

NO. _____
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE *CANADA BUSINESS CORPORATIONS ACT*, R.S.C. 1985, c. C-44

AND

IN THE MATTER OF PAKIT INC.

PETITIONER

PETITION TO THE COURT

ON NOTICE TO:

FAIRFAX FINANCIAL HOLDINGS LIMITED and CRAIG BARTON

This proceeding has been started by the Petitioner for the relief set out in Part 1 below.

If you intend to respond to this Petition, you or your lawyer must

- (a) file a Response to Petition in Form 67 in the above-named registry of this court within the time for Response to Petition described below, and
- (b) serve on the Petitioner:
 - (i) 2 copies of the filed Response to Petition, and
 - (ii) 2 copies of each filed Affidavit on which you intend to rely at the hearing

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the Response to Petition within the time for response.

TIME FOR RESPONSE TO PETITION

A Response to Petition must be filed and served on the Petitioner,

- (a) if you were served with the Petition anywhere in Canada, within 21 days after that service,
- (b) if you were served with the Petition anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the Petition anywhere else, , within 49 days after that service, or
- (d) if the time for response has been set by order of the court, within that time.

(1) **The address of the registry is:**

The Law Courts
800 Smithe Street
Vancouver, BC

(2) **The ADDRESS FOR SERVICE of the Petitioner is:**

McCarthy Tétrault LLP
Barristers & Solicitors
#1300 - 777 Dunsmuir Street
Vancouver, BC V7Y 1K2

Attention: Warren Milman

DIRECT FAX number for service (if any):	604-622-5704
EMAIL address for service (if any):	wmilman@mccarthy.ca

(3) **Name and office address of the Petitioner's lawyer:**

(same as above)

CLAIM OF THE PETITIONER

PART 1. ORDER SOUGHT

The Petitioner applies to this Court for:

1. a Declaration that the Petitioner is a corporation to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") applies;
2. an order authorizing and permitting the Petitioner to file with this Court a formal plan of compromise or arrangement between the Petitioner and its creditors (the "Plan"), pursuant to the provisions of the CCAA, at such time as may be directed by the Court;
3. an order that, upon filing of the Plan, the Petitioner call a meeting (the "Meeting") of the affected classes of their creditors to vote upon the Plan;
4. an order that, until further order of this Court, all proceedings against the Petitioner be stayed, and the Petitioner's operations be carried out in accordance with the express terms of the draft order attached to this Petition as **Schedule A** (the "Initial Order"), with liberty to seek to extend the terms of such Initial Order at the hearing of the Petition;
5. an order that the Petitioner be at liberty to serve all pleadings and notices and related materials (including the Plan) in this proceeding on any of its creditors by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, fax transmission or email to the Petitioner's creditors at their respective addresses as last shown on the records of the Petitioner, and any such service or notice by courier, personal delivery, fax transmission or email shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing, and that the time for filing a Response be abridged to 4 days;
6. such directions as may be required from time to time respecting the presentation of the Plan to the creditors of the Petitioner and, if subsequently required, a proof of claim process, conduct of the Meeting and related matters;
7. an order defining the classes of creditors of the Petitioner for the purposes of meetings with respect to, and voting upon, the Plan;

8. an order sanctioning and approving the Plan with such amendments as may be proposed by the creditors of the Petitioner and approved by the Petitioner or as may be proposed by the Petitioner;
9. an order that the orders of these proceedings shall have full force and effect in all provinces and territories of Canada and any other foreign country where creditors of the Petitioner are domiciled;
10. an order 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 this 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 and that all courts and administrative bodies of all such jurisdictions be requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose;
11. an order requesting 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; and
12. such further and other orders as this Court may deem proper under the circumstances.

PART 2. FACTUAL BASIS

Petitioner

1. The Petitioner is a company incorporated under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44. The Petitioner was incorporated on August 3, 2000 under the name of 3794636 Canada Inc., changed its name to Pak-IT Technologies Inc. on March 15, 2001, and changed to its current name on August 5, 2005. The Petitioner's corporate office is located at

1050 West Pender Street, Suite 2250, Vancouver, British Columbia V6E 3S7 and its registered office is located at Suite 1300 – 777 Dunsmuir Street, Vancouver, British Columbia, V7Y 1K2..

2. The Petitioner is a privately-held, non-reporting issuer. The Petitioner has operating subsidiaries in the United States, Barbados, and Sweden, as described below. The Petitioner's operations and reporting are consolidated and the Petitioner and its operating subsidiaries function as a single corporate unit.

3. The Petitioner is the sole owner of Pakit USA Company Inc. ("Pakit USA"), a company incorporated under the laws of the State of Delaware. The Petitioner is also the sole owner of Pakit International Trading Company Inc. ("Pakit International"), a company incorporated under the laws of Barbados. Pakit International in turn is the sole owner of Packaging International Technology Sweden AB ("PIT"), a company under the laws of Sweden.

4. Pakit International is also the sole owner of several dormant subsidiary companies:

- (a) Pak-IT Manufacturing Co. Ltd. is a company incorporated under the laws of British Columbia;
- (b) Packaging International Technology China AB is a company under the laws of Sweden; and
- (c) PAKIT China Ltd. is a company incorporated under the laws of Hong Kong and is wholly owned by Packaging International Technology China AB.

5. The Petitioner, Pakit USA, Pakit International and PIT are collectively referred to in this petition as "Pakit".

6. The current directors of the Petitioner are Carl Brandes, Dwayne Yaretz, and Andrew Watson. Mr. Yaretz has been President of Pakit Inc. since June 22, 2011. Harm Geert Bos has been Senior Vice President of Operations since October 15, 2009. Daniel Byrne was appointed as the Chief Financial Officer of Pakit Inc. on January 1, 2005, and Corporate Secretary on January 13, 2011. All of these individuals are residents of British Columbia, except for Mr. Watson, who is a resident of Australia.

Pakit's Business

7. Pakit is in the business of developing clean technology solutions for the packaging industry. Pakit's strategy is aimed at replacing the technology currently producing petrochemical-based rigid plastics and styrofoam beginning with high-value-added sustainable packaging products used in food, food service and beverage segments, including the fast growing quick service restaurant market, which account for approximately 56% of global packaging consumption.
8. Pakit's proprietary cellulose fibre moulding process enables its customers to manufacture customized, scalable, environmentally sustainable packaging products with superior performance attributes and competitive per-unit costs compared to petrochemical-based non-renewable packaging or conventional rotary or thermoformed moulded fibre products.
9. Pakit uses an innovative forming process, which uses the company's proprietary "Pakit100" machines. Pakit is selling its Pakit100 machines and related tooling incorporating its proprietary technology to international packaging manufacturers who supply packaging to distributors and end-users.

Intellectual Property

10. Pakit has developed a comprehensive patent portfolio to protect its proprietary technologies. Pakit currently has 17 patent families containing filings all around the world, wherein 11 of the patent families contain granted patents (in total 31 granted patents) and six of them are in an early application stage (in total 46 pending applications), which cover the forming tools (the core of the technology), the production process and the end product. All of Pakit's patents are owned by the Barbadian subsidiary, Pakit International.
11. In 2004, Pakit acquired its first two patent families, associated technology rights relating to the fibre moulding process and also filed new patents regarding three new patent families related to the forming tools, the productions process and the end product respectively. In 2006, Pakit opened its research and development centre in Norrköping, Sweden and unveiled its Pakit100 machine prototype, supervised by Dr. Björn Nilsson, Chief Technical Officer, and filed

further patents regarding to two new patent families related the tooling process. All of Pakit's Research and Development work is managed by PIT. In 2008 Pakit completed the commercial-ready version of the Pakit100 machine, and filed a patent relating to the forming process. In 2009, Pakit announced its first sale of Pakit100 machines, and established a manufacturing relationship with ATS Automation Tooling Systems Inc. ("ATS"), described in more detail below, and filed patents for five additional patent families relating to the machine and the tooling process. In July 2010, Pakit entered into agreements for the sale of two Pakit100 machines. On April 15, 2010, Pakit announced that factory acceptance test milestones were completed for its first two machine orders, which were shipped in May 2010, and filed three additional patent families relating to improvements of the tooling process, including laminating and achieving barriers. Commissioning started in the spring of 2011 working toward a site acceptance test on these two machine orders, which is expected in August 2011.

Facilities

12. Pakit's corporate headquarters in Vancouver, British Columbia, occupy a 4,000 square foot administration facility under a lease expiring in February, 2014. Pakit also leases a 90,000 square foot facility in Norrkoping, Sweden used for its research and development under a lease expiring in December 2015. Pakit conducts its research and development at its facility in Norrkoping, making Pakit dependent on its foreign operations in areas such as packaging innovation, tooling design and prototyping.

Sales Process

13. Pakit's sales process requires considerable time and internal coordination. In addition to coordination between Pakit's sales, research and development and operations divisions and corresponding divisions of the customer, the later stages of the sales process may include several third parties along the product chain, including: the designated manufacturer of the Pakit100 machines, the converter, the retailer and the end consumer. The process evolves through several stages, and can require up to two years or more to complete.

Sales and Income Sources

14. Pakit is pursuing the commercialization of its proprietary technology through the sale of its Pakit100 machines as well as additional, recurring revenue streams from the licensing of its proprietary tooling and the supply of raw materials needed in connection with each stage of the moulded board manufacturing process. Pakit's anticipated revenue streams are:

- (a) Machine Sales – Initial sale of Pakit100 machine lines. Each Pakit100 machine is sold for a price of approximately \$2.5 million depending on customer specifications. In addition, Pakit is establishing relationships with major investors to develop fee-generating proprietary lease financing options and asset management solutions for its customers that could replace the outright sale of the equipment.
- (b) Tooling Licenses – Pakit expects revenues of approximately \$100,000 per machine per year for the tooling.
- (c) Input Supply to Customers – Pakit has developed proprietary chemical recipes used in the production of moulded board products and is negotiating a commission structure with key chemical suppliers in respect of recurring orders from Pakit's customers. Pakit has entered into an agency agreement with Ekman & Co. AB, leading global pulp manufacturer to supply Pakit100 customers with pulp inputs on which Pakit will receive a sales commission.
- (d) Equipment Supply to Customers – Pakit has developed partnerships with leading manufacturers of equipment required in connection with various stages of the moulded board manufacturing process. In particular, Pakit has entered into a strategic outsourcing manufacturing arrangements with ATS for the manufacture of Pakit100 forming units and entered into an arrangement with GISIP AB of Sweden for the supply to Pakit customers of microwave dryers.

15. Generally, new equipment sales are financed by cash deposits made by the client, in advance of Pakit's payments to ATS.

16. Pakit has to date sold four Pakit100 machines to Grupo San Cayetano ("Cayetano"). To date, Pakit has received approximately \$2.9 million as partial payment for these four machines. Cayetano is a Spanish company that is a world leader in the manufacturing of packages for frozen food products. To be able to ramp up production to meet product demand and in lieu of waiting for the delivery of a fifth machine, Cayetano has also purchased an early version "beta" machine which Pakit did not intend to sell and had written off as part of its R&D costs.

17. Cayetano has constructed a "purpose built" facility in Spain to accommodate 20 Pakit100 machines. As well, Cayetano has purchased and upgraded a facility customized for the installation of 20 Pakit100 machines in Poland. Cayetano has indicated that it intends to install the remaining capacity of 35 machines in the Spanish and Polish facilities within the next twenty four months. Additionally, Cayetano has advised Pakit that it has acquired the land and has completed design plans for a second plant in Spain (plant #3) as well as a plant in France (plant #4) which are intended to house a minimum of 36 machines between the two facilities. All four of the Cayetano facilities are designed for expansion as demand requires.

18. Cayetano's customers include Heinz and Cadbury. More recently, Pakit introduced Marks and Spencer to Cayetano after that company approached Pakit with the request for up to 220 million ready meal trays (the annual production capacity of 4-5 Pakit100 machines).

19. With regards to payment, the first two machines have received factory acceptance by Cayetano and are expected to be commissioned and running by September, 2011. A further two machines have been ordered, and are waiting final specification and tooling requirements prior to being shipped to Cayetano in October. Prior to shipping, 90% of the purchase price will be paid to Pakit.

20. With respect to the first two machines, Pakit is expecting a payment from Cayetano, on commissioning of the first machine, of \$640,000 by the end of August, 2011, a further payment of \$640,000, on the commissioning of the second machine, approximately one week thereafter and two final payments of \$214,000 to be made within 90 days after each \$640,000 payment. A payment of \$2.956 million is expected by the end of October, 2011 as a 90% deposit for the second two machines.

21. If Cayetano experiences further delays in their ability to accept the second set of two machines, Pakit is in discussions with other potential customers who may be willing to accept early delivery of the machines.

22. Pakit has also recently received four letters of intent to purchase Pakit100 machines which, if the sales proceed as contemplated, will result in at least 29 further sales of Pakit100

machines. These letters of intent come from large, well-established packaging concerns that operate on a world-wide scale. Additional letters of intent from other prospective purchasers are expected in the coming weeks.

23. Pakit has concluded a contract to collaborate with PepsiCo, Inc., the world's second largest food and beverage company, to develop new sustainable packaging products.

24. Further, recognizing that pulp and paper mills are currently suffering from an over-supply of product, Pakit has approached a major pulp mill in British Columbia about the possibility of converting a percentage of their daily pulp production into packaging products, essentially diversifying the pulp mill as a supplier of packaging utilizing Pakit technology. Pakit has received positive feedback from this corporation. The pulp mill has engaged an engineering firm to commence a site analysis.

Suppliers

25. Pakit engages outsourcing companies to manufacture equipment that incorporates its technology and then sells that equipment to its customers. In addition, Pakit has established relationships with the following partners in relation to the supply to its customers of raw materials and equipment required in connection with each stage of the moulded board manufacturing process:

- (a) ATS for the manufacture of Pakit100 machines. Under the terms of its supply agreement with ATS, Pakit has granted ATS the exclusive right to manufacture and supply Pakit100 machines purchased by Pakit's customers on a worldwide basis, other than in China, where Pakit has retained the right to engage a third party to manufacture and supply Pakit100 machines;
- (b) Ekman & Co. AB (Sweden), a major worldwide pulp reseller, for delivery of pulp inputs to Pakit's customers; and
- (c) GISIP AB (Sweden), a manufacturer of microwave products for drying and heating in industrial processes, for the supply of microwave dryers.

26. Pakit manufactures its own tooling, which embodies Pakit's proprietary technology. Pakit intends to continue to build tools and sell them to customers. Pakit currently procures its

raw materials for tooling manufacturing, including copper beads feedstock, from a number of suppliers with whom Pakit has had long-term commercial relationships.

Employees

27. Pakit employs approximately 33 full-time salaried persons. Nine of these are located in Vancouver and are employed by the Petitioner. One employee is located in Toronto and is employed by the Petitioner. One employee is located in Chicago, Illinois, and is employed by Pakit USA. One employee is located in Barbados, and is employed by Pakit International. 21 employees are located in Norrköping, Sweden, and are employed by PIT. Virtually all of Pakit's 21 employees based in Sweden are unionized.

Capitalisation and Secured Debt

28. The Petitioner's records show that it has 105,529,647 issued shares as of July 20, 2011, held by approximately 1,196 shareholders.

29. Since 2001, Pakit has raised approximately \$76.9 million in cash to fund research and development and ongoing operations through the issuance of Common Shares, Common Share purchase warrants and convertible debentures to existing and new investors. These funding efforts have included:

- (a) private placements of Common Shares at prices ranging from \$0.30 to \$0.45 per Common Share prior to fiscal year 2005 for aggregate proceeds of \$4.4 million;
- (b) private placements of Common Shares at \$0.75 per Common Share in fiscal 2005 for aggregate proceeds of \$8.3 million;
- (c) private placements of Common Shares at \$1.50 per Common Share for aggregate proceeds of \$20.0 million and \$13.1 million, during fiscal 2006 and 2007, respectively;
- (d) private placements of convertible debentures in fiscal 2008 for aggregate proceeds of \$2.5 million, and private placements of convertible debentures and Common Shares in each of fiscal 2009 and 2010 at \$0.50 and \$1.00 per Common Share, respectively, for aggregate proceeds of \$7.9 million and \$14 million, respectively, including the Fairfax Debenture (as defined below);

- (e) private placements of Common Shares at \$1 and \$0.60 in 2011 for aggregate proceeds of \$5.4 million; and
- (f) since June 30, 2011, a further \$1,315,000 from a group of investors including Coronado Capital and Smucker's Pensions fund.

30. On September 29, 2009, Fairfax Financial Holdings Limited ("Fairfax") was issued a 12% secured convertible debenture having an aggregate principal amount of \$5,000,000 (the "Fairfax Debenture"). The Fairfax Debenture was originally to have matured on March 29, 2011 but on March 22, 2011, Fairfax and Pakit agreed to extend the maturity date to September 29, 2014. The Fairfax Debenture is convertible at the option of Fairfax in whole or in part at any time into Common Shares at a conversion price of \$1.00 per Common Share (the "Conversion Price"), and converts automatically into Common Shares at the Conversion Price upon the completion by the Corporation of an initial public offering at a price of \$1.50 or more per Common Share. Upon any conversion of the Fairfax Debenture, Pakit has the option of paying all accrued and unpaid interest thereon through the issuance of Common Shares at the Conversion Price.

31. All debentures are secured by a security interest granted to each holder over the entire undertaking of the Petitioner. The obligations under the Fairfax Debenture are subordinated to the obligations under the other debentures referred to in paragraph 29 above (the "Senior Debentures" and each a "Senior Debenture").

32. Currently, Pakit has 93 Senior Debenture-holders holding 122 debentures. Pakit's total obligation to its current debenture holders is \$8,670,430.38 in principal, plus \$222,847.73 in interest, as at July 12, 2011. Of that total, \$3,670,430.38 is owed to the Senior Debenture holders, with the remaining \$5,000,000 owed in respect of the Fairfax Debenture.

33. HSBC Bank Canada has registered security of up to \$100,000 over Pakit's corporate credit card accounts to cover those accounts. The amount owed on those cards was \$86,824 as of July 12, 2011. HSBC holds a term deposit to cover that liability.

34. The assets of the Petitioner's subsidiaries are not encumbered.

Current Financial Situation

35. Pakit's current situation has been precipitated by several factors.

36. Due to a delay at Cayetano's facility in their readiness for the installation of the Pakit100 machines in Spain beginning in June 2010, the outstanding balance owed to Pakit was delayed, resulting in a cash shortfall, and remains outstanding today. The Cayetano facility has been able to install and commission the machines only since April 2011.

37. On May 26, 2011, Fairfax and certain of the Senior Debenture Holders were demanding that Pakit accept a proposed refinancing plan they had put forward. The Fairfax proposal included terms that were not acceptable to Pakit's board (e.g., the proposal involved potential for dilution of existing shareholders through the relinquishment of complete control to Fairfax, with no financing terms) and the Board therefore voted against it. Mr. Birmingham, Pakit's then CEO, abstained from the vote, on the basis that he stood to benefit personally had it been accepted (the proposal guaranteed his position).

38. At the same meeting, the Board also considered a different financing offer from a company associated with the son of one of the directors to lend Pakit \$600,000 on certain terms, including a stipulation that would have granted the investor the power to appoint new management. Both Mr. Birmingham and the director related to the offeror abstained from the vote. The remaining directors approved a resolution accepting the offer, provided that certain terms were changed. The investor was not willing to change those terms and so the loan was not made.

39. In late June 2011, following the rejection of the refinancing proposal, Craig Barton, claiming to represent a majority of the Senior Debenture Holders, and Fairfax demanded that Pakit enter into a forbearance agreement with Fairfax. Pakit proposed alternate terms involving granting board representation to Fairfax and the other debenture holders, but Fairfax and Barton refused to negotiate and simply insisted that their proposal be adopted as presented.

40. The Board was unable to reach a decision on this proposed forbearance agreement. This was because, from mid December, 2010 to June 22, 2011, the Board was split into two factions

each with two voting members. That impasse rendered it difficult to strategize and execute any plans to deal with the various financial and other challenges confronting the company. The problem was only resolved in June, 2011 when the former President and CEO Brian Birmingham, who had favoured the Barton/Fairfax proposal, resigned after it became apparent that other investors were insisting on a change in management. Following his resignation, the other board member who shared his opinion also resigned. Since then, a new and independent third Board member has been appointed. Also, financing that had been contingent on the resignation of Mr. Birmingham was received from Coronado Capital Management, LLC ("Coronado") and JumpSport Inc. ("JumpSport") in the amount of \$2.5 million following or in anticipation of his resignation.

41. As these events were taking place, a deadline for payment on the Senior Debentures came due. Pakit asked the Senior Debenture holders to agree to extend the terms of their debentures instead of receiving immediate repayment so that it could address its short term cash flow issues. Holders of Senior Debentures worth approximately \$773,000 of the approximately \$3.7 million total have agreed to the extension, holders of Senior Debentures worth approximately \$476,000 have not elected, and the holders of the remaining Secured Debentures have not agreed to extend.

42. As a result, several Senior Debenture holders issued notices of default (subject to a 30 day cure period pursuant to the debentures) to Pakit, beginning on June 1, 2011. Other debenture holders treated these notices as cross-defaults, and these other debenture holders, including the largest debenture holder, Fairfax, issued their own notices of default on June 7, 2011. Fairfax also issued a notice of intention to enforce security pursuant to s. 244 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, on June 7, 2011. The ten-day notice period under those notices expired on June 17, 2011.

43. Pakit expected to have sufficient funds to pay the debenture holders within the 30 day cure period. The first notice of default was received from R. Craig Barton and a number of other debenture holders in a letter dated June 1, 2011. Mr. Barton was also the largest single debenture holder of those who had given notice. Pursuant to the terms of the debentures, Pakit's cure

period expired after July 1, 2011, which was a statutory holiday and a Friday. Pakit accordingly made arrangements for Barton and the other debenture holders who had issued notices of default on June 1 to be paid prior to expiration of the cure period.

44. Prior to July 1, 2011, Pakit had arranged for funds to be sent from the United States (from Coronado and Smucker's Pensions fund, referred to above) from the funders' American banks to Pakit's Canadian bank. However, because July 1 was a statutory holiday in Canada, although certain of the funds were sent from the United States on July 1, they were not accepted by Pakit's Canadian bank. The funders' American banks retained those funds over the weekend. Since Monday, July 4, 2011 was a statutory holiday in the United States, the funders' American banks were unable to forward the funds to Pakit's Canadian bank until July 5, 2011.

45. On July 5, Pakit attempted to stop the payments to Barton and the other debenture holders, given that the cure period had by then expired. However, it was unable to stop the payment to Barton, of approximately \$300,000, which had already gone through.

46. That same day (July 5), Pakit was served with an action commenced on July 5 by Fairfax and Barton (BCSC Action No. S114513, Vancouver Registry). Among the items of relief sought in that claim, the plaintiffs seek to appoint a receiver over Pakit and its operations. Fairfax and Barton have set down an application to seek appointment of a receiver and manager for hearing on July 28, 2011.

Current Unsecured Debt

47. Pakit Inc. currently estimates its unsecured debts at approximately \$4.9 million. Of this, approximately \$3.3 million is an alleged liability claimed by True Partners Financial Services LLC against Pakit Inc. in a claim commenced on April 11, 2011 (BCSC Action No. S112348, Vancouver Registry). Pakit has contested this claim.

48. Of the remaining \$1.6 million, Pakit Inc.'s debts include approximately \$115,000 in respect of unsecured shareholder or employee loans, approximately \$181,000 in respect of a previous tenancy-related matter, and approximately \$121,000 to the Canada Revenue Agency for source deductions.

49. Pakit International currently has unsecured debts of approximately \$2.1 million. Of this, approximately \$1.6 million is owed to two contractors in connection with construction and installation costs of the Pakit100 machines.

50. PIT currently has unsecured debts of approximately \$2.0 million. Of this, approximately \$402,000 is owed in respect of various Swedish tax obligations since June 2011, approximately \$658,000 is owed in respect of employee wages, and approximately \$543,000 is owed to contractors in connection with construction and installation costs of the Pakit100 machines.

Restructuring Efforts

51. Pakit requires bridge funding to see it through this period of restructuring until its revenue sources from the sale of its products are sufficient to allow it to meet its obligations.

52. Since May 30, 2011, Pakit has raised approximately \$3.8 million in new funding commitments to deal with its current financial difficulties. This funding has been raised either by the new board and management after June 22, or was contingent on a change in management before June 22. Pakit has also received several offers to commit further funds to the company in the near and long terms. These offers have been for funds both on an interim basis as bridge financing during the proposed restructuring, and over the coming 60 days to allow Pakit to submit a Plan of Arrangement that will be acceptable to its creditors.

53. An outline of the new funding offers are as follows:

- (a) The Hussein Group, Inc. ("Hussein"), of Beverly Hills, California currently has approximately \$4 million CAD invested in Pakit as equity. Hussein has offered further bridge financing of \$500,000 CAD, to be invested in Pakit in exchange for equity by August 15, 2011;
- (b) A group consisting of Coronado of Scottsdale, Arizona, Smucker's Pension fund, and Zach Easton (the "Coronado Group") is an existing investor in Pakit, with US \$3.5 million presently invested in the company. Of this, Coronado and Smucker's Pension fund raised approximately \$1 million, in equal contributions, which was invested in Pakit as equity on July 5, 2011 to help it deal with its immediate cash needs. When the \$1 million was invested, Coronado and Smucker's Pension fund were fully aware of Pakit's present difficulties and the possibility of a court-supervised restructuring. The Coronado Group has offered to invest, with

JumpSport (described below) further monies in Pakit in the near future, and to raise a further US \$20 million by October 1, 2011, subject to normal due diligence, to allow Pakit to develop a Plan of Arrangement suitable to Pakit's creditors;

- (c) JumpSport, of San Jose, California, has already invested approximately CAD \$250,000 in Pakit, being US \$150,000 invested in May 2011, and CAD \$96,000 invested on July 4, 2011. JumpSport was aware of Pakit's present difficulties when it advanced these funds on July 4. JumpSport and the Coronado Group have agreed that they will provide direct funding of US \$500,000 by August 1, 2011 to Pakit's Swedish subsidiary, PIT, to allow PIT to meet its current and upcoming payroll and other necessary obligations. JumpSport and the Coronado Group have also agreed to provide US \$500,000 to Pakit Inc. by August 10, 2011, and to raise a further US \$20 million by October 1, 2011 to be invested in Pakit Inc.

54. Based on Pakit's current cash flow forecasts, the \$1 million in bridge funding from Coronado and Hussein to Pakit Inc., together with the \$500,000 funding to PIT from JumpSport should be sufficient to maintain Pakit's operations during the proposed restructuring. The further commitments of \$20 million by October 1, 2011 will be sufficient to satisfy all of Pakit's obligations to its creditors.

Alternatives

55. Pakit believes that a restructuring will yield a better result for all stakeholders, including the debenture holders than the receivership currently threatened.

Monitor

56. On July 12, 2011, the Petitioner filed a Notice of Intention to Make a Proposal pursuant to s. 50.4 of the *Bankruptcy and Insolvency Act* (the "NOI"). Alvarez & Marsal Canada Inc. ("Alvarez & Marsal"), licensed trustee in bankruptcy, is the NOI trustee.

57. Alvarez & Marsal has consented to act as Monitor in these proceedings and to oversee the operations of the Petitioner, provide assistance to the management of the Petitioner during the CCAA restructuring period and generally assist the Petitioner with its restructuring efforts including the Plan of Arrangement to be put to its creditors.

58. The Petitioner expects that, with the assistance of the Monitor, it will be able to develop a marketing and business plan for the Petitioner that will show the benefits to all stakeholders of preserving Pakit as a whole such that the Petitioner will be able to present a Plan of Arrangement to its creditors for their consideration.

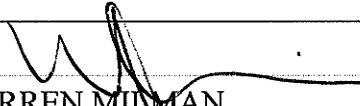
PART 3. LEGAL BASIS

1. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
2. *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended;
3. the inherent jurisdiction of this court.

PART 4. MATERIALS TO BE RELIED ON

1. Affidavit #1 of Dwayne Yaretz, sworn July 26, 2011.

The Petitioner estimates that the hearing of the Petition will take two hours.

DATED:	July 26, 2011		
			WARREN MILMAN Counsel for the Petitioner

SCHEDULE A

NO. _____
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IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
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AND

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AND

IN THE MATTER OF PAKIT INC.

PETITIONER

ORDER MADE AFTER APPLICATION

BEFORE)) THURSDAY, THE 28th
)) DAY OF JULY, 2011
)	

THE APPLICATION of the Petitioner coming on for hearing at Vancouver, British Columbia, on the 28th day of July, 2011 (the "Order Date"); AND ON HEARING Warren B. Milman, counsel for the Petitioner and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the First Affidavit of Dwayne Yaretz sworn July 20, 2011 and the consent of Alvarez & Marsal Canada Inc. to act as Monitor; AND UPON BEING ADVISED that the secured creditors who are likely to be affected by the charges created herein were given notice; AND pursuant to the Companies' Creditors Arrangement Act, R.S.C. 1985 c. C-36 as amended (the "CCAA"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

JURISDICTION

1. The Petitioner is a company to which the CCAA applies.

SUBSEQUENT HEARING DATE

2. The hearing of the Petitioner's application for an extension of the Stay Period (as defined in paragraph 15 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia at 9:45 a.m. on Wednesday, the 24th day of August, 2011 or such other date as this Court may order.

PLAN OF ARRANGEMENT

3. The Petitioner shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. Subject to this Order and any further Order of this Court, the Petitioner shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"), and continue to carry on its business (the "Business") in the ordinary course and in a manner consistent with the preservation of the Business and the Property. 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, "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order. THIS COURT ORDERS that the Petitioner shall be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of Dwayne Yaretz sworn July 25, 2011 or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Petitioner of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Petitioner, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

5. The Petitioner shall be entitled, but not required, to pay the following expenses which may have been incurred prior to the Order Date:

- (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and

consistent with the relevant compensation policies and arrangements existing at the time incurred (collectively "Wages");

(b) with the written consent of the Monitor:

(i) pay the entire amount of its obligations to any creditor if the amount of such obligations, as agreed between the Petitioner and the creditor, is \$1,000 or less as at the Order Date;

(ii) pay \$1,000 to any other creditor to which the outstanding obligations of the Petitioner are greater than \$1,000 as at the Order Date, provided such creditor agrees to accept that amount in full satisfaction of all obligations of the Petitioner to such creditor as at the Order Date;

(iii) pay amounts owing to creditors who hold possessory or statutory liens against any asset of the Petitioner where the value of such asset exceeds the amount of the possessory or statutory liens or where the asset is deemed critical by the Petitioner and the Monitor to the business operations of the Petitioner; and

(iv) amounts outstanding to creditors for goods and services provided prior to the Order Date where expressly authorized by this Order or any further Order of this Court.; and

(c) the fees and disbursements of any Assistants retained or employed by the Petitioner which are related to the Petitioner's restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Petitioner, whenever and wherever incurred, in respect of:

(i) these proceedings or any other similar proceedings in other jurisdictions in which the Petitioner or any subsidiaries or affiliated companies of the Petitioner are domiciled;

(ii) any litigation in which the Petitioner is named as a party or is otherwise involved, whether commenced before or after the Order Date; and

(iii) any related corporate matters.

6. Except as otherwise provided herein, the Petitioner shall be entitled to pay all expenses reasonably incurred by the Petitioner in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

(a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance and security services, provided that any capital expenditure exceeding \$10,000 shall be approved by the Monitor;

(b) all obligations incurred by the Petitioner after the Order Date, including without limitation, with respect to goods and services actually supplied to the Petitioner following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on the Petitioner's obligations incurred prior to the Order Date); and

(c) fees and disbursements of the kind referred to in paragraph 5(b) which may be incurred after the Order Date.

7. The Petitioner is authorized to remit, in accordance with legal requirements, or pay:

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;

(b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Petitioner in connection with the sale of goods and services by the Petitioner, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.

8. Until such time as 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 as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between the Petitioner and the landlord from time to time ("Rent"), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the 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 Order Date shall also be paid.

9. Except as specifically permitted herein, the Petitioner is hereby directed, until further Order of this Court:

(a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Petitioner to any of its creditors as of the Order Date except as authorized by this Order;

(b) to make no payments in respect of any financing leases which create security interests;

(c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of its Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order or for purposes of providing a purchase money security interest;

(d) to not grant credit except in the ordinary course of the Business only to its customers for goods and services actually supplied to those customers, provided such customers agree that

there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by the Petitioner to such customers as of the Order Date; and

- (e) to not incur liabilities except in the ordinary course of Business.

RESTRUCTURING

11. Subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), the Petitioner shall have the right to:

- (a) permanently or temporarily cease, downsize or shut down all or any part of its Business or operations and commence marketing efforts in respect of any of its redundant or non-material assets and to dispose of redundant or non-material assets not exceeding \$20,000 in any one transaction or \$100,000 in the aggregate.
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate; and
- (c) pursue all avenues of refinancing for its Business or Property, in whole or part;

all of the foregoing to permit the Petitioner to proceed with an orderly restructuring of the Business (the "Restructuring").

12. The Petitioner shall provide each of the relevant landlords with notice of the Petitioner's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Petitioner's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors who claim a security interest in the fixtures, such landlord and the Petitioner, or by further Order of this Court upon application by the Petitioner, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If the Petitioner disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Petitioner's claim to the fixtures in dispute.

13. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Petitioner and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Petitioner, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Petitioner of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers

advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.

14. Pursuant to Section 7(3)(c) of the Personal Information Protection and Electronics Documents Act, S.C. 2000, c. 5 and Section 18(1)(o) of the Personal Information Protection Act, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act, as applicable (the "Relevant Enactment"), the Petitioner, in the course of these proceedings, is permitted to, and hereby shall, disclose personal information of identifiable individuals in its possession or control to stakeholders, its advisors, prospective investors, financiers, buyers or strategic partners (collectively, "Third Parties"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Petitioner binding them in the same manner and to the same extent with respect to the collection, use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Petitioner or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioner.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

15. Until and including August 27, 2011, or such later date as this Court may order (the "Stay Period"), no action, suit or proceeding in any court or tribunal (each, a "Proceeding") against or in respect of the Petitioner or the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Petitioner and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Petitioner or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

16. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Petitioner or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Petitioner and the Monitor or leave of this Court.

17. Nothing in this Order, including paragraphs 15 and 16, shall: (i) empower the Petitioner to carry on any business which the Petitioner is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim

for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Petitioner.

NO INTERFERENCE WITH RIGHTS

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

CONTINUATION OF SERVICES

19. During the Stay Period, all Persons having oral or written agreements with the Petitioner or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or 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 and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Petitioner 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 and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to the Petitioner on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of the Petitioner with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Petitioner whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Petitioner, if one is filed, is sanctioned by this Court or is refused by the creditors of the Petitioner or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of the Petitioner that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of

such Proceeding except for service of the initiating documentation on the applicable director or officer.

APPOINTMENT OF MONITOR

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

26. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Petitioner's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the Petitioner in its development of the Plan and any amendments to the Plan;
- (d) assist the Petitioner, to the extent required by the Petitioner, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Petitioner, to the extent that is necessary to adequately assess the Petitioner's business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order or by this Court from time to time.

27. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.

28. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of

the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the Canadian Environmental Protection Act, the Fisheries Act, the British Columbia Environmental Management Act, the British Columbia Fish Protection Act and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. The Monitor shall provide any creditor of the Petitioner with information provided by the Petitioner in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Petitioner is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Petitioner may agree.

30. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

31. The Monitor, counsel to the Monitor, if any, and counsel to the Petitioner shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioner as part of the cost of these proceedings. The Petitioner is hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor and counsel to the Petitioner on a periodic basis and, in addition, the Petitioner is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Petitioner, retainers in the amount[s] of \$50,000 respectively to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

32. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court and may be heard on a summary basis.

33. The Monitor, counsel to the Monitor, if any, and counsel to the Petitioner shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor and such

counsel, both before and after the making of this Order which are related to the Petitioner's restructuring. The Administration Charge shall have the priority set out in paragraph 40 hereof.

VALIDITY OF CHARGE CREATED BY THIS ORDER

40. Any security documentation evidencing, or the filing, registration or perfection of the Administration Charge shall not be required, and that the Administration Charge shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Administration Charge coming into existence, notwithstanding any failure to file, register or perfect it.

42. The Administration Charge shall constitute a mortgage, security interest, assignment by way of security and charge on the Property and shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, "Encumbrances"), in favour of any Person with the exception of any deemed trust amounts provided for in paragraph 37(2) of the CCAA.

43. Except as otherwise expressly provided herein, or as may be approved by this Court, the Petitioner shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or pari passu with the Administration Charge, unless the Petitioner obtains the prior written consent of the Monitor and the beneficiaries of the Administration Charge.

44. The Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit thereof (collectively, the "Chargees") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; or (d) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Petitioner; and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Administration Charge shall create or be deemed to constitute a breach by the Petitioner of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from any act authorized by this Order; and
- (c) the payments made by the Petitioner pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

45. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Petitioner's interest in such real property leases.

SERVICE AND NOTICE

46. The Monitor shall (i) without delay, publish on its website a notice containing the information prescribed under the CCAA, (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Petitioner of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

47. The Petitioner and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Petitioner's creditors or other interested parties at their respective addresses as last shown on the records of the Petitioner and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

48. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "Service List") to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: www.alvarezandmarsal.com.

49. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on its website at: www.alvarezandmarsal.com.

50. Notwithstanding paragraphs 48 and 49 of this Order, service of the Petition, the Notice of Hearing of Petition, the Affidavit #1 of Dwayne Yaretz, this Order and any other pleadings in this proceeding (collectively, the "Materials"), shall be made on the federal and British Columbia Crowns in accordance with the Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the federal Crown, and the Crown Proceeding Act, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown. For purposes of the application for this order, the time period for service of the Materials is hereby abridged and THIS COURT DECLARES that the Petition was properly heard on this day.

GENERAL

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

52. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Petitioner, the Business or the Property.

53. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any Federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioner and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Petitioner and the Monitor and their respective agents in carrying out the terms of this Order.

54. Each of the Petitioner and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of the Petitioner to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as amended.

55. The Petitioner may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Petitioner determines that such a filing is appropriate.

56. The Petitioner is hereby at liberty to apply for such further interim or interlocutory relief as it deems advisable within the time limited for Persons to file and serve Responses to the Petition.

57. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.

58. Any interested party (including the Petitioner and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

59. Endorsement of this Order by counsel appearing on this application is hereby dispensed with.

60. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

Signature of
☐ Party ☒ Lawyer for the Petitioners

Warren Milman

Signature of
☐ Party ☐ Lawyer for _____

BY THE COURT

REGISTRAR

Schedule "A"

(List of Counsel)

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