

Unofficial Translation¹

CANADA

PROVINCE OF QUEBEC
DISTRICT OF MONTRÉAL

File: No: 500-11-047820-143

SUPERIOR COURT
Commercial Division

Montreal, December 1, 2014

Present: The Honourable Martin Castonguay, J.S.C.

**IN THE MATTER OF THE *Companies'*
Creditors Arrangement Act, R.S.C. 1985, c. C-36,
as Amended:**

BÉTON BRUNET LTD.;

and

7507852 CANADA INC. (doing business as Next
Polymers);

and

GESTIONS R.C.F.L. INC. (doing business as
Produits de béton Soulanges);

and

LES PRODUITS DE BÉTON CASAUBON INC.;

and

DISTRIBUTION BRUNET INC.;

and

BÉTON BRUNET 2001 INC. / BRUNET
CONCRETE 2001 INC.;

and

7956517 CANADA INC. (doing business as
Industries B&X);

and

6353851 CANADA INC.;

¹ This document is an unofficial office translation of the official French version of the Rectified Initial Order. In case of discrepancies, the French version shall prevail.

and

9197-8379 QUÉBEC INC.;

and

7507917 CANADA INC.;

Debtor Companies – Petitioners

and

HSBC BANK CANADA;

and

ERNST & YOUNG INC. (Mr. Martin P. Rosenthal,
CPA, CA, CIRP);

and

7956592 CANADA INC.;

and

U.S. CONSTRUCTION SUPPLY CORP.;

and

CONCRETE PRODUCT OF THE PALM
BEACHES, INC.;

and

BERNARD BRUNET;

Mis en cause

RAYMOND CHABOT INC. (Mr. Jean Gagnon,
CPA, CA, CIRP);

Proposed Monitor

RECTIFIED INITIAL ORDER

ON READING the Debtor Companies – Petitioner’s (the “**Petitioners**”) petition for an initial order pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, C-36 (as amended the “**CCAA**”) and the exhibits, the affidavit of Bernard Brunet filed in support thereof (the “**Petition**”), the consent of Raymond Chabot Inc. to act as monitor (the “**Monitor**”), relying upon the submissions of counsel and being advised that the interested parties, including secured creditors who are likely to be affected by the charges created herein were given prior notice of the presentation of the Petition;

GIVEN the provisions of the CCAA;

GIVEN that the original initial order was rendered on November 28, 2014;

GIVEN that the original initial order contains a clerical error;

GIVEN article 475 of the *Code of Civil Procedure*.

WHEREFORE, THE COURT:

1. GRANTS the Petition.

2. ISSUES an order pursuant to the CCAA (the “**Order**”), divided under the following headings:
 - Service
 - Application of the CCAA
 - Effective Time
 - Plan of Arrangement
 - Stay of Proceedings against the Petitioners and the Property
 - Stay of Proceedings against the Directors and Officers

- Possession of Property and Operations
- No Exercise of Rights or Remedies;
- No Interference with Rights
- Continuation of Services
- Non-Derogation of Rights
- Additional Charge of HSBC to Guarantee the Excess Margin Deficit
- Directors' and Officers' Indemnification and Charge
- Restructuring
- Nomination and Powers of the Monitor
- Nomination and Powers of the Information Agent
- Priorities and General Provisions Relating to CCAA Charges
- General

2.1 RECTIFIES paragraph 18 of the Order.

Service

3. DECLARES that sufficient prior notice of the presentation of this Petition has been given by the Petitioners to interested parties, including the secured creditors who are likely to be affected by the charges created herein.

Application of the CCAA

4. DECLARES that the Petitioners are debtor companies to which the CCAA applies.

Effective time

5. DECLARES that this Order and all of its provisions are effective as of 12:01 a.m. Montreal time, province of Quebec, on the date of this Order (the "**Effective Time**").

Plan of Arrangement

6. DECLARES that the Petitioners shall have the authority to file with this Court and to submit to their creditors one or more plans of compromise or arrangement (collectively, the “**Plan**”) in accordance with the CCAA.

Stay of Proceedings against the Petitioner and the Property

7. ORDERS that, until and including December 28, 2014, or such later date as the Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Petitioners or the Mis en cause 7956592 Canada Inc., U.S. Construction Supply Corp., Concrete Product of the Palm Beaches, Inc., and Bernard Brunet (the “**Brunet Mis en cause**”) or affecting the Petitioners’ or the Brunet Mis en cause’s (excluding Bernard Brunet) business operations and activities (the “**Business**”) or the Property (as defined hereinbelow), including as provided in paragraph 11 hereinbelow except with leave of this Court. Any and all Proceedings currently under way against or in respect of the Petitioners or the Brunet Mis en cause or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court, the whole subject to subsection 11.1 CCAA.
- 7.1 The rights of Her Majesty in right of Canada and Her Majesty in right of a Province are suspended in accordance with the terms and conditions of Subsection 11.09 CCAA.

Stay of Proceedings against the Directors and Officers

8. ORDERS that during the Stay Period and except as permitted under subsection 11.03(2) of the CCAA, no Proceeding may be commenced, or continued against any former, present or future director or officer of the Petitioners nor against any person deemed to be a director or an officer of the Petitioners under subsection 11.03(3) CCAA (each, a “**Director**”, and collectively the “**Directors**”) in respect of any claim against such Director which arose prior to the Effective Time and which relates to any obligation of

the Petitioners where it is alleged that any of the Directors is under any law liable in such capacity for the payment of such obligation.

Possession of Property and Operations

9. ORDERS that the Petitioners shall remain in possession and control of their present and future assets, rights, undertakings and properties of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (collectively the “**Property**”), the whole in accordance with the terms and conditions of this order including, but not limited, to paragraph 28 hereof.
10. ORDERS that the Petitioners shall have the right, but not the obligation, to pay, with the prior approval of the Monitor, the following expenses incurred before the Order:
 - a. All pay, salaries, commissions, vacation pay (if payable), the actual costs of payments related to the contribution to retirement funds and other benefits, and the reimbursement of expenses (including, without limiting the following, the amounts paid by employees by credit cards) payable to former or current employees, in each case incurred in the normal course of business and subject to the submission of supporting documents;
 - b. All amounts due to individuals working as independent contractors or to companies employing self-employed workers for the Business of the Petitioners in the normal course of business and subject to the submission of supporting documents;

No Exercise of Rights or Remedies

11. ORDERS that during the Stay Period, and subject to, *inter alia*, subsection 11.1 CCAA, all rights and remedies of any individual, natural person, firm, corporation, partnership, limited liability company, trust, joint venture, association, organization, governmental body or agency, or any other entity (all of the foregoing, collectively being “**Persons**”

and each being a “**Person**”) against or in respect of the Petitioners or the Brunet Mis en cause, or affecting the Business, the Property or any part thereof, are hereby stayed and suspended except with leave of this Court.

12. DECLARES that, to the extent any rights, obligations, or prescription, time or limitation periods, including, without limitation, to file grievances, relating to the Petitioners or the Brunet Mis en cause or any of the Property or the Business may expire (other than pursuant to the terms of any contracts, agreements or arrangements of any nature whatsoever), the term of such rights, obligations, or prescription, time or limitation periods shall hereby be deemed to be extended by a period equal to the Stay Period. Without limitation to the foregoing, in the event that the Petitioners becomes bankrupt or a receiver as defined in subsection 243(2) of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) is appointed in respect of the Petitioners, the period between the date of the Order and the day on which the Stay Period ends shall not be calculated in respect of the Petitioners in determining the 30 day periods referred to in Sections 81.1 and 81.2 of the BIA.

No Interference with Rights

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

Continuation of Services

14. ORDERS that during the Stay Period and subject to paragraph 16 hereof and subsection 11.01 CCAA, all Persons having verbal or written agreements with the Petitioners or statutory or regulatory mandates for the supply of goods or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, utility or other goods or services made available to the Petitioners, are hereby restrained until further order of this

Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Petitioners, and that the Petitioners shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses, domain names or other services, provided in each case that the normal prices or charges for all such goods or services received after the date of the Order are paid by the Petitioners, without having to provide any security deposit or any other security, in accordance with normal payment practices of the Petitioners or such other practices as may be agreed upon by the supplier or service provider and the Petitioners, with the consent of the Monitor, or as may be ordered by this Court.

15. ORDERS that, notwithstanding anything else contained herein and subject to subsection 11.01 CCAA, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided to the Petitioners on or after the date of this Order, nor shall any Person be under any obligation on or after the date of the Order to make further advance of money or otherwise extend any credit to the Petitioners.

16. ORDERS that, without limiting the generality of the foregoing and subject to Section 21 of the CCAA, if applicable, cash or cash equivalents placed on deposit by the Petitioners with any Person during the Stay Period, whether in an operating account or otherwise for itself or for another entity, shall not be applied by such Person in reduction or repayment of amounts owing to such Person as of the date of the Order or due on or before the expiry of the Stay Period or in satisfaction of any interest or charges accruing in respect thereof; however, this provision shall not prevent any financial institution from: (i) reimbursing itself for the amount of any cheques drawn by Petitioners and properly honoured by such institution, or (ii) holding the amount of any cheques or other instruments deposited into the Petitioners' account until those cheques or other instruments have been honoured by the financial institution on which they have been drawn.

Non-Derogation of Rights

17. ORDERS that, notwithstanding the foregoing, any Person who provided any kind of letter of credit, guarantee or bond (the “**Issuing Party**”) at the request of the Petitioners shall be required to continue honouring any and all such letters, guarantees and bonds, issued on or before the date of the Order, provided that all conditions under such letters, guarantees and bonds are met save and except for defaults resulting from this Order; however, the Issuing Party shall be entitled, where applicable, to retain the bills of lading or shipping or other documents relating thereto until paid.

Additional Charge of HSBC to Guarantee the Excess Margin Deficit

18. DECLARES that in the event that the margin deficit of the Operating loan granted by HSBC Bank Canada (“**HSBC**”), as calculated according to the premises laid out by Ernst & Young Inc. in its report dated November 7, 2014 (**Exhibit R-7** in support of the Motion) (the “**Margin Deficit**”), increases following the Order, any excess of the Margin Deficit compared to that existing at the date of the Order (the “**Excess Margin Deficit**”), if applicable, is hereby secured by a charge and security on all the Property of the Petitioners for an aggregate amount of \$2,500,000 (such charge and security is referred to herein as the “**Additional Charge of HSBC to Guarantee the Excess Margin Deficit**”) in favour of HSBC. The Additional Charge of HSBC to Guarantee the Excess Margin Deficit shall have the priority established by paragraphs 45 and following of this Order;
19. ORDERS that the claims of HSBC for the Excess Margin Deficit shall not be compromised or arranged pursuant to the Plan or these proceedings and HSBC, for the Excess Margin Deficit, shall be treated as an unaffected creditor in these proceedings and in any Plan;
20. RATIFIES AND APPROVES the Forbearance Agreement dated November 28, 2014 between HSBC and the Petitioners and the Brunet Mis en cause (the “**Forbearance Agreement**”);

21. ORDERS that HSBC may:
- (a) notwithstanding any other provision of the Order, take such steps from time to time as it may deem necessary or appropriate to register, record or perfect the Additional Charge of HSBC to Guarantee the Excess Margin Deficit in all jurisdictions where it deems it is appropriate; and
 - (b) notwithstanding the terms of the paragraph to follow, refuse to make any advance to the Petitioners if the Petitioners fails to meet the provisions of the Forbearance Agreement;
22. ORDERS that HSBC shall not take any enforcement steps under the Forbearance Agreement or the Additional Charge of HSBC to Guarantee the Excess Margin Deficit without providing at least 5 business days written notice (the “**Notice Period**”) of a default thereunder to the Petitioners, the Monitor and to creditors whose rights are registered or published at the appropriate registers or requesting a copy of such notice. Upon expiry of such Notice Period, HSBC shall be entitled to take any and all steps under the Forbearance Agreement or the Additional Charge of HSBC to Guarantee the Excess Margin Deficit and otherwise permitted at law, but without having to send any demands under Section 244 of the BIA;
23. DECLARES that HSBC may, notwithstanding any other provision of this Order, take such steps from time to time as it may deem necessary or appropriate to register, record or perfect the Additional Charge of HSBC to Guarantee the Excess Margin Deficit in all jurisdictions where it deems it is appropriate;
24. ORDERS that, subject to further order of this Court, no order shall be made varying, rescinding, or otherwise affecting paragraphs 18 to 23 hereof unless either (a) notice of a motion for such order is served on HSBC by the moving party within seven (7) days after that party was served with the Order or (b) HSBC applies for or consents to such order;

Directors' and Officers' Indemnification and Charge

25. ORDERS that the Petitioners shall indemnify their Directors from all claims relating to any obligations or liabilities they may incur and which have accrued by reason of or in relation to their respective capacities as directors or officers of the Petitioners after the Effective Time, except where such obligations or liabilities were incurred as a result of such directors' or officers' gross negligence, wilful misconduct or gross or intentional fault as further detailed in Section 11.51 CCAA.
26. ORDERS that the Directors of the Petitioners shall be entitled to the benefit of and are hereby granted a charge and security in the Property to the extent of the aggregate amount of \$750,000 (the "**Directors' Charge**"), as security for the indemnity provided in paragraph 25 of this Order as it relates to obligations and liabilities that the Directors may incur in such capacity after the Effective Time. The Directors' Charge shall have the priority set out in paragraphs 48 and following of this Order.
27. ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Directors shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts for which the Directors are entitled to be indemnified in accordance with paragraph 25 of this Order.

Restructuring

28. DECLARES that, to facilitate the orderly restructuring of its business and financial affairs (the "**Restructuring**") but subject to such requirements as are imposed by the CCAA, the Petitioners shall have the right, subject to approval of the Monitor or further order of the Court, to:
 - (a) permanently or temporarily cease, downsize or shut down some of their

operations or locations as they deem appropriate and make provision for the consequences thereof in the Plan;

- (b) pursue all avenues to finance or refinance, market, convey, transfer, assign or in any other manner dispose of the Business or Property, in whole or part, subject to further order of the Court and sections 11.3 and 36 CCAA, and under reserve of subparagraph (c);
- (c) convey, transfer, assign, lease, or in any other manner dispose of the Property, outside of the ordinary course of business and with the prior consent of HSBC, in whole or in part, provided that the price in each case does not exceed \$50,000 or \$250,000 in the aggregate;
- (d) terminate the employment of such of their employees or temporarily or permanently lay off such of their employees as they deem appropriate and, to the extent any amounts in lieu of notice, termination or severance pay or other amounts in respect thereof are not paid in the ordinary course, make provision, on such terms as may be agreed upon between the Petitioners and such employee, or failing such agreement, make provision to deal with, any consequences thereof in the Plan, as the Petitioners may determine;
- (e) subject to the provisions of section 32 CCAA, disclaim or resiliate, any of its agreements, contracts or arrangements of any nature whatsoever, with such disclaimers or resiliation to be on such terms as may be agreed between the Petitioners and the relevant party, or failing such agreement, to make provision for the consequences thereof in the Plan; and
- (f) subject to section 11.3 CCAA, assign any rights and obligations of Petitioners.

29. DECLARES that, if a notice of disclaimer or resiliation is given to a landlord of the Petitioners pursuant to section 32 of the CCAA and subsection 28(e) of this Order, then

- (a) during the notice period prior to the effective time of the disclaimer or resiliation, the

landlord may show the affected leased premises to prospective tenants during normal business hours by giving the Petitioners and the Monitor 24 hours prior written notice and (b) at the effective time of the disclaimer or resiliation, the landlord shall be entitled to take possession of any such leased premises and re-lease any such leased premises to third parties on such terms as any such landlord may determine without waiver of, or prejudice to, any claims or rights of the landlord against the Petitioners, provided nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

30. ORDERS that the Petitioners shall provide to any relevant landlord notice of the Petitioners' intention to remove any fittings, fixtures, installations or leasehold improvements at least seven (7) days in advance. If the Petitioners have already vacated the leased premises, they shall not be considered to be in occupation of such location pending the resolution of any dispute between the Petitioners and the landlord.
31. DECLARES that, in order to facilitate the Restructuring, the Petitioners may, subject to the approval of the Monitor, or further order of the Court, settle claims of customers and suppliers that are in dispute.
32. DECLARES that, pursuant to sub-paragraph 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5, the Petitioners are permitted, in the course of these proceedings, to disclose personal information of identifiable individuals in its possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to its advisers (individually, a "**Third Party**"), but only to the extent desirable or required to negotiate and complete the Restructuring or the preparation and implementation of the Plan or a transaction for that purpose, provided that the Persons to whom such personal information is disclosed enter into confidentiality agreements with the Petitioners binding them to maintain and protect the privacy of such information and to limit the use of such information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to the

Petitioners or destroyed. In the event that a Third Party acquires personal information as part of the Restructuring or the preparation or implementation of the Plan or a transaction in furtherance thereof, such Third Party may continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioners.

Nomination and Powers of the Monitor

33. ORDERS that Raymond Chabot Inc. is hereby appointed to monitor the business and financial affairs of the Petitioners as an officer of this Court (the “**Monitor**”) and that the Monitor, in addition to the prescribed powers and obligations, referred to in Section 23 of the CCAA:

- (a) shall, without delay (A) post on the Monitor’s website (the “**Website**”) a notice containing the information prescribed under the CCAA, (B) make this Order publicly available in the manner prescribed under the CCAA, (C) send, in the prescribed manner, a notice to all known creditors having a claim against the Petitioners of more than \$1,000, advising them that the Order is publicly available, and (D) prepare a list showing the names and addresses of such creditors and the estimated amounts of their respective claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder;
- (b) shall monitor the Petitioners’ receipts and disbursements;
- (c) shall assist the Petitioners, to the extent required by the Petitioners, in dealing with their creditors and other interested Persons during the Stay Period;
- (d) shall assist the Petitioners, to the extent required by the Petitioners, with the preparation of their cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;

- (e) shall advise and assist the Petitioners, to the extent required by the Petitioners, to review the Petitioners' business and assess opportunities for cost reduction, revenue enhancement and operating efficiencies;
- (f) shall assist the Petitioners, to the extent required by the Petitioners, with the Restructuring and in their negotiations with their creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;
- (g) shall report to the Court on the state of the business and financial affairs of the Petitioners or developments in these proceedings or any related proceedings within the time limits set forth in the CCAA and at such time as considered appropriate by the Monitor or as the Court may order;
- (h) shall report to this Court and interested parties, including but not limited to creditors affected by the Plan, with respect to the Monitor's assessment of, and recommendations with respect to, the Plan;
- (i) may retain and employ such agents, advisers and other assistants as are reasonably necessary for the purpose of carrying out the terms of the Order, including, without limitation, one or more entities related to or affiliated with the Monitor;
- (j) may engage legal counsel to the extent the Monitor considers necessary in connection with the exercise of its powers or the discharge of its obligations in these proceedings and any related proceeding, under the Order or under the CCAA;
- (k) may act as a "foreign representative" of the Petitioners or in any other similar capacity in any insolvency, bankruptcy or reorganisation proceedings outside of Canada;

- (l) may give any consent or approval as may be contemplated by the Order or the CCAA; and
- (m) may perform such other duties as are required by the Order or the CCAA or by this Court from time to time.

Unless expressly authorized to do so by this Court, the Monitor shall not otherwise interfere with the business and financial affairs carried on by the Petitioners, and the Monitor is not empowered to take possession of the Property nor to manage any of the business and financial affairs of the Petitioners.

34. ORDERS that the Petitioners and their Directors, officers, employees and agents, accountants, auditors and all other Persons having notice of the Order shall forthwith provide the Monitor with unrestricted access to all of the Business and Property, including, without limitation, the premises, books, records, data, including data in electronic form, and all other documents of the Petitioners in connection with the Monitor's duties and responsibilities hereunder.
35. DECLARES that the Monitor may provide creditors and other relevant stakeholders of the Petitioners with information in response to requests made by them in writing addressed to the Monitor and copied to the Petitioners' and HSBC's counsels. In the case of information that the Monitor has been advised by the Petitioners is confidential, proprietary or competitive, the Monitor shall not provide such information to any Person without the consent of the Petitioners unless otherwise directed by this Court.
36. DECLARES that if the Monitor, in its capacity as Monitor, carries on the business of the Petitioners or continues the employment of the Petitioners' employees, the Monitor shall benefit from the provisions of section 11.8 of the CCAA.
37. DECLARES that no action or other proceedings shall be commenced against the Monitor relating to its appointment, its conduct as Monitor or the carrying out the provisions of any order of this Court, except with prior leave of this Court, on at least seven days notice to the

Monitor and its counsel. The entities related to or affiliated with the Monitor referred to in subparagraph 33(i) hereof shall also be entitled to the protection, benefits and privileges afforded to the Monitor pursuant to this paragraph.

Nomination and Powers of the Information Agent

38. ORDERS that Ernst & Young Inc. is hereby appointed to act as information agent (“**Information Agent**”) for the primary secured creditor of the Petitioners, HSBC, until the earlier of the following dates:

- (a) the date on which the Plan (or the Plans, where applicable) of the Petitioners is approved by the requisite majority of creditors and ratified by this Court;
- (b) the date on which an agreement is reached between the Petitioners and HSBC regarding the repayment of the debt to HSBC; or
- (c) the date of an order of this Court providing for the end of the Information Agent’s role;

39. ORDERS that the Information Agent shall have the necessary powers to perform the following duties, at its discretion:

- (a) monitor the evolution of receipts, disbursements, receivables and inventories of the Petitioners, including for the purposes of calculating the margin and the Excess Margin Deficit, if applicable;
- (b) analyze and monitor the debt of the Debtors toward HSBC and the assets encumbered in favour of HSBC, in particular to establish any margin deficit;
- (c) have access to the necessary information to exercise its duties;
- (d) communicate with and disseminate information and reports to HSBC, the Petitioners and/or the Monitor;
- (e) retain counsel to the extent that the Information Agent deems it necessary to perform its duties.

40. ORDERS that the Petitioners and the Monitor collaborate with the Information Agent in the

exercise of its duties, and ORDERS that the Information Agent collaborate with the Monitor in the exercise of its duties.

41. ORDERS that the Petitioners and their Directors, officers, employees and agents, accountants, auditors and all other Persons having notice of the Order shall provide the Information Agent with access to the documents and information regarding the Property and Business of the Petitioners, the whole in accordance with the Forbearance Agreement.
42. DECLARES that the nomination of the Information Agent and the powers that are granted to it shall not be interpreted as limiting the rights and recourses of HSBC, and HSBC reserves all of its rights in this regard.
43. DECLARES that the Information Agent shall not interfere with the operation of the business and the financial affairs of the Petitioners, and that it does not have the power to take possession of the Property, nor to manage the operation of the business or the financial affairs of the Petitioners.
44. DECLARES that no action or other proceedings shall be commenced against the Information Agent relating to its appointment, its conduct as Information Agent or the carrying out the provisions of any order of this Court, except with prior leave of this Court, on at least seven days (7) notice to the Information Agent.

Priorities and General Provisions Relating to CCAA Charges

45. ORDERS that Petitioners shall pay the reasonable fees and disbursements of the Monitor, the Monitor's legal counsel, the Petitioners' legal counsel and other advisers of the Petitioners, directly related to these proceedings, the Plan and the Restructuring, whether incurred before or after the Order, and shall provide each with a reasonable retainer in advance on account of such fees and disbursements, if so requested.
46. DECLARES that the Monitor, the Monitor's legal counsel, the Petitioners' legal counsel and the Monitor and the Petitioners' respective advisers, as security for the professional fees and disbursements incurred both before and after the making of the Order and directly related to

these proceedings, the Plan and the Restructuring, be entitled to the benefit of and are hereby granted a charge and security in the Property of the Petitioners to the extent of the aggregate amount of \$500,000 (the “**Administration Charge**”), having the priority established by paragraphs 48 and following hereof.

47. DECLARES that the priorities of the Additional Charge of HSBC to Guarantee the Excess Margin Deficit, the Administration Charge and Directors' Charge (collectively, the “**CCAA Charges**”), as between them with respect to any Property to which they apply, shall be as follows:

(a) first, the Administration Charge;

(b) second, the Additional Charge of HSBC to Guarantee the Excess Margin Deficit;
and

(c) third, the Director’s Charge;

48. DECLARES that each of the CCAA Charges shall rank in priority to any and all other hypothecs, mortgages, liens, security interests, priorities, charges, encumbrances or security of whatever nature or kind (collectively, the “**Encumbrances**”) affecting the Property charged by such CCAA Charges.

49. ORDERS that, except as otherwise expressly provided for herein, the Petitioners shall not grant any Encumbrances in or against any Property that rank in priority to, or *pari passu* with, any of the CCAA Charges unless the Petitioners obtain the prior written consent of the Monitor, of HSBC, and the prior approval of the Court.

50. DECLARES that each of the CCAA Charges shall attach, as of the Effective Time, to all present and future Property of the Petitioners, notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent.

51. DECLARES that the CCAA Charges and the rights and remedies of the beneficiaries of such Charges, as applicable, shall be valid and enforceable and shall not otherwise be limited or

impaired in any way by: (i) these proceedings and the declaration of insolvency made herein; (ii) any petition for a receiving order filed pursuant to the BIA in respect of the Petitioners or any receiving order made pursuant to any such petition or any assignment in bankruptcy made or deemed to be made in respect of the Petitioners; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any agreement, lease, sub-lease, offer to lease or other arrangement which binds the Petitioners (a “**Third Party Agreement**”), and notwithstanding any provision to the contrary in any Third Party Agreement:

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

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

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

General

54. ORDERS that no Person shall commence, proceed with or enforce any Proceedings against any of the Directors, employees, legal counsel or financial advisers of the Petitioners or of the Monitor in relation to the Business or Property of the Petitioners, without first obtaining leave of this Court, upon five (5) days written notice to the Petitioners' and HSBC's counsels and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.
55. DECLARES that the Order and any proceeding or affidavit leading to the Order, shall not, in and of themselves, constitute a default or failure to comply by the Petitioners under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.
56. ORDERS that the financial statements produced and/or the balance sheets communicated and the cash flow projections and other financial projections as part of these proceedings under the CCAA, including Exhibit R-1, the Schedules to Exhibit H-3 and the Monitor's Report on the cash flow projections dated November 27, 2014, shall be declared confidential and placed under seal by the Court and this, until the Court orders otherwise or a written agreement is provided by the Petitioners or the Monitor.
57. DECLARES that, except as otherwise specified herein, the Petitioners and the Monitor are at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective given addresses as last shown on the records of the Petitioners and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
58. DECLARES that the Petitioners and any party to these proceedings may serve any court materials in these proceedings on all represented parties electronically, by emailing a PDF or

other electronic copy of such materials to counsels' email addresses, provided that the Petitioners shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.

59. DECLARES that, unless otherwise provided herein, under the CCAA, or ordered by this Court, no document, order or other material need be served on any Person in respect of these proceedings, unless such Person has served a Notice of Appearance on the solicitors for the Petitioners and the Monitor and has filed such notice with this Court, or appears on the service list prepared by the monitor or its attorneys, save and except when an order is sought against a Person not previously involved in these proceedings;
60. DECLARES that the Petitioners or the Monitor may, from time to time, apply to this Court for directions concerning the exercise of their respective powers, duties and rights hereunder or in respect of the proper execution of the Order on notice only to each other.
61. DECLARES that any interested Person may apply to this Court to vary or rescind the Order or seek other relief upon five (5) days' notice to the Petitioners, the Monitor and to HSBC, as follows:

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as well as to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order, such application or motion shall be filed during the Stay Period ordered by this Order, unless otherwise ordered by this Court;

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

63. DECLARES that the Monitor, with the prior consent of the Petitioners, shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or

administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which the Monitor shall be the foreign representative of the Petitioners. All courts and administrative bodies of all such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

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

65. ORDERS the provisional execution of the Order notwithstanding any appeal.

December 1, 2014

Honourable Martin Castonguay, j.c.s.