a) No allocation of value, which will now make any future allocation suspicious and potentially self serving in view of GDC's opposition to the sale approval motion;
- (b) No provision for compliance with the ROFR that the Monitor specifically agreed to comply with and for which GDC altered its position to obtain such agreement;
- (c) No assumption of the lease of the now dismantled GHL Helicopter; and
- (d) No assumption of the obligations under the Settlement Agreement.

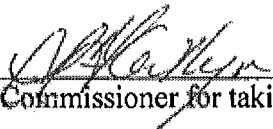
25. GDC has no visibility into the negotiations that took place that led the Monitor to renege from its agreement regarding the ROFR, or indeed to ignore similar ROFRs that I believe exist for joint-ventures associated with other Northern communities. There is no indication of urgency in the application materials. There is no reason the APS cannot accommodate these important rights. I am advised by my counsel that ROFRs are commonplace in the oil and gas industry in Alberta and are routinely and almost universally observed in processes like these.

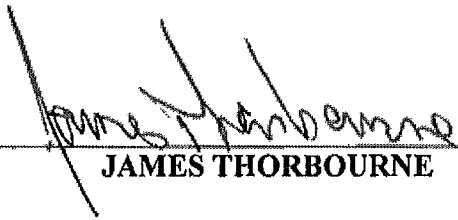
26. In summary, the counterparty to the joint venture is important to GDC and pains were taken to ensure at a minimum, GDC would be able to match any offer for the shares of GHL. The Monitor independently agreed to these terms, on the basis that the time in the ROFR be abridged.

It is unfair and unnecessarily prejudicial to GDC and the Gwichin people that this ROFR be permitted to be ignored.

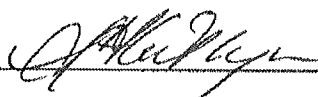
27. I make this affidavit in response to the motion for approval of the APS and a related vesting order, and to require compliance with the ROFR, and for no other purpose.

SWORN BEFORE ME in the City of
Yellowknife, in the Northwest Territories, on
November 22, 2018


A Commissioner for taking affidavits

} 
JAMES THORBOURNE

This is **Exhibit "1"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018-

A handwritten signature in cursive script, appearing to read "D. M. Kelly", is written over a horizontal line.

A Commissioner, etc.

THIS AMENDED AND RESTATED UNANIMOUS SHAREHOLDER AGREEMENT made effective as of the 1st day of January, 2016.

AMONG:

Great Slave Helicopters Ltd., a body corporate pursuant to the laws of Canada, with offices at the City of Yellowknife, in the Northwest Territories, ("GSHL" or the "Manager")

-and

Gwich'in Development Corporation, a body corporate pursuant to the laws of the Northwest Territories, with offices at the Town of Inuvik, in the Northwest Territories, ("GDC")

-and

Gwich'in Helicopters Limited, a body corporate pursuant to the laws of Canada, with offices at the City of Yellowknife, in the Northwest Territories, (the "Corporation")

WHEREAS:

- A. The Corporation was incorporated under the laws of Canada on the 21st day of September, 2004 pursuant to the *Canada Business Corporations Act* and will be duly registered to conduct business in the Northwest Territories pursuant to the *Business Corporations Act (N.W.T.)*;
- B. GSHL and GDC (the "Shareholders") are the registered holders and beneficial owners of all the issued and outstanding shares of the Corporation;
- C. GSHL, GDC and the Corporation entered into a Unanimous Shareholder Agreement made as of the 21st day of September, 2004 (the "Original Agreement") to set forth their respective understandings as to the ongoing management and operation of the Corporation (and certain arrangements regarding the purchase and sale of their respective shares of the Corporation);
- D. GSHL, GDC and the Corporation wish to amend and restate the Original Agreement, and intend that this Agreement shall replace and supercede the Original Agreement in its entirety;

NOW THEREFORE THIS AGREEMENT WITNESSES IN CONSIDERATION OF the respective covenants and agreements of the parties herein contained and the sum of One Dollar (\$1.00) now paid by each of the parties hereto to the others (the receipt and sufficiency whereof is hereby acknowledged by each of the parties hereto), it is agreed by and among the parties as follows:

1. PURPOSE

- 1.1 *Long Term Goal:* The Shareholders agree to cause the Corporation to carry on the business in a manner which in the mutual opinion of the Shareholders will enhance the Corporation's income and profit. It is the intention of the parties that the Corporation will lease its aircraft and associated assets to persons, corporations, companies and other entities who provide helicopter charter services.

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1.2 *Marketing:* GDC and/or its related corporations, subsidiaries and operating entities and its shareholder, the Gwich'in Tribal Council, shall make all commercially reasonable effort to use their influence and rights acquired in the Gwich'in Comprehensive Land Claim Agreement to market the services of GSHL. Specifically, GDC will identify opportunities as they arise and designate GSHL as the air charter operator of choice in the Gwich'in Settlement Area (the "GSA"). Notwithstanding the foregoing, nothing in this Section 1.2 shall act as a guarantee or assurance that GSHL or the Corporation will receive business opportunities.

1.3 *Training:*

- (a) The Corporation will encourage Participants, as that word is defined in the Gwich'in Comprehensive Land Claim Agreement dated April 22, 1992, to enroll in GSHL's Pilot Training Program.

Any Participant who has passed through the screening process and has been enrolled in GSHL's Pilot Training Program, and who has successfully met all academic requirements, who has passed the course of study, and who has been awarded a Transport Canada pilot's licence, will be given priority for employment as a pilot with the Corporation according to the Standard Operating Procedures and Policies of the Corporation and GSHL as long as he/she meets the standards of work and conduct of the Corporation and GSHL and there is a need in the Corporation.

Upon successful completion of a certified Pilot Training Program, the Participant will be provided employment with the Corporation as a Pilot according to the Standard Operating Procedures and Policies of the Corporation and GSHL, and for as long as he/she meets the standards of work and conduct of the Corporation and GSHL.

- (b) The Corporation will encourage Participants, as that word is defined in the Gwich'in Comprehensive Land Claim Agreement dated April 22, 1992, to enroll in a certified Aircraft Maintenance Engineer (AME) Journeyman Apprenticeship Program (the "AME Training Program") as provided for by the Government of the Northwest Territories, Department of Education, and/or as can be obtained by the Participant through whatever means are available to him/her in the normal course of enrolling in such course wherever it is provided in Canada.

Any Participant who has passed through the screening process and is enrolled in a certified AME Training Program, and who is successfully meeting all academic requirements to pass the course of study, will be provided "between semester employment" as an apprentice engineer with the Corporation according to the Standard Operating Procedures and Policies of the Corporation and GSHL as long as he/she meets the standards of work and conduct of the Corporation and GSHL, and there is a need for such a position in the Corporation.

Upon successful completion of a certified AME Training Program, the successful candidate will be provided employment with the Corporation as an apprentice engineer according to the Standard Operating Procedures and Policies of the Corporation and GSHL, and for as long as he/she meets the standards of work and conduct of the Corporation and GSHL.

1.4 *Screening Committee:*

- (a) GSHL and GDC each agree to appoint one person to sit on a screening committee.
- (b) The screening committee shall evaluate applications from Participants, as that word is defined in the Gwich'in Comprehensive Land Claim Agreement dated April 22, 1992, for positions available with the Corporation and/or GSHL for possible placement.

2. ORGANIZATION

2.1 The Corporation shall be organized as follows:

- (a) GSHL currently owns 49 common voting shares and GDC currently owns 51 common voting shares in the issued and outstanding capital of the Corporation;
- (b) There shall be a board consisting of a maximum of four (4) Directors;
- (c) The Board of Directors of the Corporation shall consist of a maximum of two (2) nominees of GSHL and a maximum of two (2) nominees of GDC;
- (d) The officers of the Corporation shall be determined by the Shareholders from time to time and there shall always be at least one officer representing each Shareholder. The Chair of the Board shall at all times be a nominee of GSHL and the Secretary/Treasurer shall at all times be a nominee of GDC;
- (e) All cheques and other banking documents, deeds, transfers, contracts, agreements and other documents that are required to be executed by the Corporation from time to time shall be executed on its behalf by such person or persons as the Board of Directors may by resolution designate from time to time;
- (f) The Articles of Incorporation of the Corporation notwithstanding, the following provisions shall apply in respect of meetings:
 - (i) the presence of two (2) Directors, including at least one nominee of each Shareholder, shall be required to constitute a quorum at any meeting of the Board of Directors which should be scheduled quarterly;
 - (ii) Subject to section 120 of the *Canada Business Corporations Act*, any resolution of the Board of Directors shall require the affirmative vote of at least two (2) Directors, including at least one nominee of each Shareholder, cast at a duly constituted meeting of the Board of Directors or the consent in writing of all the Directors otherwise entitled to vote thereon;
 - (iii) the presence of both Shareholders, or their respective nominees, shall be required to constitute a quorum at any meeting of the Shareholders;
 - (iv) any resolution of the Shareholders shall require the affirmative vote of all the Shareholders cast at a duly constituted meeting of the Shareholders or the consent in writing of all the Shareholders otherwise entitled to vote thereon;

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- (v) any Director shall have the right at any time and from time to time to call a meeting of the Board of Directors on not less than ten (10) days' notice;
 - (vi) any Shareholder shall have the right at any time or from time to time to call a meeting of the Shareholders on not less than twenty one (21) days' notice or such longer period as may be required by law or by the Articles or by-laws of the Corporation;
 - (vii) the Chairman presiding at Directors' meetings shall have the right to vote in his capacity as Director in the first instance, but shall have no second or casting vote in case of an equality of votes; and
 - (viii) the Chairman presiding at meetings of the Shareholders shall have the right to vote in the first instance in his capacity as a representative of a Shareholder and as a proxy if so appointed but shall have no second or casting vote in case of an equality of votes.
- (g) Subject to the provisions of this Agreement, the following matters shall require the unanimous consent of the Shareholders:
- (i) The declaration of any dividends to be paid or made by the Corporation or any other distribution of the assets of the Corporation to any of the Shareholders or the payment, or partial payment, of any Shareholder's Loans;
 - (ii) The sale, transfer, mortgage, pledge, exchange or other disposition of the undertaking or of any asset or assets of the Corporation other than in the ordinary course of business;
 - (iii) The borrowing of any monies by the Corporation or any of its subsidiaries and the granting of any security on the assets of the Corporation in respect of any monies borrowed by the Corporation, other than in the ordinary course of business;
 - (iv) The entry into any business transaction or enterprise by the Corporation with a Shareholder or any person or entity who is not at arm's length with any Shareholder or with the Corporation (as the expression "arm's length" is defined under the *Income Tax Act* (Canada));
 - (v) Any material change in the nature of the business carried on by the Corporation or any action which might lead to or result in such a material change;
 - (vi) The redemption or repurchase of any Shares except as herein provided;
 - (vii) Any repeal or amendment of any provision of or addition to the Articles of Incorporation or the by-laws of the Corporation;
 - (viii) The reduction, conversion, sub-division or consolidation of the capital of the Corporation whether issued or unissued;
 - (ix) The taking or institution of proceedings with respect to winding-up or dissolution of the Corporation;

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- (x) The fixing of remuneration payable to the Directors of the Corporation;
- (xi) The assumption by the Corporation of any liability, whether direct, indirect, absolute, contingent, joint, several, joint and several or otherwise, other than in the ordinary course of business;
- (xii) Any loans by the Corporation or any of its subsidiaries to any person, firm, corporation or Shareholders; and
- (xiii) Any contract between the Corporation and any Shareholder or an affiliate of a Shareholder (the word "affiliate" being defined in the *Canada Business Corporations Act*).

3. DIRECTION AND AUTHORITY

- 3.1 The Shareholders agree each with the other that as Shareholders of the Corporation they will irrevocably instruct their nominees and representatives at all meetings of the Shareholders of the Corporation and, in so far as permitted by law, their nominees or representatives on the Board of Directors of the Corporation always to vote and act in accordance with the terms of this Agreement so as to give this Agreement full force and effect and to carry out its intent.

4. FINANCING

- 4.1 The Shareholders agree that they will actively pursue and work towards attaining satisfactory bank credit and financing for the Corporation. The Shareholders agree to execute and deliver such guarantees in such respective proportions as are equivalent to their respective interest in the Corporation as may be required for the purpose of enabling the Corporation to obtain such bank credit and financing.
- 4.2 Notwithstanding the foregoing, if bank credit and financing cannot be arranged in an amount sufficient for the Corporation to carry on its business in a proper manner, all further moneys required shall be advanced to the Corporation as a loan thereto, by the Shareholders, pro rata in proportion to their then existing common shareholdings.
- 4.3 Any loans made to the Corporation by the Shareholders shall bear such rate of interest as is from time to time mutually agreed upon and shall be repayable in such manner and at such time or times as the Shareholders shall mutually agree.
- 4.4 If a Shareholder fails for any reason to pay any amount payable by him under a guarantee or should a Shareholder fail to contribute to the Corporation the required funds pursuant to Article 4.2 above then the other party may give notice to the defaulting party and the following provisions shall take effect:
- (a) The Shareholder not in default may at its sole option advance the funds which had been required to be advanced by the defaulting Shareholder;
 - (b) Any such advance made by such Shareholder shall be considered a liability from the defaulting Shareholder to the Shareholder and shall have interest accrued thereon, from the date of advance, at the prime rate established from time to time by the Corporation's bank plus 2%, calculated monthly, not in advance;
 - (c) In the event of the carrying out of a purchase or sale in accordance with Article 9 herein, any Shareholder which is owed any monies by the defaulting

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Shareholder as a result of the within Article, is entitled to either: a) offset said monies by direct deduction from the purchase price, should said Shareholder be purchasing the other's shares; or b) have said monies added on to the money required to close should the defaulting Shareholder exercise the Offer to Purchase the shares of the said Shareholder; and

- (d) In the event a defaulting Shareholder is indebted to either another Shareholder or the Corporation as a result of the operation of this Article 4, and either the non-defaulting Shareholder or the Corporation is in turn indebted to the defaulting Shareholder either under this Agreement or by way of some other debt or liability, then the non-defaulting Shareholder and / or the Corporation may set off the one debt against the other.

4.5 The Shareholders acknowledge that they have provided capitalization for the Corporation in the amounts set forth in Schedule "E" hereto.

6. EFFECTIVE DATE

5.1 The Parties agree that this Agreement will be effective as of the 1st day of August, 2016.

6. INDEPENDENT LEGAL ADVICE

6.1 For the purpose of this Agreement, the Shareholders acknowledge and agree that Field Law, 601, 4920-52nd Street, Yellowknife, NT X1A 3T1, are acting as the solicitors for GSHL only and that Lawson Lundell, Barristers & Solicitors, P.O. Box 818, 4908 - 49th Street, Yellowknife, NT X1A 2N4, are acting as the solicitors for GDC and the Corporation. Each of the Shareholders agrees to be responsible for retaining its own independent legal counsel in respect of this Agreement from time to time.

7. NON-TRANSFERABLE, NON ASSIGNABLE SHARES

7.1 Subject to subsection 7.3, all shares issued by the Corporation shall be non-transferable and non-assignable beyond the extent allowed by this Agreement or as agreed upon by the parties in writing. The parties further agree that no further shares in the Corporation shall be issued, except with the unanimous consent of the Shareholders;

7.2 The Shareholders hereby agree to sell the shares that the Corporation may issue to each of them if and when they become subject to the terms of this Agreement.

7.3 *Transfer to Affiliate.* Any Shareholder may sell, transfer or otherwise dispose of the whole or any part of its Shares to any of its Affiliates provided that the transferring Shareholder and the Affiliate enter into an agreement with the other Shareholders and the Corporation that:

- (a) the Affiliate will remain such for so long as the Affiliate holds the Shares or any part thereof;
- (b) prior to the Affiliate ceasing to be such, the Affiliate will transfer its Shares back to the transferring Shareholder or to another Affiliate of the transferring Shareholder provided that such other Affiliate enters into a similar agreement with the other Shareholders and the Corporation; and
- (c) the Affiliate will otherwise be bound by and have the benefit of the provisions of this Agreement.

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Any such sale, transfer or other disposition referred to in this subsection 7.3 shall not release the transferring Shareholder from its obligations hereunder, such Shareholder to remain jointly and severally liable with the transferee Affiliate.

For the purposes of this subsection 7.3, "Affiliate" means, with respect to any Shareholder, any Corporation which is directly or indirectly controlled by such Shareholder, and in the case of any Shareholder which is itself a Corporation, "Affiliate" means in addition to the foregoing, any Corporation which Controls such corporate Shareholder. Notwithstanding the foregoing, Dazzrall Investments Inc., Gwich'ya Gwich'in Council, Nihtat Gwich'in Development Corporation and Rat River Development Corporation shall be deemed to be Affiliates of GDC.

8. RIGHT OF FIRST REFUSAL

- 8.1 Except as otherwise expressly permitted in this Agreement, no Shareholder shall sell, transfer or otherwise dispose or offer to sell, transfer or otherwise dispose of any of its interest unless that Shareholder (the "Offeror") first offers by notice in writing (the "Offer") to the other Shareholder (the "Offeree") the prior right to purchase, receive or otherwise acquire the same. For the purposes of this Agreement, the term "interest" means all of the right, title and interest of a Shareholder in and to any of the shares of the Corporation, any Loan and accrued interest thereon and any other right or claim a Shareholder may have against the Corporation as a Shareholder and the Shareholder's interest in and to this Agreement. For the purposes of this Agreement, "Loan" means at the relevant time any amounts advanced and outstanding by a Shareholder to the Corporation.
- 8.2 The Offer shall set forth:
- (a) the interest offered for sale (which interest must represent 100% of the interest then held by the Offeror);
 - (b) the sale price expressed only in lawful money of Canada;
 - (c) the terms and conditions of the sale;
 - (d) that the Offer shall be either accepted in its entirety or not at all;
 - (e) that the Offer is open for acceptance for a period of 45 days after receipt of the Offer by the Offeree (the "45 day period"); and
 - (f) the name and residence of any prospective purchaser of the interest.
- 8.3 The Offeree shall, within 45 days from receipt of the Offer give notice to the Offeror stating whether or not it accepts the Offer.
- 8.4 If the Offeree has elected to buy the interest, the Offeror shall sell to the Offeree the interest at the price and upon the terms and conditions contained in the Offer, such sale and purchase to be closed not later than 15 days after the expiration of the 45 day period (or such other date as the parties may agree) at which time the Offeree or parties shall pay the sale price to the Offeror in return for the conveyance by the Offeror of the interest, free and clear of all encumbrances together with delivery by the Offeror of such documents as may be reasonably required to effect and complete the sale of the interest.

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- 8.5 If at the expiration of the 45 day period, the Offeree has not elected to buy the Interest on the terms and conditions contained in the Offer, the Offer shall be conclusively deemed to have been declined by the Offeree and the Offeror shall then have the right to sell the Interest to any party (the "Third Party") within 90 days following the expiration of the 45 day period for a price and on terms and conditions no more favourable than those set forth in the Offer.
- 8.6 No disposition of any Interest permitted by this Article 8 shall be made unless the Third Party has entered into an agreement with the Offeree by which the Third Party shall be bound by and be entitled to the benefit of the provisions of this Agreement and the Offeree shall enter into such an agreement.
- 8.7 If the Offeror fails to dispose of the Interest within the aforesaid 90 day period, the right to dispose of the Interest shall expire and the Offeror may not then dispose of the Interest unless it has again complied, in full with the provisions of this Article 8 and so on from time to time; provided always that no fresh offer may be given less than 30 days following the expiration of any 90 day period.
- 8.8 Any Shareholder who has disposed of all of its Interest in compliance with the provisions of this Agreement shall be entitled to the benefit of and be bound only by the rights and obligations which arose pursuant to this Agreement prior to such disposition.
- 9. SHOTGUN, AGREED PRICE, COMMON SHARES**
- 9.1 If one of the Shareholders desires to terminate its association with the other an Offer may be made under this Agreement by such Shareholder to the other in the form of the Offer set out in Schedule "A" hereto. For the purposes of this Section, an "Offer" means a written offer by one Shareholder (herein referred to as the "Offeror"):
- (a) to purchase (the "Purchase Offer") all, but not less than all, of the shares of the Corporation beneficially owned by the other Shareholder (herein referred to as the "Offeree"), and
 - (b) to sell (the "Sale Offer") to the other Shareholder all, but not less than all, of the shares beneficially owned by the Offeror. Upon an Offer being received by the other Shareholders and pending completion of the transactions contemplated therein, neither of the Shareholders shall do or cause to be done or permit the Corporation to do anything except in the ordinary and usual course of business of the Corporation.
- 9.2 The Offer shall stipulate the purchase price per share for the shares to be purchased thereunder, and the Offer shall also contain such other terms and conditions as may be necessary or appropriate with respect to the transaction contemplated therein, provided that none of such terms and conditions shall conflict in any way with the provisions of this Agreement.
- 9.3 The Purchasing Party shall repay or cause to be repaid, the Loans made by the Selling Party to the Corporation in an amount equal to the outstanding principal of that (or those) Loan(s), plus any accrued interest.
- 9.4 The Offeree shall, within fourteen (14) days following the date on which the Offer is received by the Offeree, accept either the Purchase Offer, by giving to the Offeror an acceptance in the form set out in Schedule "B" hereto, or the Sale Offer, by giving to the

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Offeror an acceptance in the form set out in Schedule "C" hereto, failing which the Offeree shall be deemed to have accepted the Purchase Offer. The following provisions shall apply with respect to the acceptance or rejection of any Offer:

- (a) If the Offeree accepts the Purchase Offer, the Offeree shall be obligated to sell all of its shares in the Corporation to the Offeror and the Offeror shall be obligated to purchase such shares;
- (b) If the Offeree accepts the Sale Offer, the Offeree shall be obligated to purchase all of the Offeror's shares in the Corporation.

9.5 An Offer made pursuant to this Article 9 shall be given to the Offeree, and a copy mailed or delivered to the Corporation's solicitors, and shall be accompanied by a certified cheque drawn in favour of the Corporation's solicitors, in trust, as a deposit, in an amount equal to 10% percent of the total purchase price offered for the shares of the Offeree. The deposit moneys shall be placed in a non-interest bearing account with the bank of the Corporation's solicitors, to be credited on account of the total purchase price in the event the Offeree accepts the Purchase Offer, or to be returned without deduction in the event the Offeree accepts the Sale Offer, in which case the Offeree shall deliver in its place its certified cheque drawn in favour of the Corporation's solicitors, in trust, as a deposit in an amount equal to ten (10%) percent of the total purchase price for all shares to be purchased by the Offeree. The solicitors receiving such funds shall immediately deposit same in a non-interest-bearing trust account maintained with the solicitors' bank. The funds so received in trust as a deposit shall be applied against the purchase price and shall be delivered on closing. If the Offeree fails to complete the purchase, the Offeror shall retain such deposit as liquidated damages and not as a penalty.

9.6 Upon the formation of a contract by an acceptance or deemed acceptance of either the Purchase Offer or the Sale Offer, the Shareholder agreeing to purchase (the "Purchaser") shall be obligated to purchase and the Shareholder agreeing to sell (the "Vendor") shall be obligated to convey, transfer and assign to the Purchaser all of the shares of the Corporation beneficially owned by the Vendor, at and for the price set out in the Offer and in accordance with the terms and conditions set out therein and in this Agreement.

9.7 The completion of the purchase and sale transaction pursuant to this Article 9 shall be at any date (the "Closing Date"), time and place mutually agreed upon by the Shareholders within 30 days of the formation of a contract hereunder. Should the Shareholders be unable to agree mutually, then the completion of the sale shall take place at the offices of the Corporation's solicitors at 10:00 a.m. on the 30th day following the date on which the contract was formed. In the event the said 30th day falls on a weekend or statutory holiday, the Closing Date shall be the next following business day.

10. WAGES, SALARIES, BONUSES AND DIVIDENDS

10.1 Subject to Article 10.2 herein, all wages, salaries, bonuses or honorariums require the unanimous approval of all Directors.

10.2 The Shareholders acknowledge that it is the intention of the parties that any surplus funds in the Corporation, as a result of revenues exceeding expenses over a given period of time, shall be distributed in the following priority:

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- (a) to the continuing operation of the Corporation, including to pay down the level of any long or short term debt of the Corporation;
- (b) to repay any Shareholders Loans and interest accrued thereon in accordance with this Agreement; and
- (c) to distribute any additional surplus to the Shareholders by way of the declaration of a dividend,

unless the Shareholders determine that revenue should be retained in the Corporation for the long term benefit of the Corporation and its Shareholders.

11. APPOINTMENT OF MANAGER

- 11.1 The Corporation agrees to appoint GSHL as the manager of the business of the Corporation in accordance with the terms and conditions set forth in the Restated Management Agreement attached hereto as Schedule "D" and the Manager agrees to accept said appointment in accordance with the terms and conditions set forth in the Restated Management Agreement attached hereto as Schedule "D".

12. RELEASE OF GUARANTEES

- 12.1 In the event that any party to this Agreement disposes of all of its shares under the terms of this Agreement, the other Shareholder and the Corporation shall make commercially reasonable efforts to obtain releases for the selling Shareholder from any guarantees that the selling Shareholder may have given on behalf of the Corporation.

13. ANNUAL REVIEW

- 13.1 This Agreement shall be reviewed on an annual basis, and amended upon unanimous consent of the Shareholders. No amendment shall be binding upon the Shareholders unless made in writing. It is acknowledged that each Shareholder may have separate business interests outside of their dealings with each other.

14. SEVERABILITY

- 14.1 The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party hereto shall not affect the validity of any other provision or covenant hereof or herein contained.

15. APPLICABLE LAW

- 15.1 This Agreement shall be governed by and construed in accordance with the laws of the Northwest Territories and the Courts of the Northwest Territories shall have exclusive jurisdiction to entertain any action arising in connection therewith.

16. NON-COMPETITION

- 16.1 Subject to the provisions of Article 16.2, neither of the Shareholders will, without the prior written consent of the other, at any time while it is a shareholder of the Corporation, either individually or in partnership or jointly or in conjunction with any person as principal, agent, employee, sub-contractor, shareholder or through a related person or corporation (as defined by the *Income Tax Act* (Canada)), or in any other manner whatsoever, carry on or be engaged in, concerned with or interested in or advise, lend

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money to, guarantee the debts or obligations of or permit its name or any part thereof to be used or employed by any person engaged or concerned with or interested in any business similar to or competitive with the business of helicopter charter operations anywhere within the GSA.

16.2 Notwithstanding Article 16.1:

- (a) If an aircraft is hired by a customer of GSHL for work outside the GSA and the customer directs that the aircraft be taken into the GSA for the customer's purposes, this shall not constitute competition within the meaning of Article 16.1; and
- (b) If an aircraft is hired by a customer of the Corporation for work inside the GSA and the customer directs that the aircraft be taken outside the GSA for the customer's purposes, this shall not constitute competition within the meaning of Article 16.1.

16.3 Notwithstanding Article 16.1, where one Shareholder decides the Corporation should not participate in a business opportunity available to the Corporation, and where the Corporation decides not to pursue that business opportunity, the parties agree that the other Shareholder shall be free to pursue that business opportunity and to carry on or engage in or be concerned with the business in relation thereto.

16.4 The decision of the Corporation not to pursue a business opportunity referred to in Article 16.3 shall be:

- (a) evidenced in writing;
- (b) signed by all of the Corporation's officers, and
- (c) provided to both Shareholders prior to the opportunity referred to in Article 16.3 being pursued.

If any Shareholder fails to respond to a request by the other Shareholder for a decision as contemplated by Article 16.3 within 15 days of a request for a decision, then Shareholder failing to respond shall be deemed to have agreed to the decision of the other Shareholder.

16.5 Each of the Shareholders confirm that all of the restrictions in this Article 16 are reasonable and valid and all potential defences to the strict enforcement thereof are waived by each of the Shareholders. The parties agree that the remedy at law for any breach by either of them of the provisions hereof may be inadequate and that in the event of such breach the Corporation, or the Shareholder not in default on behalf of the Corporation, shall be entitled to make an application to the appropriate court granting the Corporation and the non-defaulting Shareholder temporary and/or permanent injunctive relief against the defaulting Shareholder, without the necessity of proving actual damage to the Corporation or the non-defaulting Shareholder.

17. NOTICES

17.1 Any notice or other communication required or permitted to be given by any party hereto to any other party shall be in writing and shall be delivered personally, by fax or by prepaid registered mail addressed to the party to which it is to be given as follows:

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- (a) If to the Corporation: at its registered office
- (b) If to a Shareholder: at the address or fax number of such Shareholder last appearing on the records of the Corporation.

17.2 Every notice shall be deemed to have been duly given, if delivered, at the date of delivery thereof and if sent by mail, at the expiration of twenty-one (21) business days after a prepaid envelope containing the same has been placed in the registered mail and in the event of interruption of postal service, at the expiration of thirty-one (31) business days following the resumption of such service.

18. SUCCESSORS AND ASSIGNS

18.1 This Agreement shall enure to the benefit of and shall be binding upon the parties and their respective administrators and other legal representatives, successors and permitted assigns.

19. DISSOLUTION

19.1 In the event of a Material Breach by the other Shareholder that has not been cured for a period of 60 days and in the absence of either party exercising their rights in accordance with Articles 8 or 9 herein, either GSHL or GDC may require the breaching Shareholder, by notice in writing, to vote their shares to require the Corporation to be dissolved and its affairs wound up within a reasonable time of such notice. For the purposes of this Section 19.1, "Material Breach" means any breach of this Agreement that results in a material adverse effect to the Corporation, its business, financial condition or operations.

20. COUNTERPARTS AND FACSIMILE EXECUTION

20.1 This Agreement may be signed in counterparts and each of such counterparts will constitute an original document and such counterparts, taken together, will constitute one and the same instrument. Execution and delivery of a facsimile copy will be of the same effect as execution and delivery of an original document.

21. DISPUTE RESOLUTION

21.1 Should any dispute or disagreement of any kind arise at any time regarding this Agreement, any party may give written notice to the others of its desire to pursue dispute resolution under this Section 21, and upon the delivery of such notice, the parties agree that good faith negotiations must take place between them in an attempt to resolve the matter. If such good faith negotiations have not resolved the dispute or disagreement within fourteen (14) days, any party to this Agreement may request mediation among the parties.

21.2 The mediator must be agreed upon by the Shareholders. In the event the Shareholders are unable to agree upon the mediator within ten (10) days of any Shareholder giving written notice of its choice for a mediator to all other Shareholders, any of the parties to the dispute may apply to a Justice of the Supreme Court of the Northwest Territories for the appointment of a mediator. Each of the Parties must bear its own costs of any mediation pursuant to this clause and equally share the cost of the mediator.

21.3 All discussions before the mediator must be non-binding, confidential and without prejudice to the position of any party. The parties agree that if the mediation process

does not result in a satisfactory resolution of the dispute or disagreement after the lesser of (a) either ten (30) hours of mediation, or (b) thirty (90) days from the commencement of the mediation, then any party to the dispute may refer the dispute or disagreement to a single arbitrator, that must be agreed by the Shareholders, and failing agreement by the Shareholders, as appointed by a Justice of the Supreme Court of the Northwest Territories, to effect a binding resolution of the matter pursuant to the Arbitration Act (Northwest Territories). The mediator may not be the arbitrator.

21.4 The arbitration must be completely private. The arbitrator must fix the appropriate procedure which may include an oral hearing. The issue or issues to be decided by the arbitrator must be defined in an arbitration agreement filed on consent by the parties to the arbitration. In the event the parties to the arbitration are unable to agree upon the issue or issues to be decided by the arbitrator in any arbitration pursuant to this clause, the arbitrator must have jurisdiction to determine the issue or issues to be decided. The arbitrator may order interest on any award and the arbitrator may award costs to either party. In the absence of any such award of costs, each of the parties must bear its own costs of any arbitration pursuant to this clause and equally share the cost of the arbitrator. The arbitrator must be strictly bound by legal principles and the general nature of this Agreement in rendering his or her decision.

22. TERMINATION OF ORIGINAL AGREEMENT

The parties acknowledge and agree that the Original Agreement is hereby terminated, and this Agreement supersedes and replaces the Original Agreement as of the date hereof.

IN WITNESS WHEREOF the parties have executed this agreement as of the date first above written.

Great Slave Helicopters Ltd.

Per: D.K.
Title CO-OP SECRETARY (seal)

Per: [Signature]
Title DIRECTOR

Gwich'in Development Corporation

Per: _____
Title _____ (seal)

Per: _____
Title _____

Gwich'in Helicopters Limited

Per: 
Title DIRECTOR (seal)

Per: _____
Title'

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SCHEDULE "A"
OFFER TO PURCHASE OR SELL

TO:

AND TO:

In accordance with an agreement of the Shareholders of Gwich'in Helicopters Limited, (the "Corporation") dated the 21st day of September, 2004 (the "Agreement") I hereby offer:

- A. To purchase from you all of your common shares in the Corporation (the "Purchase Offer"); or
- B. To sell to you all of my common shares in the Corporation (the "Sale Offer");

UPON THE FOLLOWING TERMS AND CONDITIONS:

1. The purchase price shall be \$_____ per share.
2. The purchase price shall be paid in full on closing, by way of cash, certified cheque or solicitor's trust cheque.
3. The date, time and place for completion of the purchase shall be as follows:
4. The completion of the purchase shall be conditional on the following:
 - (i) The seller warrants that the seller is a non-resident of Canada within the meaning of the *Income Tax Act* (Canada), on the date of completion and shall supply satisfactory evidence to the purchaser of such status or, in the event that the seller is a non-resident of Canada, the seller shall provide evidence of compliance with Section 116 of the Act (or the equivalent amendment thereto);
 - (ii) The seller shall deliver on closing his/her or its nominees written resignations as officers, directors and employees of the Corporation;
 - (iii) The shares to be purchased shall be free and clear of all liens or encumbrances whatsoever on the date of completion; and
 - (iv) No person, firm or corporation will have any agreement, option or any right capable of becoming an agreement or option for the purchase of the shares.
5. Upon acceptance of this Offer, in the manner provided for below, the agreement formed thereby shall enure to the benefit of, and be binding upon, the parties thereto and their respective heirs, legal representatives, successors and assigns.
6. This Offer is being communicated to you in accordance with the terms of the Agreement.
7. In accordance with the Agreement, a certified cheque in the amount of \$_____ representing 10% of the total purchase price for your shares is delivered herewith to you, payable to your solicitors in trust. I would confirm that my solicitors are:

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8. You have thirty (30) days from the date of delivery hereof within which to accept this offer to purchase your shares or, at your option, to accept this offer to sell you my shares in the Corporation at the aforesaid price per share.
9. The terms and conditions of the agreement formed as a result of your acceptance of this Offer shall be the terms and conditions set out herein together with and subject to such other terms and conditions which are applicable pursuant to the Agreement.
10. The Purchasing Party shall pay or cause to be repaid, the Loans made by the Selling Party to the Corporation in an amount equal to the outstanding principal of such Loans, plus any accrued interest.

DATED at the _____ of _____, In the Northwest Territories,
this _____ day of _____, 20____.

(Offeror)

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SCHEDULE "B"
ACCEPTANCE OF OFFER TO PURCHASE

TO:

I hereby acknowledge receipt of your Offer dated the _____ day of _____, 20____, to purchase all of my common shares in Gwich'in Helicopters Limited, (the "Corporation") and your certified cheque in the amount of \$ _____ drawn in favour of my solicitors, in trust.

In accordance with our shareholders agreement dated the 21st day of September, 2004 (the "Agreement"), I hereby accept your Purchase Offer and agree to sell to you all of my common shares in the Corporation at the price per share set out in the Offer.

This acceptance constitutes a binding contract between us to complete the share purchase and sale transaction in accordance with the terms and conditions set forth in your Offer, subject to the provisions of the Agreement.

DATED at the _____ of _____, in the Northwest Territories, this _____ day of _____, 20____.

(Offeree)

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SCHEDULE "C"
ACCEPTANCE OF OFFER TO SELL

TO:

I hereby acknowledge receipt of your Offer dated the _____ day of _____, 20____, to sell to me all of your common shares in Gwich'in Helicopters Limited, (the "Corporation") and your certified cheque in the amount of \$_____, drawn in favour of my solicitors, in trust.

In accordance with our shareholders agreement dated the 21st day of September, 2004 (the "Agreement"), I hereby accept your Sale Offer and agree to purchase from you all of your common shares in the Corporation at the price per share set out in the Offer. I hereby return to you your certified cheque and deliver to you herewith a certified cheque in the amount of \$_____, drawn in favour of your solicitors, in trust, and representing 10% of the total purchase price to be paid for all of your shares.

This acceptance constitutes a binding contract between us to complete the share purchase and sale transaction in accordance with the terms and conditions set forth in your Offer, subject to the provisions of the Agreement.

DATED at the _____ of _____, In the Northwest Territories, this _____ day of _____, 20____.

 (Offeree)

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SCHEDULE "D"
RESTATED MANAGEMENT AGREEMENT

(see attached)

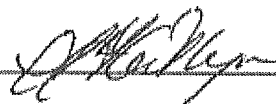
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SCHEDULE "E"
CAPITAL CONTRIBUTIONS

The shareholders shall each make capital contributions to the Corporation which shall be no less than the following:

1.	Gwich'in Development Corporation	\$204,000.00
2.	Great Slave Helicopters Ltd.	<u>\$196,000.00</u>
	TOTAL	\$400,000.00

This is **Exhibit "2"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018



A Commissioner, etc.

RESTATED MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT made effective as of the 1st day of January, 2016.

BETWEEN:

GWICH'IN HELICOPTERS LIMITED, a body corporate pursuant to the laws of Canada, having registered office c/o Lawson Lundell LLP, Barristers & Solicitors, P.O. Box 818, 4908 - 49th Street, Yellowknife, NT, X1A 2N6,

(hereinafter referred to as the "Corporation")

-and-

GREAT SLAVE HELICOPTERS LTD., a body corporate pursuant to the laws of Canada, having a registered office c/o Lawson Lundell LLP, Barristers & Solicitors, P.O. Box 818, 4908 - 49th Street, Yellowknife, NT, X1A 2N6,

(hereinafter referred to as the "Manager")

WHEREAS:

- I. The Corporation is the owner of the Business;
- II. The Manager operates a business in the Northwest Territories that is compatible with the Business and is capable of providing the Corporation with management services;
- III. Pursuant to a restated management agreement dated January 1, 2006, as further amended by amending agreement dated March 19, 2008 (the "Original Restated Agreement"), the Manager agreed to provide to the Corporation certain management services;
- IV. The Corporation and the Manager have agreed that it is desirable to amend and restate the Original Restated Agreement in accordance with the terms herein;

NOW THEREFORE this Agreement witnesseth that in consideration of the covenants and agreements contained herein the Parties hereto agree as follows:

PART 1 DEFINITIONS

1. Definitions

In this Agreement unless something in the subject matter of the context is inconsistent therewith the following words shall have the meanings set out below:

- (a) "Agreement" means this agreement, and all amendments thereto made in writing by the Parties hereto;
- (b) "Business" means the business of a helicopter leasing service; "Fiscal Year" means a year commencing on the 1st day of January and ending on the next following 31st day of December;

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- (c) "Parties" means the Corporation and the Manager;
- (d) "Services" means the services to be provided by the Manager to the Corporation pursuant to Part 4 hereof.

2. Headings

The headings of the articles and sections hereof are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

3. Construction

Words importing singular number only shall include the plural and vice versa and words importing the masculine gender shall include the feminine and neuter genders and words importing persons shall include companies, corporations, partnerships, syndicates, trusts in any number of aggregate of persons.

PART 2

RETAINING OF MANAGER AND MANAGER'S FEE;

4. Retaining of Manager

The Corporation hereby engages and retains the Manager to provide the Services to the Corporation during the term of this Agreement, and the Manager agrees to provide the Services to the Corporation, all pursuant to the provisions set out in this Agreement.

5. Eligible Expenses

Eligible expenses that the Manager may charge to the Corporation include only expenses associated with leasing services and corporate overhead. For greater certainty, the Manager shall not be entitled to charge and shall not charge the Corporation for aircraft fuel and maintenance, base manager costs or accommodation, hangar maintenance and utilities, insurance, rent, property taxes and vehicle expenses.

6. Manager's Fee

The Manager shall receive an annual fee of \$50,000.00 for Services provided hereunder.

7. Gwich'in Settlement Area Payment

The Manager shall pay to the Corporation the amount of \$60,000.00 per annum for the unrestricted right to conduct helicopter charter operations and related activities in the Gwich'in Settlement Area. For the avoidance of doubt, this right accrues to the Manager in respect of its business generally (i.e. the operations of Great Slave Helicopters Ltd. and subsidiaries and affiliates) and is not limited to operations in respect of the Corporation or the Manager's capacity as "manager" hereunder.

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PART 3
AUTHORITY OF MANAGER

8. Authority Granted to Manager by Corporation

During the term of, and subject to this Agreement, the Corporation hereby grants to the Manager authority to direct and manage the Business on behalf of the Corporation and, without limiting the generality of the foregoing, the Manager shall have the authority to:

- (a) Subject to the direction of the Board of Directors of the Corporation, negotiate and execute agreements as required in the best interests of the Corporation;
- (b) Cause to be paid indebtedness of the Corporation or make operational expenditures for the day-to-day needs of the Corporation from the Corporation's Account
- (c) To purchase goods and services for the Corporation using the credit of the Corporation or otherwise; and
- (d) Generally, to manage the business and affairs of the Corporation.

PART 4
SERVICES TO BE PROVIDED BY THE MANAGER

9. Management Services

During the term of this Agreement, and in addition to the matters referred to in Part 3, the Manager shall provide to the Corporation:

- (a) Long range planning advice for the operation of the Business;
- (b) Recommendations for long range policies and implementation of such long term policies;
- (c) Advice and direction to the Board of Directors of the Corporation with respect to the operation of the Business;
- (d) Ensure compliance with aircraft leasing requirements and provide quarterly reports with respect to flight hours of each aircraft;
- (e) Advice to the Corporation with respect to necessary business licenses and related licenses and authorities;
- (f) Direction to the accountants of the Corporation with respect to preparation of financial reports and financial statements and such accounting services to be provided by the Manager as part of the management fee. It is agreed that the Corporation's auditors shall be KPMG LLP, provided that the appointment of the Corporation's auditors shall be reviewed annually by the Board of Directors of the Corporation;
- (g) Recommendations and give direction to the Corporation with respect to the creation and maintenance of other records of the Corporation; and

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- (h) Accounting services which, without limitation, will include the preparation of in house financial statements on a quarterly basis within 60 days of the end of each quarter.

PART 5

TERM AND TERMINATION OF AGREEMENT

10. Term and Termination

- (a) This Agreement shall commence on the 1st day of August, 2016, and shall continue in full force and effect until the earlier of the date upon which the Manager ceases to be a Shareholder of the Corporation or the Corporation is dissolved in accordance with section 19 of the Unanimous Shareholder Agreement between the Manager, Gwich'in Development Corporation and the Corporation (the "USA"), unless earlier terminated by one of the parties in accordance with the terms of this Agreement.
- (b) In addition to each party's termination rights set forth in Section 10(d), either party may terminate this Agreement upon one year's written notice to the other party, whether or not an event of default has occurred.
- (c) Notwithstanding the foregoing, this Agreement shall be subject to an annual review by the parties and shall be modified in writing as the circumstances require at each such review and as agreed by the parties.
- (d) A party not in default may, at its option, upon written notice to the party in default, immediately terminate this Agreement and all of its duties and liabilities hereunder, if any of the following events occur:
- (i) If after thirty (30) days following receipt of written notice thereof specifying the nature and amount of the default and a best effort to resolve the cause for dispute, a party fails to pay any amount payable under the terms of this agreement when the same becomes due and payable;
 - (ii) If a party defaults in the observance or performance of any of its duties and obligations under the terms and conditions of this agreement (other than a default under paragraph 10(d)(i) hereof); and the defaulting party fails to cure such default within thirty (30) days following receipt of written notice thereof specifying the nature of default and a best effort to resolve the cause for the dispute; or
 - (iii) If a party becomes insolvent or subject to the provisions of the *Bankruptcy and Insolvency Act* or the *Companies Creditors Arrangements Act* or the *Winding Up Act* or any similar legislation or goes into liquidation, either voluntary or under order of a court of competent jurisdiction, or makes a general assignment for the benefit of creditors or a receiving order is made against the party.
- (e) Upon termination of this Agreement, pursuant to paragraph 10(d), all amounts owing to either party by the other shall forthwith become due and payable.

- 5 -

- (f) If this Agreement is terminated by either party pursuant to paragraph 10(d), all the terms of this Agreement shall apply for the remaining term of each existing contact with a customer unless otherwise mutually agreed by the parties.
- (g) Upon termination of this Agreement the Manager agrees to provide all property of the Corporation, including without limitation, all financial and all other records under its control, to the Corporation or its designated agent forthwith.

PART 6

OPERATION OF MANAGER'S BUSINESS

11. Authorization of Manager to Carry on Business

Subject to the terms of a USA, the Corporation acknowledges that the Manager carries on business based in the Northwest Territories, and that the Manager will continue to conduct such business throughout the term of this Agreement outside the GSA. The Manager shall be entitled to promote its business, and to bid for and otherwise seek to obtain business and contracts notwithstanding that the business of the Manager may involve the provision of services which may incidentally be in competition to the Business.

PART 7

MISCELLANEOUS

12. Accounting

During the term of this Agreement:

- (a) The books of accounts, ledgers and other financial records and documents of the Corporation and the vouchers, statements, receipt, bills and invoices, and other similar financial data in connection with or pertaining to the conduct of the activities of the Corporation and all other data shall be kept separate and distinct from the accounting records of the other operations of the Corporation's Shareholders or associated corporations.
 - (b) Such books, records and other data shall be kept and maintained by the Manager in such manner as may be agreed by the Manager and the Corporation.
 - (c) The Manager shall permit the Corporation and its shareholders, or any other person designated in writing by the Corporation, at any and all reasonable times to audit and examine, at the expense of the person requesting such examination, the books, records and accounts relating to the conduct of the activities of the Corporation.
13. Following the end of each fiscal year of the Corporation, the Manager shall ensure the auditors of the Corporation are supplied with all financial data relevant to their preparation of the audit within 60 days following the end of such fiscal year. The target completion date of the audit shall be 120 days following the end of each fiscal year.
14. The Manager shall provide a report annually to the Corporation setting forth all airframe hours of each aircraft leased to Great Slave Helicopters Ltd. by the Corporation, and

- 6 -

providing comments regarding compliance with this Agreement, the USA, and all aircraft leases between the Corporation and Great Slave Helicopters Ltd.

15. Confidentiality

- (a) All information other than information generally known in the aviation industry or information made known by a third party to either party other than a consequence of the relationship between the parties supplied by or on behalf of either party pursuant to this agreement shall be treated as confidential information by the other party.
- (b) The parties covenant and agree that no confidential information shall be disclosed to anyone outside the organization of such party without the prior written consent of the other.
- (c) The parties agree to use all reasonable efforts to take such action as may be appropriate to prevent unauthorized use and disclosure of, and to keep confidential all such confidential information, including:
 - (i) ensuring that such confidential information is disclosed only to maintain such confidential information in confidence;
 - (ii) not disclosing to any third party the terms and conditions of this Agreement;
 - (iii) not disclosing methods of provision or sale of services including marketing plans; and
 - (iv) safeguarding all documents against theft, damage or access by unauthorized persons.
- (d) The provisions of this paragraph 15 shall remain in full force and effect following termination or expiry of the term of this Agreement.

16. Notices

Any notice or communication by any Party hereunder shall be in writing and maybe made or given by personal delivery or by transmittal by telecopy, facsimile transmission or other electronic means of communication addressed to the respective Parties as follows:

- (a) If to the Corporation:

Gwich'in Helicopters Limited
c/o Lawson Lundell LLP
P.O. Box 818
4908 - 49th Street
Yellowknife, NT X1A 2N4

Fax: (867) 920-2206
- (b) If to the Manager:

- 7 -

Great Slave Helicopters Ltd.
 Bag 7500
 Yellowknife, NT X1A 2R3

Fax: (867) 669-7661

or to such other address or telecopy number or facsimile number as any party may from time to time notify the others in accordance with this section 16. Any notice or communication made or given by personal delivery thereof, or, if made or given by telecopy or other electronic means of communication with confirmation of transmission, on the first Business Day following the transmittal thereof. Any notice or other communication given by electronic means shall be repeated by mail or personal delivery but such repetition shall not affect the validity of the notice.

17. Time of the Essence

Time shall be of the essence of this Agreement.

18. Benefit and Burden

This Agreement shall enure to and be binding upon the Parties hereto and their respective successors and assigns. This Agreement is not assignable by any party, either directly or indirectly, without the written consent of the other parties, which consent may be unreasonably withheld.

19. Jurisdiction

This Agreement shall be governed by the laws of the Northwest Territories.

20. Counterparts and Facsimile Execution

This Agreement may be signed in counterparts and each of such counterparts will constitute an original document and such counterparts, taken together, will constitute one and the same Instrument Execution and delivery of a facsimile copy will be of the same effect as execution and delivery of an original document.

21. Termination of Original Restated Agreement

The parties acknowledge and agree that the Original Restated Agreement is hereby terminated, and this Agreement supersedes and replaces the Original Restated Agreement as of the date hereof.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first above written with an effective date of August 1, 2016.

GWICH'IN HELICOPTERS LIMITED

Per:

Title

Per:

Title

GREAT SLAVE HELICOPTERS LTD.

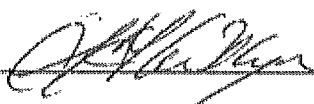
Per: DKL

Title CORP. SECRETARY

Per: BA

Title DIRECTOR

This is **Exhibit "3"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018

A handwritten signature in cursive script, appearing to read "J. A. Miller", is written over a horizontal line.

A Commissioner, etc.

Christiaan Jordaan

From: Ken Lenz
Sent: 02 October 2018 11:50 AM
To: Latham, Joe
Cc: David Sleradzki; James Thorbourne (James.Thorbourne@gdcgroup.ca)
Subject: RE: Great Slave Helicopters
Attachments: My Scan.PDF; My Scan.PDF

Joe,

Further to our conversation of yesterday, as before, we do not want anything in the NDA to interfere with our contractual rights within and against Gwich'in Helicopters (GH) who is not a party to the CCAA proceedings. We have reviewed your mark-up and attach our response, handwritten as I am headed off to a proceeding in 5 minutes and only going to break free at the end of the day and briefly for lunch. We are prepared to give up the shotgun as requested, but not prepared to give up the ROFR. We might consider tightening up the timelines as we do not expect to want to exercise.

Related to this agreement, we want to deal with certain offsetting obligations and the GH cash position as of August 30 of \$1,800,865 (from Balance Sheet) by a GH Shareholders Resolution and Directors' Resolution, which will accomplish the following items:

1. Pursuant to a Settlement Agreement GSH owes GH \$562,381.44. As at Aug 30, current liabilities of GH = \$456,287, which we assume is almost entirely owed to Great Slave Helicopters (GSH). These amounts should be offset, leaving \$106,094.44 owing pursuant to the Settlement Agreement to be applied against the GSH Shareholder Loan reducing it to \$132,232.74 from \$238,327.18. These offsets are contemplated by the Settlement Agreement, a copy of which is attached for your reference.
2. Pay out CIBC Loan = \$480,724.
3. Pay GDC Shareholder Loan = \$248,054.
4. Pay Great Slave SH Loan = \$132,232.74.
5. Pay \$640,000 dividend to shareholders -- GDC portion = \$326,400/Great Slave portion = \$313,600.

These steps would return approximately \$445,000 to GS, and leave approximately \$300,000 in GH as working capital. As we do not have access to precise figures, we are open to discuss this amount further as the intent is to leave sufficient funds to complete the sales process and continue operations for a reasonable period.

This is also completely in keeping with the Settlement Agreement and the Shareholders' Agreement governing GH. The Shareholders Agreement states that it is the intention of the Shareholders that any surplus funds in the Corporation as a result of revenues exceeding expenses over a given period of time, shall be distributed in the following priority:

- To the continuing operation of the Corporation, including to pay down the level of any long or short term debt of the Corporation
- To repay any Shareholder Loans and interest accrued thereon in accordance with this Agreement
- To distribute any additional surplus to the Shareholders by way of the declaration of a dividend.

Finally, for your interest, I note that our client is today in a meeting with all or virtually all Northern First Nations. These are the parties that would be part of a larger deal if one can be agreed upon.

I look forward to your reply.



Ken Lenz Q.C.
Partner, Bennett Jones LLP

4500 Bankers Hall East, 855 - 2nd Street SW, Calgary, AB, T2P 4K7
 T. 403.298.3317 | F. 403.265.7219 | M. 403.830.3317
 E. lenzk@bennettjones.com
BennettJones.com

From: Latham, Joe <jlatham@goodmans.ca>
Sent: 01 October 2018 3:04 PM
To: Ken Lenz <LenzK@bennettjones.com>
Cc: David Sieradzki <dsieradzki@ksvadvisory.com>
Subject: Great Slave Helicopters

Ken, further to our discussion today, please find attached a form of NDA, which bears in tracking changes the suggestions we propose to make to the standard form to accommodate the issues and concerns of Gwlch'in. Please let me know if you have any questions or comments.


Joseph Latham
 Goodmans LLP

416.597.4211
jlatham@goodmans.ca
goodmans.ca

***** Attention *****

This communication is intended solely for the named addressee(s) and may contain information that is privileged, confidential, protected or otherwise exempt from disclosure. No waiver of confidence, privilege, protection or otherwise is made. If you are not the intended recipient of this communication, or wish to unsubscribe, please advise us immediately at privacyofficer@goodmans.ca and delete this email without reading, copying or forwarding it to anyone. Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON, M5H 2S7, www.goodmans.ca. You may unsubscribe to certain communications by clicking [here](#).

This is **Exhibit "4"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018



A Commissioner, etc.

Christiaan Jordaan

From: Ken Lenz
Sent: 08 October 2018 2:19 PM
To: Latham, Joe
Cc: James Thorbourne (James.Thorbourne@gdcgroup.ca)
Subject: NDA Regarding Great Slave Helicopters
Attachments: DOC038.pdf

Joe

Further to our recent discussions concerning Gwich'in Development Corporation (GDC) signing an NDA for the purpose of pursuing a possible transaction with respect to the shares of the various joint ventures that operate on the territories of indigenous people of the North, we attach an executed copy, delivered to you and effective only subject to the following express terms.

As we have discussed, the USA between our client and Great Slave Helicopters (GSH) expressly provides our client with a right of first refusal on any proposal to acquire the shares of Gwich'in Helicopters Limited (GHL). This term is important to our client for many reasons, not the least of which is preserving the right of the Gwich'in people to ensure that the exclusive right to operate helicopters in its territory is appropriately managed. This is a critical service.

Accordingly, the NDA is signed and delivered on the basis that our client's rights pursuant to the ROFR are expressly preserved. To assist the process, our client will exercise its reasonable best efforts to respond quickly to any offer provided pursuant to the ROFR, and in any event, within 20 days. We would ask that the Monitor ensure that bids clearly specify the price being paid for the shares of GHL, so there is no difficulty implementing the terms of the ROFR.

As we already have the information related to GHL, we do not believe allowing our client to be a bidder on the other assets harms the integrity of the process.

Finally, we have requested that funds within GHL (less an amount sufficient for working capital) be used to repay certain indebtedness of GHL, which is consistent with the agreements between GSH, GDC and GHL. You have indicated that the Monitor does not wish to take these steps at this time due to the optics of moving money during the process. We do not agree, but to accommodate the Monitor's wishes in this regard, we are prepared to acquiesce for the time being, provided the Monitor ensures that the funds in GHL are not used for any purpose outside the ordinary course of business without our client's express consent. We note that it has been the ordinary course of business of GHL that any payables to GSH are offset against the amount owing from GSH, whether under the Settlement Agreement or otherwise.

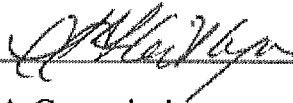
Kindly confirm your agreement to these terms so that both parties are able to rely upon the NDA, and our client may commence its due diligence.



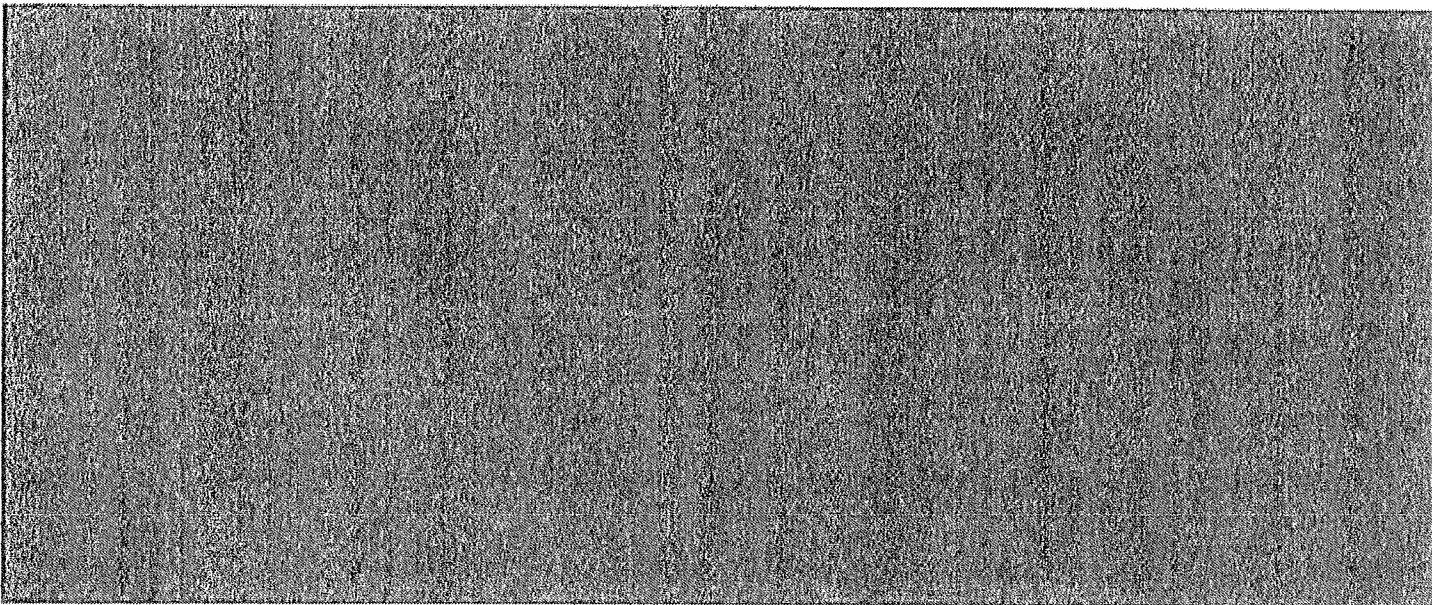
Ken Lenz Q.C.
Partner, Bennett Jones LLP

4500 Bankers Hall East, 855 - 2nd Street SW, Calgary, AB, T2P 4K7
T. 403.298.3317 | F. 403.265.7219 | M. 403.830.3317
E. lenzk@bennettjones.com
BennettJones.com

This is **Exhibit "5"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018

A handwritten signature in cursive script, appearing to read "D. M. [unclear]", is written over a horizontal line.

A Commissioner, etc.



From: Ken Lenz
Sent: 09 October 2018 5:44 PM
To: Latham, Joe <jlatham@goodmans.ca>
Cc: James Thorbourne (James.Thorbourne@gdcgroup.ca) <James.Thorbourne@gdcgroup.ca>
Subject: Gwich'in NDA

Joe

Our client has received access to the data room and had a quick look at the documents pertaining to the Northern companies. I understand the plan is for him to try to bring together the Indigenous communities on some kind of joint bid. However, he is unable to speak to these people without an amendment to the NDA, or each group signing its own NDA.

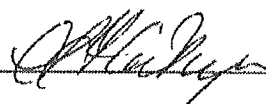
Do you have a view of the preferable way of proceeding?



Ken Lenz Q.C.
Partner, Bennett Jones LLP

4500 Bankers Hall East, 855 - 2nd Street SW, Calgary, AB, T2P 4K7
T. [403 298 3317](tel:4032983317) | F. [403 265 7219](tel:4032657219) | M. [403 830 3317](tel:4038303317)
E. kenzk@bennettjones.com
BennettJones.com

This is **Exhibit "6"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018



A Commissioner, etc.

Christiaan Jordaan

From: Ken Lenz
Sent: 10 October 2018 10:41 AM
To: Latham, Joe
Cc: James Thorbourne (James.Thorbourne@gdcgroup.ca)
Subject: Great Slave Helicopters Ltd.

Joe,

Thank you for confirming that cash in Gwich'in Helicopters Limited will not be used outside the ordinary course of business.

Further to my email to you of Monday, October 8, 2018, our client Gwich'in Development Corporation, made clear that it was not prepared to enter into the NDA unless its rights under the ROFR were clearly preserved.

Yesterday, the Monitor sent our client access codes to the data room, which led him to believe these terms were accepted.

This evening, after I sent you an email inquiring about how we would communicate with other potential joint bidders, you called me to advise that the terms of our Monday letter are not acceptable. I accept your explanation that the codes were sent to our client by mistake, not as an indication of acceptance of our terms.

As indicated in our correspondence, if the Monitor is not willing to commit to recognize our client's ROFR, the NDA is of no force and effect. We will destroy any documents seen and the codes we have received. We will not be participating in a bid for a larger set of assets than the shares and agreements of Gwich'in Helicopters.

We maintain our position the Monitor must honour the ROFR. Our client will endeavor to respond more quickly than its contractual right, to assist in the process.

Our client may wish to bid on the shares of Gwich'in Helicopters Limited in the normal bidding process. Please confirm that it is a Qualified Bidder notwithstanding the lack of a signed NDA.

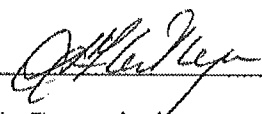
I look forward to your reply.



Ken Lenz Q.C.
Partner, Bennett Jones LLP

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E. kenzk@bennettjones.com
BennettJones.com

This is **Exhibit "7"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018

A handwritten signature in cursive script, appearing to read "J. M. [unclear]", is written over a horizontal line.

A Commissioner, etc.

Christiaan Jordaan

From: Latham, Joe <jlatham@goodmans.ca>
Sent: 10 October 2018 12:46 PM
To: Ken Lenz
Cc: Bobby Kofman (bkofman@ksvadvisory.com); David Sieradzki
Subject: RE: Great Slave Helicopters Ltd.

Ken, the Monitor has considered these issues further and has discussed the matter further with the Company. In these circumstances, the Monitor is prepared to acknowledge the ROFR, solely on the basis that your client agrees that it has a period of 15 days to respond after it receives a notice suggesting that the Company and the Monitor wish to proceed with a transaction involving the shares in the capital of Gwich'in Helicopters. As you know, time is of the essence in this restructuring.

If this works for your client, please confirm. And, in that event, please also have your client execute and return the SISP acknowledgment that was part of the teaser package sent to it.

In terms of the question you posed yesterday about the sharing of information with other indigenous communities' representatives, we would like to work with you on getting that done. In part, it may depend on how the others would become involved – separate deals or all as investors in one entity. The easy answer is to get each of them to sign an NDA with the Monitor. If you think that there is an amendment to the NDA which could accomplish this in another way, we are open to discussing same. Let us know.

Joseph Latham
 Goodmans LLP

416.597.4211
jlatham@goodmans.ca
goodmans.ca

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From: Ken Lenz [<mailto:LenzK@bennettjones.com>]
Sent: Wednesday, October 10, 2018 10:41 AM
To: Latham, Joe
Cc: James Thorbourne (James.Thorbourne@gdcgroup.ca)
Subject: Great Slave Helicopters Ltd.

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Our client may wish to bid on the shares of Gwich'in Helicopters Limited in the normal bidding process. Please confirm that it is a Qualified Bidder notwithstanding the lack of a signed NDA.

I look forward to your reply.



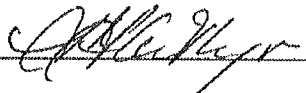
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This is **Exhibit "8"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018



A Commissioner, etc.

Christiaan Jordaan

From: Ken Lenz
Sent: 10 October 2018 4:56 PM
To: Latham, Joe
Cc: Bobby Kofman (bkofman@ksvadvisory.com); David Sieradzki; James Thorbourne (James.Thorbourne@gdcgroup.ca)
Subject: RE: Great Slave Helicopters Ltd.
Attachments: DOC038.pdf; DOC041.pdf

Joe

That is acceptable. I attach the signed NDA again, along with a copy of the acknowledgement.

In the first instance, let's let our clients discuss the practicalities of approaching the other indigenous groups, then you and I can paper it if necessary.

I appreciate the Monitor considering our position and acknowledging the importance of this issue to our client.



Ken Lenz Q.C.
Partner, Bennett Jones LLP

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Cc: Bobby Kofman (bkofman@ksvadvisory.com) <bkofman@ksvadvisory.com>; David Sieradzki <dsieradzki@ksvadvisory.com>
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If this works for your client, please confirm. And, in that event, please also have your client execute and return the SISIP acknowledgment that was part of the teaser package sent to it.

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Subject: Great Slave Helicopters Ltd.

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 Partner, Bennett Jones LLP

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November, 2018



A Commissioner, etc.

Christiaan Jordaan

From: James Thorbourne <James.Thorbourne@gdcgroup.ca>
Sent: 31 October 2018 5:01 PM
To: David Sieradzki
Cc: Ken Lenz
Subject: Offer to purchase Shares of Gwich'in Helicopters
Attachments: Deposit Confirmation.pdf; DOC049.pdf; Blackline 2 Agreement of Purchase and Sale.PDF

Hello David,

Please find two attachments:

1. Offer from Gwich'in Development Corporation to Purchase the Great Slave Helicopters Interest In Gwich'in Helicopters Limited.
2. Blackline of Standard Form Offer
3. Confirmation of \$30,000 (1.5%) Deposit sent to KSV Koffman Inc. Trust Account.

Included in the agreement, paragraph 6.12 is a due diligence condition. Depending on the Financial Position of Gwich'in Helicopters, it would be our intention to net the amounts due to Gwich'in Helicopters including the amounts remaining from the Settlement Agreement, with the amounts due to Great Slave Helicopters including the Shareholders Loan, and then pay any amounts remaining due to Great Slave. I have today wired the \$30,000 deposit, subject to the terms of the Agreement.

Regards,

James Thorbourne

James Thorbourne, CEO

PO Box 1509

Chief Jim Koe Zeh

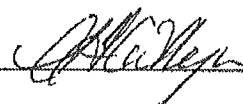
1-3 Council Crescent

Inuvik, NT X0E 0T0

Direct: 867-777-7908

Cell: 709-899-4336

This is **Exhibit "10"** referred to in the
Affidavit of **JAMES THORBOURNE**,
sworn before me this 22nd day of
November, 2018



A Commissioner, etc.

Christiaan Jordaan

From: Latham, Joe <jlatham@goodmans.ca>
Sent: 16 November 2018 6:19 PM
To: James Thorbourne
Cc: Ken Lenz; Bobby Kofman; David Sieradzki
Subject: Re: Gwich'in Helicopters Limited

Bobby's emails replying to these email chains are correct. The motion, and the Monitor's conduct, are entirely appropriate.

Joseph Latham

On Nov 16, 2018, at 5:58 PM, James Thorbourne <James.Thorbourne@gdcgroup.ca> wrote:

That is correct, or at least that is what Mr. Gillespie told me.

James

From: Ken Lenz [<mailto:LenzK@bennettjones.com>]
Sent: November-16-18 3:48 PM
To: Bobby Kofman <bkofman@ksvadvisory.com>
Cc: Latham, Joe <jlatham@goodmans.ca>; James Thorbourne <James.Thorbourne@gdcgroup.ca>; David Sieradzki <dsieradzki@ksvadvisory.com>
Subject: RE: Gwich'in Helicopters Limited

I am advised that the first the purchaser heard of the ROFR was today from my client.

Sent with BlackBerry Work
(www.blackberry.com)

From: Bobby Kofman <bkofman@ksvadvisory.com>
Date: Friday, Nov 16, 2018, 3:42 PM
To: Ken Lenz <LenzK@bennettjones.com>
Cc: Latham, Joe <jlatham@goodmans.ca>, James Thorbourne (James.Thorbourne@gdcgroup.ca) <James.Thorbourne@gdcgroup.ca>, David Sieradzki <dsieradzki@ksvadvisory.com>
Subject: Re: Gwich'in Helicopters Limited

These comments are unhelpful. The purchaser met with your client today to try to reach a deal. The allocation is a purchaser issue. I am sure the purchaser will come up with an allocation shortly and when it does, it will communicate it to you or your client. This issue does not affect our sale.

Bobby Kofman
President and Managing Director

T 1.416.932.6228
M 1.647.282.6228

KSV Advisory Inc.

bkofman@ksvadvisory.com

www.ksvadvisory.com

On Nov 16, 2018, at 5:39 PM, Ken Lenz <LenzK@bennettjones.com> wrote:

Joe

Our position is the application is premature. We expect the ROFR to be complied with in good faith. The Monitor's conduct in not obtaining an appropriate allocation and now not even attempting to comply falls well short of the standard expected.

I am in northern British Columbia today, and will not be in a position to discuss this further until Sunday.

Sent with BlackBerry Work
(www.blackberry.com)

From: Latham, Joe <jlatham@goodmans.ca>
Date: Friday, Nov 16, 2018, 11:38 AM
To: Ken Lenz <LenzK@bennettjones.com>
Cc: James Thorbourne (James.Thorbourne@gdcgroup.ca)
 <James.Thorbourne@gdcgroup.ca>, Bobby Kofman (bkofman@ksvadvisory.com)
 <bkofman@ksvadvisory.com>
Subject: RE: Gwich'in Helicopters Limited

Ken,

As I write this note, I understand that the purchaser of GSH is reaching out to your client. The Monitor's understanding is that the purchaser's proposal is to assume the obligations of GSH under its contracts with your client and the JV entity. That will also be reflected in the Monitor's report recommending the sale to the purchaser. That report will be served today and the motion is returnable next Friday. We are hopeful that the discussions between your client and the purchaser are productive and that this issue will be resolved.

If you have any questions, please call me.

Thank you,

Joseph Latham
Goodmans LLP

416.597.4211
jlatham@goodmans.ca
goodmans.ca

***** Attention *****

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From: Ken Lenz [<mailto:LenzK@bennettjones.com>]
Sent: Wednesday, November 14, 2018 5:33 PM
To: Latham, Joe
Cc: James Thorbourne (James.Thorbourne@gdcgroup.ca)
Subject: Gwich'in Helicopters Limited

Joe

Further to our call of about an hour ago, I acknowledge your advice that you believe you have a deal with an entity controlled by a Mr. Pat Campling, which would include the shares of Gwich'in Helicopters Limited (GHL).

I am concerned that you have not had the purchaser do an allocation of the purchase price for the shares of GHL, in light of the ROFR about which all have been aware throughout this process. Our client does not waive any of its rights under the ROFR, including the time in which to respond to a notice, which we reduced by agreement to accommodate the process. An application a week from this Friday would accordingly not be able to proceed. Beyond that, as discussed, we are not setting down hard positions at this point, though we are reserving all rights in that regard.

The principal of our client is prepared to meet with Mr. Campling and consider possible options. I confirm your advice that Mr. Campling will try to do that tomorrow.

Please confirm that the transaction sought to be approved, as regards GHL, is for the shares held by Great Slave Helicopters Ltd. (GSH) and that the purchaser intends, if the transaction is approved, to assume all responsibilities of GSH to GHL. In addition, and more generally, we will require all details of the transaction at least as far as it concerns our client or GHL, including a copy of the proposed agreement.

I look forward to hearing from you.

<image001.png> **Ken Lenz Q.C.**
Partner, Bennett Jones LLP

4500 Bankers Hall East, 855 - 2nd Street SW, Calgary, AB, T2P 4K7
 T. [403.298.3317](tel:4032983317) | F. [403.265.7219](tel:4032657219) | M. [403.830.3317](tel:4038303317)
 E. lenzk@bennettjones.com
BennettJones.com

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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 GREAT SLAVE
HELICOPTERS LTD.

Court File No. CV-18-604434-00CL

ONTARIO

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

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF JAMES THORBOURNE
(Sworn November 22, 2018)

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto ON M5X 1A4

Ken Lenz, Q.C. (LSA #9326)
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Telephone: (416) 863-1200
Facsimile: (416) 863-1716

Lawyers for Gwich'in Development Corporation

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

Court File No. CV-18-604434-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF GREAT SLAVE
HELICOPTERS LTD.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT
TORONTO

RESPONDING MOTION RECORD
OF GWICH'IN DEVELOPMENT CORPORATION

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto ON M5X 1A4

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Lawyers for Gwich'in Development Corporation