

CANADA

SUPERIOR COURT

PROVINCE OF QUEBEC

Commercial Division

DISTRICT OF MONTRÉAL

File: No: 500-11-044191-134

Montreal, March 1st, 2013

Presiding: The Honourable Justice Mark Schragar,
J.S.C.

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

EFFIGI INC.

Petitioner

And

RICHTER ADVISORY GROUP INC.

Monitor

INITIAL ORDER

ON READING the petition of Effigi Inc. (hereinafter "**Effigi**") 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 Ryan Bohr filed in support thereof (the "**Petition**"), the consent of Richter Advisory Group Inc. to act as monitor (the "**Monitor**"), relying upon the

submissions of counsel and being advised that 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;

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 Petitioner 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
 - Directors' and Officers' Indemnification and Charge
 - Restructuring
 - Powers of the Monitor
 - Priorities and General Provisions Relating to CCAA Charges
 - General

Service

3. **DECLARES** that sufficient prior notice of the presentation of this Petition has been given by the Petitioner to the secured creditors who are likely to be affected by the charges created herein.

Application of the CCAA

4. **DECLARES** that the Petitioner is a debtor company 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. Eastern Standard / Daylight Time on the date of this Order (the "**Effective Time**").

Plan of Arrangement

6. **DECLARES** that the Petitioner shall have the authority to file with this Court and to submit to its 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 April 2nd, 2013, or such later date as the Court may order (the "**Stay Period**"), no right, remedy, enforcement process or proceedings (collectively the "**Proceedings**") may be exercised, commenced or continued by anyone, whether a person, firm, partnership, company, corporation, financial institution, trust, bank, joint venture, association, organization, agency, government, administration or any other entity (collectively "**Persons**" and individually a "**Person**") against or in respect of the Petitioner, or any of the present or future property, assets, sums, rights and undertakings of the Petitioner, of any nature or in any location (including in bank accounts, wherever situated) (collectively the "**Property**") or affecting the Petitioner's business operations and activities (collectively the "**Business**") except with leave of this Court. Any and all Proceedings already commenced against or in respect of the Petitioner or affecting the Business or the Property are hereby stayed and suspended until the Court authorizes the continuation thereof, the whole subject to subsection 11.1 and any other applicable provisions of the 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, officer or executive who manages the business, commercial activities and internal affairs of the Petitioner nor against any person deemed to be a director or an officer of the Petitioner 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 Petitioner 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 Petitioner shall remain in possession and control of its Property.
10. **ORDERS** that the Petitioner shall continue to carry on its operations and financial affairs, including the business and affairs of any Person owned by a Petitioner or in which Petitioner owns an interest in a manner consistent with the commercially reasonable preservation thereof.
11. **ORDERS** that the Petitioner shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, the “**Assistant**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.
12. **ORDERS** that, except as otherwise provided to the contrary herein, the Petitioner shall be entitled to pay all reasonable expenses incurred in carrying on the Business in the ordinary course from and after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) All expenses and capital expenditures reasonably necessary for the

preservation of its Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

- (b) Payment for goods or services actually delivered or supplied to the Petitioner from the date of this Order.

13. **ORDERS** that the Petitioner shall be entitled but not compelled to pay the following expenses incurred prior to this Order, with the prior approval of the Monitor:

- (a) All wages, salaries, commissions, vacation pay (when due) and other benefits and reimbursement of expenses (including, without limitation, amounts charged by employees to credit cards) payable to former or current employees, managers or directors, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) All amounts owing to or in respect of individuals working as independent contractors in connection with the Business;
- (c) All amounts payable to third party customs brokers, agents, freight carriers, freight forwarders, shippers and creditors with the right of retention;
- (d) All amounts payable to third party agencies that sell Effigi's product;
- (e) All outstanding amounts payable in respect of gift-cards, credits and other customers certificates.

14. **ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Petitioner shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Petitioner and the landlord from time to time (hereinafter the "**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and the fifteenth

day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

No Exercise of Rights or Remedies

15. **ORDERS** that during the Stay Period, and subject to, *inter alia*, subsection 11.1 CCAA, all rights and remedies of any Person against or in respect of the Petitioner, or affecting the Business, the Property or any part thereof, are hereby stayed and suspended except with leave of this Court.
16. **ORDERS** that, without limiting the generality of the foregoing, but subject to subsections 11.1 and 34(7) of the CCAA, during the Stay Period, all Persons having oral or written agreements, contracts or arrangements, including insurance or similar agreements/instruments with the Petitioner or in connection with any of the Property or the Business, for any subject or purpose:
 - (a) Are restrained from accelerating, altering, terminating, cancelling, suspending, modifying, refusing to renew or extend on reasonable terms such agreements, contracts or arrangements or the rights of the Petitioner;
 - (b) Are restrained from modifying, suspending or otherwise interfering with the supply of any goods, services or other benefits including, without limitation, any directors' and officer' insurance, any telephone numbers, any form of communication, banking or financial services and any oil, gas, water, steam, electricity or other utility supply; and
 - (c) Shall continue to perform and observe the terms and conditions contained in such agreements, contracts or arrangements, so long as, the Petitioner pays normal prices or charges for such goods and services received after the date of this Order as such prices or charges become due in accordance with normal payment practices or as may be hereinafter negotiated and agreed by Petitioner with the consent of the Monitor, without having to provide any guarantee, security or deposit whether by way of cash, letter of credit, stand-

by fees or similar items.

17. **ORDERS** that all credit card issuers or merchant services providers are enjoined and restrained from cancelling or otherwise terminating or varying any contract, agreement or arrangement (oral or written) with the Petitioner with respect to the acceptance of credit cards or debit cards as a means of payment and from stopping, withholding, redirecting, interfering or otherwise varying the conditions of payment to the Petitioner for goods and services charged to such credit cards in accordance with the usual practice between the Petitioner and such merchant service providers as they existed immediately prior to the issuance of this Order, provided that the Petitioner makes all payments, if any, accruing, and performs all other acts required from them, in accordance with such contracts, agreements or arrangements after the date of this Order, when the same become due in accordance with the existing terms.
18. **ORDERS** that no public or private utility may discontinue or seek to discontinue service to the Petitioner, without a specific order of this Court, notwithstanding any disagreement with the Petitioner as to the payment terms applicable for services rendered after the date of the present Order.
19. **DECLARES** that, to the extent any rights, obligations, or prescription, time or limitation periods, including, without limitation, to file grievances, relating to the Petitioner 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 Petitioner 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 Petitioner, the period between the date of the Order and the day on which the Stay Period ends shall not be calculated in respect of the Petitioner in determining the 30 day periods referred to in Sections 81.1 and 81.2 of the BIA.

No Interference with Rights

20. **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 Petitioner, except with the written consent of the Petitioner and the Monitor, or with leave of this Court.
21. **ORDERS** that, without limiting the foregoing, up to and including the end of the Stay Period, no Person having any agreement, lease, sublease or arrangement with the owners, operators, managers or landlords of leased premises where the Petitioner conducts its Business including where there are stores owned or operated by the Petitioner, shall purport to take any proceedings or to exercise any rights as described in this Order under such agreement, lease, sublease or arrangement that may arise upon the making of this Order or as a result of any steps taken by the Petitioner pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such agreement, lease, sublease or arrangement.

Continuation of Services

22. **ORDERS** that, without limiting the generality of the foregoing, during the Stay Period and subject to paragraph 22 hereof and subsection 11.01 CCAA, all Persons having verbal or written agreements with the Petitioner 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 Petitioner, 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 Petitioner, and that the Petitioner shall be entitled to the continued use of its 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 Petitioner, without having to provide any security deposit or any other security, in accordance with normal payment practices of the Petitioner or such other practices as may be agreed upon by the supplier or service provider and the Petitioner, with the consent of the Monitor, or as may be ordered by this Court.

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

Non-Derogation of Rights

25. **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 Petitioner 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.

Directors' and Officers' Indemnification and Charge

26. **ORDERS** that, in addition to any existing indemnities, the Petitioner shall indemnify its Directors from and against the following (collectively the “**D&O Claims**”): all costs, charges, expenses and 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 Petitioner 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; The foregoing shall not constitute a contract of insurance or other valid and collectible insurance, as such term may be used in any existing policy of insurance issued in favour of Petitioner.
27. **ORDERS** that the Directors of the Petitioner 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 24 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 40 and 41 of this Order.
28. **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 24 of this Order.

Restructuring

29. **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 Petitioner shall have the right, subject to approval of the Monitor or further order of the Court, to:

- (a) permanently or temporarily cease, downsize or shut down any of its operations or locations as it deems 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;
- (c) convey, transfer, assign, lease, or in any other manner dispose of the Property, outside of the ordinary course of business, in whole or in part, provided that the price in each case does not exceed \$100,000 or \$500,000 in the aggregate;
- (d) terminate the employment of such of its employees or temporarily or permanently lay off such of its employees as it deems appropriate and, to the extent any amounts in lieu of notice, termination or severance pay or other amounts in respect thereof are not paid in the ordinary course, make provision, on such terms as may be agreed upon between the Petitioner and such employee, or failing such agreement, make provision to deal with, any consequences thereof in the Plan, as the Petitioner may determine;
- (e) in accordance with paragraph 28 and 29, vacate, abandon or quit any leased premises and/or repudiate any real property lease and any ancillary agreements relating to leased premises, on not less than thirty (30) days’ notice in writing to the relevant landlord on such terms as may be agreed upon between the Petitioner and such landlord, or failing such agreement, to deal with the consequences thereof in the Plan;

- (f) 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 Petitioner and the relevant party, or failing such agreement, to make provision for the consequences thereof in the Plan;
- (g) subject to section 11.3 CCAA, assign any rights and obligations of Petitioner; and
- (h) nothing herein contained shall be interpreted as altering any terms and conditions of a lease of the Petitioner or authorizing a breach thereof.

30. **DECLARES** that, if a notice of disclaimer or resiliation is given to a landlord of the Petitioner pursuant to section 32 of the CCAA and subsection 27(f) of this Order, then (a) during the notice period prior to the effective time of the disclaimer of resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours by giving the Petitioner 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 Petitioner, provided nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.
31. **ORDERS** that the Petitioner shall provide to any relevant landlord notice of the Petitioner's intention to remove any fittings, fixtures, installations or leasehold improvements at least seven (7) days in advance. If the Petitioner has already vacated the leased premises, it shall not be considered to be in occupation of such location pending the resolution of any dispute between the Petitioner and the landlord.
32. **ORDERS** that, subject to the other provisions of this Order and any further Order of this Court, the Petitioner shall be permitted to dispose of any or all of the Property located (or formerly located) at such leased premises without any interference of any

kind from landlords and, for greater certainty, the Petitioner shall have the right to realize upon the Property and other assets in such manner and at such locations, including leased premises, as they deem suitable or desirable for the purpose of maximizing the proceeds and recovery therefrom. Nothing herein contained shall be interpreted as altering any terms and conditions of a lease of the Petitioner or authorizing a breach thereof.

33. **DECLARES** that, in order to facilitate the Restructuring, the Petitioner may, subject to the approval of the Monitor, or further order of the Court, settle claims of customers and suppliers that are in dispute.
34. **DECLARES** that, pursuant to sub-paragraph 7(3)(c) of the Personal Information Protection and Electronic Documents Act, S.C. 2000, c.5, the Petitioner is permitted, in the course of these proceedings, to disclose personal information of identifiable individuals in its possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to its advisers (individually, a “**Third Party**”), but only to the extent desirable or required to negotiate and complete the Restructuring or the preparation and implementation of the Plan or a transaction for that purpose, provided that the Persons to whom such personal information is disclosed enter into confidentiality agreements with the Petitioner binding them to maintain and protect the privacy of such information and to limit the use of such information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to the Petitioner 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 Petitioner.

Powers of the Monitor

35. **ORDERS** that Richter Advisory Group Inc. is hereby appointed to monitor the business and financial affairs of the Petitioner as an officer of this Court and that the Monitor, in addition to the prescribed powers and obligations, referred to in Section 23 of the CCAA:

- (a) shall, without delay, (i) publish once a week for two (2) consecutive weeks or as otherwise directed by the Court, in La Presse and Globe and Mail National Edition and (ii) within five (5) business days after the date of this Order (A) post on the Monitor's website (the "**Website**") a notice containing the information prescribed under the CCAA, as well as copies of all proceedings and exhibits filed in these proceedings (including a compare version of this Order with the model order published by the Commercial Division of this Court) (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 Petitioner 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 Petitioner's receipts and disbursements;
- (c) shall assist the Petitioner, to the extent required by the Petitioner, in dealing with its creditors and other interested Persons during the Stay Period;
- (d) shall assist the Petitioner, to the extent required by the Petitioner, with the preparation of its cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;
- (e) shall advise and assist the Petitioner, to the extent required by the Petitioner, to review the Petitioner's business and assess opportunities for cost

reduction, revenue enhancement and operating efficiencies;

- (f) shall assist the Petitioner, to the extent required by the Petitioner, with the Restructuring and in its negotiations with its creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;
- (g) shall report to the Court on the state of the business and financial affairs of the Petitioner or developments in these proceedings or any related proceedings within the time limits set forth in the CCAA and at such time as considered appropriate by the Monitor or as the Court may order;
- (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 Petitioner 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 Petitioner, and the Monitor is not empowered to take possession of the Property nor to manage any of the business and financial affairs of the Petitioner.

36. **ORDERS** that the Petitioner and its 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 Petitioner in connection with the Monitor's duties and responsibilities hereunder.
37. **DECLARES** that the Monitor may provide creditors and other relevant stakeholders of the Petitioner with information in response to requests made by them in writing addressed to the Monitor and copied to the Petitioner's counsel. In the case of information that the Monitor has been advised by the Petitioner is confidential, proprietary or competitive, the Monitor shall not provide such information to any Person without the consent of the Petitioner unless otherwise directed by this Court.
38. **DECLARES** that if the Monitor, in its capacity as Monitor, carries on the business of the Petitioner or continues the employment of the Petitioner's employees, the Monitor shall benefit from the provisions of section 11.8 of the CCAA.
39. **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.
40. **ORDERS** that Petitioner shall pay the reasonable fees and disbursements of the Monitor, the Monitor's legal counsel, the Petitioner's legal counsel and other advisers, 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.

41. **DECLARES** that the Monitor, the Monitor's legal counsel, if any, the Petitioner's legal counsel and the Monitor and the Petitioner's 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 to the extent of the aggregate amount of \$500,000 (the "**Administration Charge**"), having the priority established by paragraphs 40 and 41 hereof.

Priorities and General Provisions Relating to CCAA Charges

42. **DECLARES** that the priorities of the Administration Charge and the 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 Directors' Charge;
43. **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 Encumbrances, save and except for the Encumbrances in favor of Wells Fargo Capital Finance Corporation Canada.
44. **ORDERS** that the filing, registration or perfection of each of the CCAA Charges shall not be required, and that each of the CCAA Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to each of the CCAA Charges coming into existence, notwithstanding any such failure to file, register, record or perfect;
45. **ORDERS** that, except as otherwise expressly provided for herein, the Petitioner shall not grant any Encumbrances in or against any Property that rank in priority to, or *pari*

passu with, any of the CCAA Charges unless the Petitioner obtains the prior written consent of the Monitor and the prior approval of the Court.

46. **DECLARES** that each of the CCAA Charges shall attach, as of the Effective Time, to all present and future Property of the Petitioner, notwithstanding any requirement for the consent of any party to any such charge or to comply with any condition precedent.
47. **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 Petitioner or any receiving order made pursuant to any such petition or any assignment in bankruptcy made or deemed to be made in respect of the Petitioner; or (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any agreement, lease, sub-lease, offer to lease or other arrangement which binds the Petitioner (a "**Third Party Agreement**"), and notwithstanding any provision to the contrary in any Third Party Agreement:
- (a) the creation of any of the CCAA Charges shall not create or be deemed to constitute a breach by the Petitioner of any Third Party Agreement to which it is a party; and
 - (b) any of the beneficiaries of the CCAA Charges shall not have liability to any Person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the CCAA Charges.
48. **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 Petitioner and any receiving order allowing such petition or any assignment in bankruptcy made or deemed to be made in respect of the Petitioner, and (iii) the provisions of any federal or provincial statute, the payments or disposition of

Property made by the Petitioner pursuant to the Order and the granting of the CCAA Charges, do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law.

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

General

50. **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 Petitioner or of the Monitor in relation to the Business or Property of the Petitioner, without first obtaining leave of this Court, upon five (5) days written notice to the Petitioner's counsel and to all those referred to in this paragraph whom it is proposed be named in such Proceedings.
51. **DECLARES** that Wells Fargo Capital Finance Corporation Canada is unaffected by the stay of proceedings contained in this Order;
52. **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 Petitioner under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other written document or requirement.
53. **ORDERS** that the Petitioner's financial statements and cash flow statements, Exhibit P-3 to P-5 and P-8, be kept confidential and under seal in the office of counsel for the Petitioner until, as the case may be, further order of this Court. However, all creditors of the Petitioner shall be entitled to obtain disclosure of the said Exhibits upon written request and provided they have signed a confidentiality agreement in standard form.

54. **DECLARES** that, except as otherwise specified herein, the Petitioner 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 Petitioner and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
55. **DECLARES** that the Petitioner 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 Petitioner shall deliver "hard copies" of such materials upon request to any party as soon as practicable thereafter.
56. **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 Petitioner 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;
57. **DECLARES** that the Petitioner 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.
58. **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 Petitioner, to counsel to Petitioner (Borden Ladner Gervais L.L.P. c/o Marc Duchesne), to the Monitor (Richter Inc., c/o Gilles Robillard and Andrew Adessky), to the Monitor's counsel (Stikeman

Elliot L.L.P., c/o Guy P. Martel) and to Wells Fargo's counsel (Fishman Flanz Meland Paquin L.L.P. c/o Nicolas Beaudin):

- (i) Me Marc Duchesne – mduchesne@blg.com
Borden Ladner Gervais L.L.P.
1000 de la Gauchetière St West, Suite 900
Montreal, Quebec (H3B 5H4)

Me Vanessa Jodoin – vjodoin@blg.com
Borden Ladner Gervais L.L.P.
1000 de la Gauchetière St West, Suite 900
Montreal, Quebec (H3B 5H4)
- (ii) M. Gilles Robillard – grobillard@richter.ca
Richter Advisory Group Inc.
1981 McGill College
Montreal, Quebec (H3A 0G6)

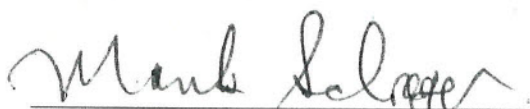
M. Andrew Adessky – aadessky@richter.ca
Richter Advisory Group Inc.
1981 McGill College
Montreal, Quebec (H3A 0G6)
- (iii) Me Guy P. Martel – gmartel@stikeman.com
Stikeman Elliot L.L.P.
1155 René-Lévesque Blvd. West, Suite 4000
Montréal, Quebec (H3B 3V2)
- (iv) Me Nicolas Beaudin – nbeaudin@ffmp.ca
Fishman Flanz Meland Paquin L.L.P.
1250 René-Lévesque Blvd. West, Suite 4100
Montreal, Quebec (H3B 4W8)

- 59. **DECLARES** that the Order and all other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
- 60. **DECLARES** that the Monitor, with the prior consent of the Petitioner, shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement the Order and any subsequent orders of this Court and, without limitation to the foregoing, an order under Chapter 15 of the *U.S. Bankruptcy Code*, for which the Monitor shall be the foreign representative of the Petitioner. All courts and administrative bodies of all

such jurisdictions are hereby respectively requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

61. **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.
62. **ORDERS** the provisional execution of the Order notwithstanding any appeal.

Montreal, March 1st, 2013


Honourable Justice Mark Schrager,
J.S.C.

COPIE CONFORME

Greffier adjoint