

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

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

**AND IN THE MATTER OF JACK COOPER VENTURES, INC., JACK COOPER  
DIVERSIFIED, LLC, JACK COOPER ENTERPRISES, INC., JACK COOPER  
HOLDINGS CORP., JACK COOPER TRANSPORT COMPANY, INC., AUTO  
HANDLING CORPORATION, CTEMS, LLC, JACK COOPER LOGISTICS, LLC,  
AUTO & BOAT RELOCATION SERVICES, LLC, AXIS LOGISTIC SERVICES, INC.,  
JACK COOPER CT SERVICES, INC., JACK COOPER RAIL AND SHUTTLE, INC.,  
JACK COOPER INVESTMENTS, INC., NORTH AMERICAN AUTO  
TRANSPORTATION CORP., JACK COOPER TRANSPORT CANADA INC., JACK  
COOPER CANADA GP 1 INC., JACK COOPER CANADA GP 2 INC., JACK COOPER  
CANADA 1 LIMITED PARTNERSHIP, JACK COOPER CANADA 2 LIMITED  
PARTNERSHIP**

**SECOND REPORT OF THE INFORMATION OFFICER**

**ALVAREZ & MARSAL CANADA INC.**

**September 17, 2019**

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**Appendix A Pre-Filing Report of the Proposed Information Officer dated August 9, 2019**

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## INTRODUCTION

1. On August 6, 2019 (the “**Filing Date**”), Jack Cooper Ventures Inc. (“**JCV**” or the “**Foreign Representative**”), Jack Cooper Transport Canada Inc. (“**JC Canada**”) and 17 subsidiaries and affiliates (collectively, the “**JC Group**” or the “**Chapter 11 Debtors**”)<sup>1</sup>, commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) pursuant to Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “**US Court**”).
2. On August 8, 2019, the US Court granted various orders in the Chapter 11 Proceedings (the “**First Day Orders**”), including an order authorizing JCV to act as foreign representative in the Chapter 11 Proceedings.
3. On August 9, 2019, this Court made two orders (the “**Initial Recognition Order**” and the “**Supplemental Order**”) that, among other things: (a) recognized the Chapter 11 Proceedings as a “foreign main proceeding” under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”); (b) recognized JCV as the “foreign representative” of the Chapter 11 Debtors; (c) stayed all proceedings against the Chapter 11 Debtors; (d) appointed Alvarez & Marsal Canada Inc. (“**A&M Canada**” or the “**Information Officer**”) as the information officer in respect of these proceedings under Part IV of the CCAA (the “**CCAA Recognition Proceedings**”), and together with the Chapter 11 Proceedings, the

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<sup>1</sup> **US Debtors:** Jack Cooper Ventures, Inc., Jack Cooper Diversified, LLC, Jack Cooper Enterprises, Inc., Jack Cooper Holdings Corp., Jack Cooper Transport Company, Inc., Auto Handling Corporation, CTEMS, LLC, Jack Cooper Logistics, LLC, Auto & Boat Relocation Services, LLC, Axis Logistic Services, Inc., Jack Cooper CT Services, Inc., Jack Cooper Rail and Shuttle, Inc., Jack Cooper Investments, Inc., North American Auto Transportation Corp. (collectively, the “**US Debtors**”); and **Canadian Debtors:** Jack Cooper Transport Canada, Inc., Jack Cooper Canada GP 1 Inc., Jack Cooper Canada GP 2 Inc., Jack Cooper Canada 1 Limited Partnership, Jack Cooper Canada 2 Limited Partnership (collectively, the “**JC Canada Group**”).

“**Restructuring Proceedings**”); and (e) recognized and gave effect in Canada to the First Day Orders.

4. Three additional First Day Orders, being the Equity Transfer Order, Prime Clerk Order and Interim Utilities Order (each defined and described in the Pre-Filing Report) were entered by the US Court on August 9, 12 and 16, 2019, respectively, and on August 22, 2019, this Court made an order (the “**Second Recognition Order**”) recognizing the three additional First Day Orders.
5. On September 3, 2019, the US Court heard certain second day motions filed by the Chapter 11 Debtors and entered orders in respect of those motions (the “**Second Day Orders**”). The Second Day Orders include: (a) final orders of certain First Day Orders that were initially issued on an interim basis; and (b) the Bid Procedures Order. By order dated September 9, 2019, this Court recognized the Second Day Orders (the “**Third Recognition Order**”).
6. In connection with the CCAA Recognition Proceedings, the Information Officer provided to this Court its First Report of the Information Officer dated September 6, 2019 (the “**First Report**”). A&M Canada has also, in its capacity as Proposed Information Officer, filed with this Court a report dated August 9, 2019 (the “**Pre-Filing Report**”, and together with the First Report, the “**Prior Reports**”). The Prior Reports and other Court-filed documents, orders and notices in these proceedings are available on the case website: [www.alvarezandmarsal.com/JackCooperCanada](http://www.alvarezandmarsal.com/JackCooperCanada) (the “**Case Website**”).
7. A copy of each of the Pre-Filing Report and the First Report are attached hereto as **Appendices “A”** and **“B”**, respectively.

## TERMS OF REFERENCE AND DISCLAIMER

8. In preparing this report (the “**Second Report**”), the Information Officer has relied solely on information and documents provided by the Foreign Representative, the other Chapter 11 Debtors, their US-based restructuring advisors, AlixPartners LLC (“**AlixPartners**”), and their Canadian legal counsel (collectively, the “**Information**”).
9. The Information Officer has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Information Officer has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**Handbook**”), and accordingly, the Information Officer expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.
10. This Second Report should be read in conjunction with the Affidavit of Greg R. May, sworn on September 17, 2019 (the “**Third May Affidavit**”).
11. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.
12. Terms not otherwise defined in this Second Report have the meanings ascribed to them in the Prior Reports and the Third May Affidavit.

## PURPOSE OF REPORT

13. The purpose of this Second Report is to provide the Court with information regarding the following:

- (a) The orders of the US Court that the Foreign Representative is seeking to have recognized and given effect in Canada by this Court pursuant to the CCAA, including the Bar Date Order and the Final DIP Order (each defined and described below); and
- (b) A summary of the activities of the Information Officer since the date of the First Report.

### **ORDERS FOR WHICH RECOGNITION IS BEING SOUGHT**

14. On September 12, 2019, the US Court heard five motions that were filed by the Chapter 11 Debtors and subsequently entered the orders on September 12 and 13, 2019. The Foreign Representative is seeking to have four of these orders recognized in Canada:
- (a) *Final Utilities Order*, which among other things, establishes on a final basis adequate assurance of post-petition payment for certain utility providers, procedures for resolving objections by utility companies and prohibits the utility companies from terminating service solely on the basis of the commencement of the Chapter 11 Proceedings;
  - (b) *Professional Compensation Order*, which among other things, authorizes the Chapter 11 Debtors to retain and pay the reasonable fees and expenses of certain professionals who provide services to the Chapter 11 Debtors in the ordinary course and unrelated to these Restructuring Proceedings. Among this group is Gowling WLG who acts as Canadian general corporate counsel;

- (c) *Bar Date Order*, which among other things, sets bar dates for filing proofs of claim, approves the form of and manner for filing proofs of claim and approves the form of notice of the bar dates (the “**Bar Date Order**”), and is described below; and
- (d) *Final DIP Order*, which is described below.

### **Bar Date Order**

15. The US Court granted the Bar Date Order on September 12, 2019, which has not yet been entered. The Bar Date Order is described in the Third May Affidavit and is attached as Exhibit B to the Second Paplawski Affidavit. Key dates and terms include the following:
- (a) Proofs of Claim<sup>2</sup> must be received on or before November 15, 2019 at 5:00 p.m. (Eastern Time) (the “**Claims Bar Date**”);
  - (b) Governmental units’ Proofs of Claim must be received on or before March 11, 2020 at 5:00 p.m. (Eastern Time) (the “**Government Bar Date**”);
  - (c) Proofs of Claim must be submitted: (i) electronically on Prime Clerk LLC’s website at <https://cases.primeclerk.com/jackcooper/EPOC-Index>; or (ii) by first-class, overnight mail, or other hand-delivery system, which Proof of Claim must include an original signature, to: *Jack Cooper Ventures, Inc. Claims Processing Center, c/o Prime Clerk LLC, 850 3rd Avenue, Suite 412, Brooklyn, NY 11232*; and
  - (d) To ensure that Canadian domiciled creditors have notice of the Bar Date Order, the Information Officer will publish a notice of the Bar Date Order once a week for

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<sup>2</sup> Proof of Claim Forms and additional information on how to submit a claim is included in the Bar Date Order.

two consecutive weeks in *The Globe & Mail (National Edition)* newspaper. Under the Bar Date Order the Chapter 11 Debtors are required to send a notice of the Claims Bar Date to all known creditors, including creditors of the JC Canada Group.

### **Final DIP Order**

16. A summary of the DIP Facilities (comprised of the DIP ABL Facility and the DIP Term Facility), including their potential impact on the JC Canada Group and its stakeholders, the Information Officer's assessment of their reasonableness and the basis on which the Information Officer recommended that this Court recognize the Interim DIP Order were provided in the Pre-Filing Report (a copy of which is attached hereto as Appendix A).
17. The Final DIP Order was entered by the US Court on September 13, 2019. The Final DIP Order contains several amendments to the Interim DIP Order to address comments received from the UCC and other stakeholders. None of the changes from the Interim DIP Order, as summarized in the Third May Affidavit, have a material impact on the JC Canada Group or Canadian creditors.
18. As described in the Pre-Filing Report, to potentially limit prejudice to Canadian stakeholders, the Interim DIP Order provided that each of the DIP Lenders is obligated to satisfy the respective DIP Obligations of the US Borrowers from the proceeds of DIP Collateral constituting property of the US Borrowers before looking to the collateral of the Canadian Borrowers or Canadian Guarantors (the "**Marshalling Provision**"). Accordingly, the collateral provided by the JC Canada Group in connection with DIP Facilities will only be used to satisfy borrowings of the US Debtors if the collateral of the

US Debtors is insufficient to satisfy their obligations under the DIP Facilities. The Marshalling Provision remains unchanged in the Final DIP Order.

19. As at the date of this Second Report, the Information Officer understands that no amounts are owing by the JC Canada Group under the DIP Facilities.

#### **ACTIVITIES OF THE INFORMATION OFFICER**

20. The activities of the Information Officer since its First Report have included:
  - (a) Updating the Case Website with the orders granted in the CCAA Recognition Proceedings and other relevant motion materials and reports;
  - (b) Monitoring the Prime Clerk website for activity in the Chapter 11 Proceedings;
  - (c) Responding to stakeholder inquiries regarding the Restructuring Proceedings;
  - (d) Discussions with legal counsel, the Chapter 11 Debtors' management and Canadian legal counsel, and AlixPartners regarding matters relevant to the Restructuring Proceedings; and
  - (e) Preparing this Second Report and reviewing draft materials of the Foreign Representative in connection with the CCAA Recognition Proceedings.

#### **RECOMMENDATIONS**

21. The Information Officer understands that the Orders for which recognition is being sought in Canada, including the Bar Date Order and the Final DIP Order, are necessary to the

Chapter 11 Debtors' continued business operations and that absent these orders, the reorganization efforts would be impaired.

22. The Information Officer and its legal counsel have reviewed the Orders and believe that recognition of the orders is reasonable and appropriate in the circumstances. Based on the foregoing, the Information Officer respectfully recommends that this Court grant the relief requested by JCV.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** at Toronto, Ontario this 17<sup>th</sup> day  
of September 2019.

**ALVAREZ & MARSAL CANADA INC.**  
in its capacity as the Information Officer of  
Jack Cooper Ventures, Inc., et al and not in its personal or corporate capacity

Per:           Alan J. Hutchens            
Alan J. Hutchens  
Senior Vice-President

**APPENDIX A**

**PRE-FILING REPORT OF THE PROPOSED INFORMATION OFFICER  
DATED AUGUST 9, 2019**

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

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

**AND IN THE MATTER OF JACK COOPER VENTURES, INC., JACK COOPER  
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JACK COOPER INVESTMENTS, INC., NORTH AMERICAN AUTO  
TRANSPORTATION CORP., JACK COOPER TRANSPORT CANADA INC., JACK  
COOPER CANADA GP 1 INC., JACK COOPER CANADA GP 2 INC., JACK COOPER  
CANADA 1 LIMITED PARTNERSHIP, JACK COOPER CANADA 2 LIMITED  
PARTNERSHIP**

**REPORT OF THE PROPOSED INFORMATION OFFICER**

**ALVAREZ & MARSAL CANADA INC.**

**August 9, 2019**

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## INTRODUCTION

1. On August 6, 2019 (the “**Filing Date**”), Jack Cooper Ventures Inc. (“**JCV**” or the “**Foreign Representative**”), Jack Cooper Transport Canada Inc. (“**JC Canada**”) and 17 subsidiaries and affiliates (collectively, the “**JC Group**” or the “**Chapter 11 Debtors**”)<sup>1</sup>, commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) pursuant to Chapter 11 of the U.S. Bankruptcy Code (the “**Bankruptcy Code**”) with the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “**US Court**”).
2. The primary purpose of the Chapter 11 Proceedings is to implement a restructuring of certain of the JC Group’s US pension plans and collective bargaining agreements, and to right-size the capital structure through a “stalking horse” sale process, underpinned by a credit bid sponsored by the Junior Term Loan Lenders (as defined below). If determined to be the successful bidder, the Junior Term Loan Lenders would acquire the assets of the business as well as assume certain senior secured debt facilities. The JC Group’s Canadian business is part of the proposed credit bid transaction.
3. On the Filing Date, the Chapter 11 Debtors filed a number of motions for interim and/or final orders (the “**First Day Motions**”) in the Chapter 11 Proceedings to permit the Chapter 11 Debtors to continue to operate their business in the ordinary course and to advance their reorganization. The First Day Motions, which were heard by the US Court on August 8, 2019, included a motion for entry of an order (the “**Foreign Representative Order**”),

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<sup>1</sup> **US Debtors:** Jack Cooper Ventures, Inc., Jack Cooper Diversified, LLC, Jack Cooper Enterprises, Inc., Jack Cooper Holdings Corp., Jack Cooper Transport Company, Inc., Auto Handling Corporation, CTEMS, LLC, Jack Cooper Logistics, LLC, Auto & Boat Relocation Services, LLC, Axis Logistic Services, Inc., Jack Cooper CT Services, Inc., Jack Cooper Rail and Shuttle, Inc., Jack Cooper Investments, Inc., North American Auto Transportation Corp. (collectively, the “**US Debtors**”); and **Canadian Debtors:** Jack Cooper Transport Canada, Inc., Jack Cooper Canada GP 1 Inc., Jack Cooper Canada GP 2 Inc., Jack Cooper Canada 1 Limited Partnership, Jack Cooper Canada 2 Limited Partnership (collectively, the “**JC Canada Group**”).

authorizing JCV to act as foreign representative on behalf of the Chapter 11 Debtors' estates.

4. On August 8, 2019, the US Court granted the Foreign Representative Order and a number of other orders with respect to the First Day Motions, as described below.
5. Also, on August 9, 2019, JCV commenced, by notice of application, an application before this Court (the "**Court**") pursuant to Part IV of the *Companies' Creditors Arrangement Act* ("**CCAA**") (the "**CCAA Recognition Proceedings**", and together with the Chapter 11 Proceedings, the "**Restructuring Proceedings**") for:
  - (a) an initial recognition order (the "**Initial Recognition Order**"), among other things:
    - (i) declaring that JCV is a "foreign representative" pursuant to section 47(2) of the CCAA; (ii) declaring that the Chapter 11 Proceedings are recognized as a "foreign main proceeding" under the CCAA; and (iii) granting a stay of proceedings against the Chapter 11 Debtors; and
  - (b) a supplemental order (the "**Supplemental Order**") pursuant to section 49 of the CCAA, among other things: (i) recognizing in Canada and enforcing certain orders of the US Court made in the Chapter 11 Proceedings; (ii) granting a stay of proceedings against the directors and officers of the Chapter 11 Debtors; (iii) appointing Alvarez & Marsal Canada Inc. ("**A&M Canada**", or the "**Proposed Information Officer**") as the information officer in respect of the CCAA Recognition Proceedings (the "**Information Officer**"); (iv) granting the DIP Charges (as defined and described below); (v) authorizing the depositing of the Load Broker Trust Funds (as defined and described below) with the Proposed Information Officer in order to comply with certain obligations under the *Highway*

*Traffic Act (Ontario)* during the CCAA Recognition Proceedings; (vi) granting a super-priority charge up to a maximum amount of \$500,000 (the “**Administration Charge**”) over the JC Canada Group’s property in Canada, in favour of counsel to the Canadian Chapter 11 Debtors, the Information Officer and legal counsel to the Information Officer, as security for their professional fees and disbursements incurred in respect of these Restructuring Proceedings; and (vii) requesting the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or elsewhere.

6. Other than these CCAA Recognition Proceedings and the Chapter 11 Proceedings, there are currently no other foreign proceedings in respect of the Chapter 11 Debtors of which the Proposed Information Officer is aware.

#### **TERMS OF REFERENCE AND DISCLAIMER**

7. In preparing this Report of the Proposed Information Officer (the “**Pre-Filing Report**”), A&M Canada has relied solely on information and documents provided by the Foreign Representative, the other Chapter 11 Debtors, their US based restructuring advisors, AlixPartners LLC (“**AlixPartners**”), and their Canadian legal counsel (collectively, the “**Information**”). Except as otherwise described in this Pre-Filing Report:

- (a) the Proposed Information Officer has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Proposed Information Officer has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**Handbook**”), and

accordingly, the Proposed Information Officer expresses no opinion or other form of assurance contemplated under CASs in respect of the Information; and

- (b) some of the information referred to in this Pre-Filing Report consists of forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Handbook, has not been performed.
8. Future-oriented financial information referred to in this Pre-Filing Report was prepared based on estimates and assumptions made by the JC Group's management. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, and the variations could be significant.
  9. This Pre-Filing Report should be read in conjunction with the Affidavit of Greg R. May, sworn on August 8, 2019 (the "**Initial May Affidavit**").
  10. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.

## **PURPOSE OF REPORT**

11. The purpose of this Pre-Filing Report is to assist the Court in considering the Foreign Representative's request for the Initial Recognition Order and the Supplemental Order, and to provide the Court with certain background information concerning the Chapter 11 Debtors, including:
  - (a) the Chapter 11 Debtors' business, operations, organizational structure and financing facilities;
  - (b) the Chapter 11 Debtors' centre of main interest;
  - (c) the events leading up to the Restructuring Proceedings;

- (d) the orders of the US Court that the Chapter 11 Debtors are seeking to be recognized and enforced pursuant to the CCAA, including the Interim DIP Order (as defined and described below); and
- (e) the initial activities of the Proposed Information Officer.

## **BACKGROUND**

### **Company Overview**

- 12. The JC Group is headquartered in Kennesaw, Georgia and is the largest provider of finished vehicle logistics in North America for both new and used vehicles. The Chapter 11 Debtors business is divided into two segments: a transport segment and a logistics segment.
- 13. The transport segment delivers finished vehicles from manufacturing plants and other distribution hubs to new vehicle dealerships. The JC Group operates a fleet of approximately 1,600 active rigs and a network of 39 terminals across the United States and Canada serving large automotive OEMs, including GM, Ford, Toyota, Hyundai and Kia. During the fiscal year ended December 31, 2018, the Chapter 11 Debtors transported over 2.5 million finished vehicles and generated revenue of \$540.7 million.
- 14. The logistics segment provides a range of logistics related services to the previously owned vehicle market. This segment's customers include fleet ownership companies (i.e. OEMs, rental car agencies, leasing agencies), dealers, auctioneers and relocation-management companies. In fiscal 2018, this segment generated revenue of \$55.9 million.
- 15. As of the Filing Date, the Chapter 11 Debtors had approximately 2,884 employees, consisting of drivers, yard personnel, mechanics and vehicle inspectors across the US and Canada.

16. JC Canada and its subsidiaries, JC Canada Group GP 1 Inc. (“**GP1**”), JC Canada Group GP 2 Inc. (“**GP2**”), JC Canada Group 1 Limited Partnership (“**LP1**”), and JC Canada Group 2 Limited Partnership (“**LP2**”) are collectively referred to herein as the “**JC Canada Group**”. The JC Canada Group provides transport segment services across Canada, however it does not provide services for the logistics segment. During fiscal 2018, the JC Canada Group generated revenue of \$30.4 million, representing approximately 5% of the JC Group’s consolidated revenue.
17. For a more detailed discussion of the Chapter 11 Debtors’ business, please refer to the Initial May Affidavit and exhibits, including the Declaration of Greg R. May in Support of First Day Motions filed in the Chapter 11 Proceedings (the “**First Day Declaration**”), attached as Exhibit “A” to the Initial May Affidavit.
18. A corporate organization chart showing the ownership structure of the Chapter 11 Debtors and their non-debtor affiliates is attached as Exhibit “B” to the Initial May Affidavit.

#### **Secured Credit Facilities**

19. As of the Filing Date, the Chapter 11 Debtors’ had approximately \$575.4 million in outstanding secured debt under its primary credit facilities, comprised of the following:

Facility	Lender	Balance Outstanding (\$ in millions)
ABL Facility	Wells Fargo	\$49.8
First Lien Term Loan	Cerberus	188.7
1.5 Lien Term Loan	Junior Term Loan Lenders	45.5
Second Lien Term Loan	Junior Term Loan Lenders	291.4
<b>Total</b>		<b>\$575.4</b>

20. Each of the credit facilities is described in detail in the Initial May Affidavit and the First Day Declaration. Key terms and components of the facilities include the following:

<b>JC Group's Prepetition Secured Credit Facilities</b>	
<b>ABL Facility</b>	
Borrowers	<ul style="list-style-type: none"> <li>Jack Cooper Holdings Corp., together with certain US-based subsidiaries and affiliates (the "<b>US Borrowers</b>")</li> <li>JC Canada, LP1 and LP2 (the "<b>Canadian Borrowers</b>")</li> </ul>
Lender	<ul style="list-style-type: none"> <li>Wells Fargo Capital Finance, LLC as lead arranger and certain other lenders party thereto ("<b>Wells Fargo</b>" or the "<b>Prepetition ABL Lenders</b>")</li> </ul>
Balance Outstanding	<ul style="list-style-type: none"> <li>Approximately \$49.8 million drawn by the US Borrowers; and</li> <li>No amount drawn currently by the Canadian Borrowers</li> </ul>
Commitment	<ul style="list-style-type: none"> <li>\$85 million revolving facility, subject to a borrowing base calculation based on eligible accounts receivable and inventory, less certain reserves. The facility includes a Canadian sub-facility up to \$5 million (the "<b>ABL Canadian Sub-Facility</b>") available to the Canadian Borrowers, subject to a borrowing base calculation based on the Canadian Borrowers eligible accounts receivable and inventory, less certain reserves. The amount available to the US Borrowers is reduced on a dollar-for-dollar basis by the amount of any outstanding borrowings under the Canadian Sub-Facility</li> </ul>
Security & Guarantors	<ul style="list-style-type: none"> <li>US Borrowers' obligations secured on a first-priority basis by liens on certain working capital collateral of the US Borrowers' (the "<b>ABL Priority Collateral</b>"). US Borrowers' obligations are guaranteed by each of the US Borrowers' US subsidiaries</li> <li>Canadian Borrowers have not guaranteed or otherwise granted security for the obligations of the US Borrowers</li> <li>US Borrowers have guaranteed the Canadian Borrower's obligations in respect of the ABL Canadian Sub-Facility under the ABL Facility (the "<b>Canadian Obligations</b>") on a secured basis</li> <li>GP1 and GP2 (the "<b>Canadian Guarantors</b>") have guaranteed the Canadian Obligations pursuant to a Canadian Guarantee Agreement dated as of February 15, 2018</li> </ul>

<b>First Lien Term Loan</b>	
Borrowers	<ul style="list-style-type: none"> <li>• US Borrowers only</li> <li>• JC Canada Group is neither a borrower or a guarantor</li> </ul>
Holder	<ul style="list-style-type: none"> <li>• Cerberus Business Finance Agency, LLC (“<b>Cerberus</b>”)</li> </ul>
Balance Outstanding	<ul style="list-style-type: none"> <li>• \$188.7 million</li> </ul>
Security	<ul style="list-style-type: none"> <li>• First on Term Loan Priority Collateral<sup>2</sup></li> <li>• Second on ABL Priority Collateral</li> </ul>
<b>1.5 Lien Term Loan</b>	
Borrowers	<ul style="list-style-type: none"> <li>• US Borrowers only</li> <li>• JC Canada Group is neither a borrower or a guarantor</li> </ul>
Holder	<ul style="list-style-type: none"> <li>• Wilmington Trust, National Association, as administrative agent for the lenders party thereto (the “<b>Junior Term Loan Lenders</b>”)</li> </ul>
Balance Outstanding	<ul style="list-style-type: none"> <li>• \$45.5 million</li> </ul>
Security	<ul style="list-style-type: none"> <li>• Second on Term Loan Priority Collateral</li> <li>• Third on ABL Priority Collateral</li> </ul>
<b>Second Lien Term Loan</b>	
Borrowers	<ul style="list-style-type: none"> <li>• US Borrowers only</li> <li>• JC Canada Group is neither a borrower or a guarantor</li> </ul>
Holder	<ul style="list-style-type: none"> <li>• Junior Term Loan Lenders</li> </ul>
Balance Outstanding	<ul style="list-style-type: none"> <li>• \$291.4 million</li> </ul>
Security	<ul style="list-style-type: none"> <li>• Third on Term Loan Priority Collateral</li> <li>• Fourth on ABL Priority Collateral</li> </ul>

## **Overview of the JC Canada Group’s Business**

21. The JC Canada Group represents a comparatively small portion of the Chapter 11 Debtors’ consolidated business (approximately 5% of consolidated revenue), with approximately

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<sup>2</sup> “**Term Loan Priority Collateral**” includes substantially all of the assets of the US Borrowers and their subsidiaries, not constituting ABL Priority Collateral, including equity pledges of certain interests in certain non-US subsidiaries, including, but not limited to, JC Canada.

128 active rigs and 11 terminals across Canada<sup>3</sup>. The JC Group oversees the operations of the Canadian business and provides extensive direction and oversight from its headquarters in Kennesaw, Georgia.

22. For the 2018 fiscal year, the JC Canada Group generated operating revenue of approximately \$30.4 million. As at June 30, 2019, JC Canada Group's property and equipment had a net book value of approximately \$2.03 million, representing approximately 2% of the JC Group's consolidated property and equipment.
23. The JC Canada Group has approximately 181 employees, 157 of which are unionized. The Canadian employees are located throughout Canada and include drivers, yard personnel, mechanics and administration staff. The unionized employees also include certain contractors that own their own vehicles to provide services on an exclusive basis to GP1 (the "**Owner/Operators**").
24. The collective agreements in respect of the JC Canada Group's Canadian employees and Owner/Operators are described in the Initial May Affidavit.
25. The JC Canada Group has a Vice-President based in Brampton, Ontario who oversees the Canadian operations. The remainder of the officers of JC Canada, GP1 and GP2 are residents of the United States.
26. Pursuant to the Interim Wages Order (defined below), the JC Group received approval from the US Court to pay prepetition employee and independent contractor amounts and expects to do so in the ordinary course, including amounts payable to employees located in Canada.

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<sup>3</sup> The eleven terminals are located in Calgary, AB; Edmonton, AB; Vancouver BC; Winnipeg, MB; Moncton, NB; Halifax, NS; Cambridge; ON; Oshawa, ON; Charny, QU; Regina, SK; and Saskatoon, SK.

## **Cash Management System**

27. As described in the Initial May Affidavit, the JC Canada Group is part of an integrated, centralized cash management system with the other Chapter 11 Debtors to collect, manage and disburse funds used in its operations (the “**Cash Management System**”). The Cash Management System is administered by the JC Group’s treasury department at the head office in Kennesaw, Georgia.
28. The JC Canada Group has five bank accounts maintained at Wells Fargo and Scotiabank. These accounts are denominated in both US and Canadian dollars and are used in connection with operating the JC Canada Group’s business. Customer collections are received into depository accounts and are transferred to a US master account on a monthly basis. Disbursement accounts are funded on an as needed basis.
29. As at the Filing Date, the JC Canada Group’s five bank accounts held a total of approximately CAD\$1.3 million.

## **Intercompany Transactions**

30. A number of intercompany transactions occur between the JC Canada Group and certain of the JC Group’s US entities, including:
  - (a) *Payments made on behalf of another entity.* The JC Canada Group is a net beneficiary of these transactions that typically relate to the payment of operating expenses such as credit card transactions, communications, equipment rentals and maintenance costs;
  - (b) *Allocation of Shared Services.* No formal shared services agreement exists, however for accounting and tax purposes the costs related to corporate functions

are allocated amongst the JC Group's various business units. The JC Canada Group is allocated its relative share of costs on a monthly basis as determined by a "cost plus" allocation method; and

(c) *Intercompany vehicle leases.* The JC Canada Group leases a portion of its truck and vehicle fleet from certain of the JC Group's US-based entities. Lease costs are charged to the JC Canada Group based on current market rates.

31. The above intercompany transactions are charged on a monthly basis to the JC Canada Group creating an intercompany payable balance. Prior to the Filing Date, this intercompany balance was partially cash settled from time to time on an infrequent basis. As at the Filing Date, the JC Canada Group was in a net intercompany payable position of approximately \$16.9 million.

32. The JC Canada Group expects that normal course intercompany transactions will continue during the Restructuring Proceedings. The Proposed Information Officer understands that JC Canada Group will be making intercompany payments for postpetition intercompany charges. It is anticipated that these charges will be approximately \$260,000 per month.

### **Unsecured Trade Creditors**

33. Based on the JC Canada Group's books and records, as at July 31, 2019, amounts payable to unsecured trade creditors was approximately CAD\$850,000, comprised of the following:

(a) approximately CAD\$400,000 payable to the Owner/Operators and various third-party brokers and carriers (the "**Load Broker Parties**") and other critical vendors. As described in the First Day Orders section below, the Proposed Information Officer understands that the Chapter 11 Debtors

intend to pay prepetition amounts payable to this creditor group in the normal course; and

- (b) approximately CAD\$450,000 payable to vendors, including parts suppliers, mechanics, logistics and service providers, landlords and other suppliers. The Proposed Information Officer understands that amounts payable to this creditor group are intended to be stayed during the Restructuring Proceedings, absent any possessory or similar types of lien claims emerging (the “**Affected Creditor Group**”).

- 34. Pursuant to the *Highway Traffic Act (Ontario)*, under certain circumstances, when a “load broker” arranges with an operator to carry the goods of another person, there may be an obligation on the load broker to hold certain funds in trust for the operator. To address potential trust obligations to operators, and in particular, the Load Broker Parties, the JC Canada Group is seeking authority pursuant to the Supplemental Order to segregate CAD\$500,000 of their funds to be held by the Information Officer in trust for the benefit of the Load Broker Parties as security for the payment of amounts due and accruing in the ordinary course of business following the Filing Date (the “**Load Broker Trust Funds**”).
- 35. It is intended that the Information Officer will hold the Load Broker Trust Funds throughout the CCAA Recognition Proceedings and any payments by the Information Officer from the Load Broker Trust Funds will be made pursuant to further Order of the Court. Ongoing payments accruing in the ordinary course will continue to be made to the Load Brokers Parties by the JC Canada Group.

## **CENTRE OF MAIN INTEREST**

36. The Chapter 11 Debtors, including the JC Canada Group, are managed in the United States as an integrated group from a corporate, strategic and management perspective.
37. The Initial May Affidavit describes the Chapter 11 Debtors integrated business. The JC Canada Group is wholly dependent on certain of the Chapter 11 Debtors located in the United States for key managerial, accounting, finance, IT and other critical functions typically performed by a corporate head office.
38. The JC Group has asserted that the factors outlined in the Initial May Affidavit collectively rebut the presumption under the CCAA that the JC Canada Group's centre of main interest is the location of its registered office. Furthermore, the JC Group asserts that these factors indicate that the "mind and management", head office functions and senior management of the Chapter 11 Debtors, including the JC Canada Group, are located in the United States.
39. Based on the factors outlined in the Initial May Affidavit, the Proposed Information Officer concurs with the JC Group's assertions that the Chapter 11 Debtors' "centre of main interest" is in the United States – including with respect to the JC Canada Group – and as such, it is appropriate to recognize the Chapter 11 Proceedings as a "foreign main proceeding" pursuant to s. 47(2) of the CCAA.

## **EVENTS LEADING TO THE RESTRUCTURING PROCEEDINGS**

40. The Initial May Affidavit and the First Day Declaration describe the events leading up to the Restructuring Proceedings which are summarized below:
  - (a) since 2016, the Chapter 11 Debtors have experienced significant declines in revenue resulting from reduced pricing and loss of market share to lower cost, non-

unionized competitors and from overall declines in the automotive industry. In addition, the Chapter 11 Debtors have incurred significant cash expenditures as a result of their highly levered capital structure, significant pension plan obligations and aging fleet of vehicles;

- (b) on March 31, 2019, the Chapter 11 Debtors received a notice of default and reservation of rights letter from Cerberus for alleged non-compliance with a leverage ratio covenant contained in the First Lien Term Loan. The Chapter 11 Debtors' auditors also issued a going concern qualification at the end of the 2018 reporting period. This resulted in a default under the ABL Facility, and the Chapter 11 Debtors and the Prepetition ABL Lenders subsequently entered into a waiver agreement. Further, the Chapter 11 Debtors liquidity fell below the minimum required by the ABL Facility resulting in the Prepetition ABL Lenders applying "cash dominion" procedures under the terms of the ABL Facility in mid-July 2019. The Chapter 11 Debtors were also unable to make a required principal repayment to Cerberus under the First Lien Term Loan on June 30, 2019;
- (c) for the past several months, the JC Group has engaged in restructuring negotiations on two separate fronts, one involving its US-based labour and pensions constituencies and the other principally involving the Chapter 11 Debtors' key secured creditors;
- (d) as part of the restructuring discussions with secured creditors, the Chapter 11 Debtors engaged with the Junior Term Loan Lenders, Cerberus and Wells Fargo to negotiate a comprehensive restructuring plan that would address the JC Group's capital structure and better position the business for future success. These

discussions culminated in an agreement in principle pursuant to a restructuring support agreement (the “**RSA**”) that contemplates a sale of all or substantially all of the Chapter 11 Debtors’ assets to a newly formed entity affiliated with the Junior Term Loan Lenders to carry on the Chapter 11 Debtors’ business (“**New Jack Cooper**”). To effect the transaction: (i) the Junior Term Loan Lenders would act as a “stalking horse bidder” in a Court-approved sales process by credit bidding its prepetition secured debt; (ii) Wells Fargo and the Junior Term Loan Lenders would provide the Chapter 11 Debtors with debtor-in-possession financing during the Restructuring Proceedings; and (iii) Cerberus would waive certain amortization payments, amend financial covenants pursuant to the First Lien Term Loan credit documents and allow the First Lien Term Loan to be assumed by New Jack Cooper;

(e) a critical component of the RSA negotiations was also restructuring certain of the Chapter 11 Debtors’ US pension plans and labour costs. As described in the First Day Declaration, certain of the Chapter 11 Debtors have entered an agreement with the Central States Pension Fund to address their pension obligations and negotiated a term sheet addressing labour issues with the Teamsters which requires the ratification of affected membership. The Proposed Information Officer understands that these agreements do not impact Canadian employees.

## THE RESTRUCTURING PLAN

41. The RSA which forms the basis for the Chapter 11 Debtors’ proposed restructuring is appended as Exhibit “D” in the Initial May Affidavit. Key terms of the RSA include the following<sup>4</sup>:

<b>Restructuring Support Agreement</b>	
Proposed Sale	<ul style="list-style-type: none"> <li>• The Junior Term Loan Lenders will serve as a “stalking horse” bidder by credit bidding their prepetition secured debt and DIP facility (the “<b>Credit Bid</b>”), including all or a portion of: (i) the 1.5 Lien Term Loan obligations; (ii) the Second Lien Term Loan obligations; and (iii) the Term DIP Facility obligations</li> <li>• The proposed Credit Bid sale will be subject to higher and better offers that may be obtained during the sale process to be carried out by the Chapter 11 Debtors and their investment banker, Houlihan Lokey, Inc. (“<b>Houlihan</b>”) during the Restructuring Proceedings</li> <li>• All or substantially all of the Chapter 11 Debtors assets, including the assets of the JC Canada Group, will be acquired by New Jack Cooper</li> </ul>
DIP Facilities	<ul style="list-style-type: none"> <li>• Wells Fargo (in its capacity as a DIP lender) shall advance up to \$85 million in the form of a revolving facility (the “<b>DIP ABL Facility</b>”)</li> <li>• Junior Term Loan Lenders (in their capacity as a DIP lender) shall advance up to \$15 million in the form of a multi-draw term loan (the “<b>DIP Term Facility</b>”)</li> <li>• On the Closing Date, the obligations under the DIP Facilities shall be modified and assumed by New Jack Cooper in the form of exit financing</li> </ul>
First Lien Term Loan	<ul style="list-style-type: none"> <li>• On the Closing Date, the First Lien Term Loan shall be modified and assumed by New Jack Cooper in the form of an exit first lien term loan facility</li> <li>• Interest shall be paid on the First Lien Term Loan during the Restructuring Proceedings</li> </ul>
Other Terms	<ul style="list-style-type: none"> <li>• To the extent New Jack Cooper has less than \$20 million in liquidity on the closing date, the Junior Term Loan Lenders will inject sufficient capital to satisfy the shortfall on a junior basis to the exit first lien term loan facility</li> <li>• The US collective agreements shall be amended with revised versions being ratified by union membership in a manner consistent with a labour term sheet negotiated with the Teamsters</li> <li>• The Chapter 11 Debtors shall terminate their participation in certain US-based multi-employer pension plans reducing their ongoing pension payment obligations</li> </ul>

<sup>4</sup> Capitalized terms not defined in this section are as defined in the RSA.

Bidding Procedures & Deadlines (Subject to approval by the US Court)	<ul style="list-style-type: none"> <li>• Bid Deadline: September 30, 2019 at 5:00 p.m. Eastern Time</li> <li>• Auction (if necessary): October 3, 2019</li> <li>• Sale Hearing: October 10, 2019</li> <li>• Outside Closing Date: November 19, 2019</li> </ul>
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42. In connection with the filing of the Chapter 11 Proceedings, the JC Group and New Jack Cooper have also negotiated an asset purchase agreement (the “**Purchase Agreement**”) reflecting the Credit Bid which will form the stalking horse bid under the proposed sale process outlined in the RSA, if approved by the US Court. The JC Canada Group companies are party to the Purchase Agreement which contemplates the purchase of their assets by New Jack Cooper along with the assumption of the collective agreements in respect of the Canadian employees.

#### **FIRST DAY ORDERS OF THE US COURT**

43. The JC Group is seeking recognition by this Court of several orders (the “**First Day Orders**”) that have been entered by the US Court in the Chapter 11 Proceedings, including the following, each of which are defined and described in the Initial May Affidavit:

- (a) Foreign Representative Order;
- (b) Joint Administration Order;
- (c) Interim Cash Management Order;
- (d) Interim Critical Vendors Order;
- (e) Interim DIP Order;
- (f) Interim Insurance Order;
- (g) Interim Employee Wages Order;

- (h) Interim Surety Bond Order;
- (i) Interim Taxes and Fees Order;
- (j) Utilities Order;
- (k) Interim Customer Programs Order;
- (l) Equity Transfer Order; and
- (m) Prime Clerk Order.

These First Day Orders are, for the most part, common in Chapter 11 proceedings. Copies of the First Day Orders and other documents related to the Chapter 11 Proceedings are available at the web-site maintained by Prime Clerk, LLC, <http://cases.primeclerk.com/jackcooper> and are appended to the Affidavit of Waleed Malik sworn on August 9, 2019 and filed in the CCAA Recognition Proceedings. The First Day Orders and their relevance to Canadian stakeholders are discussed below.

*Foreign Representative Order*

44. The Foreign Representative Order authorizes JCV to act as the Foreign Representative on behalf of the Chapter 11 Debtors' estates in any judicial proceeding in a foreign country, including in these CCAA Recognition Proceedings, and grants JCV, in its capacity as the Foreign Representative, the power to act in any way permitted by applicable foreign law. Pursuant to the Foreign Representative Order, the US Court requests the aid and assistance of this Court to recognize the Chapter 11 Proceedings as a "foreign main proceeding" and JCV as a "foreign representative" under the CCAA.

*Joint Administration Order*

45. The Joint Administration Order authorizes the joint administration of all cases for the Chapter 11 Debtors for procedural purposes.

*Interim Cash Management Order*

46. The Interim Cash Management Order, among other things, authorizes the JC Group to continue to operate its cash management system, including maintaining existing bank accounts, and to continue to perform intercompany funding through the Cash Management System. As discussed in the Intercompany Transaction section above, the JC Canada Group intends to pay for ordinary course postpetition intercompany charges. If there are any intercompany claims outstanding arising from ongoing intercompany transactions following the Filing Date, pursuant to the Interim Cash Management Order, those claims will receive administrative expense priority under the Bankruptcy Code.

*Interim Critical Vendors Order*

47. The Interim Critical Vendors Order, among other things, authorizes the JC Group to make payments of prepetition amounts to critical third-party vendors. As referenced above, approximately CAD\$400,000 of JC Canada Group's accounts payable relates to amounts payable to critical vendors (primarily, the Load Broker Parties), which amounts will be paid pursuant to this Order (and/or the Interim Customer Programs Order), in the ordinary course.

*Interim DIP Order*

48. The Interim DIP Order is described below.

*Interim Insurance Order*

49. The Interim Insurance Order, among other things, authorizes the JC Group to continue its prepetition insurance coverage, satisfy obligations related thereto, and amend, supplement and extend its insurance policies during the Chapter 11 Proceedings.

*Interim Employee Wages Order*

50. The Interim Employee Wages Order, among other things, authorizes the JC Group to pay prepetition wages, salaries, other compensation, and reimbursable employee expenses and to continue the employee benefits programs in the ordinary course.

*Interim Surety Bond Order*

51. The Interim Surety Bond Order, among other things, authorizes the JC Group to maintain, continue and renew, in their sole discretion, all surety bonds provided to third parties to secure the Chapter 11 Debtors' payment or performance of certain obligations, including the maintenance of collateral and satisfaction of all required payments due on surety bonds.

*Interim Taxes and Fees Order*

52. The Interim Taxes and Fees Order, among other things, authorizes the JC Group to remit and pay all sales, use, excise, income, franchise, property, and other taxes and fees accrued prior to the Petition Date and that will become payable during the Restructuring Proceedings. Canadian taxation authorities and United States taxation authorities are treated consistently.

*Interim Utilities Order*

53. The Interim Utilities Order approves the proposed form of adequate assurance of postpetition payment for certain utility providers, establishes procedures for resolving any objections by utility companies related to the proposed adequate assurance and prohibits the utility companies from terminating service solely on the basis of the commencement of the Chapter 11 Proceedings.

*Interim Customer Programs Order*

54. The Interim Customer Programs Order authorizes the JC Group to honour prepetition claims arising under customer programs, including damages to cargo and reimbursable obligations, and authorizes the JC Group to continue such customer programs in the ordinary course. A portion of JC Canada Group's accounts payable relates to customer program obligations, which amount will be paid pursuant to this Order, in the ordinary course.

*Equity Transfer Order*

55. The Equity Transfer Order approves certain procedures and restrictions with respect to the transfer of equity interests in JCV, including common stock and warrants, and declaring the transfer of such equity interests in violation of the procedures void.

*Prime Clerk Order*

56. The Prime Clerk Order appoints Prime Clerk LLC as claims, noticing and solicitation agents during the Chapter 11 Proceedings.

## **DIP FACILITIES**

57. As described in the Initial May Affidavit and the First Day Declaration, the Chapter 11 Debtors, including the JC Canada Group, require financing during the Restructuring Proceedings to provide the necessary liquidity to maintain their business as a going concern, preserve value of their assets for all stakeholders and to implement the RSA, including the sale process to be conducted by the Chapter 11 Debtors and Houlihan.
58. Pursuant to the RSA, Wells Fargo and Junior Term Loan Lenders have agreed to provide the DIP ABL Facility and the DIP Term Facility, respectively (collectively, the “**DIP Facilities**”). Copies of the DIP Facilities are appended as exhibits to the Initial May Affidavit. Key terms of the DIP Facilities include the following:

	DIP ABL Facility	DIP Term Facility
Borrowers	<ul style="list-style-type: none"> <li>Jack Cooper Holdings Corp., together with certain US-based subsidiaries and affiliates (the “<b>US Borrowers</b>”)</li> <li>JC Canada, LP1 and LP2 (the “<b>Canadian Borrowers</b>”)</li> <li>Each Borrower is jointly and severally liable for all obligations</li> </ul>	<ul style="list-style-type: none"> <li>JCV</li> <li>Canada is not a borrower under the DIP Term Facility</li> </ul>
Lender	<ul style="list-style-type: none"> <li>Prepetition ABL Lenders</li> </ul>	<ul style="list-style-type: none"> <li>Junior Term Loan Lenders</li> </ul>
Guarantors	<ul style="list-style-type: none"> <li>GP1 and GP2 (the “<b>Canadian Guarantors</b>”)</li> <li>Each US subsidiary of JVC (the “<b>US Guarantors</b>”)</li> <li>Obligations under the DIP ABL Facility are guaranteed by the Canadian Guarantors and the US Guarantors</li> </ul>	<ul style="list-style-type: none"> <li>All Chapter 11 Debtors, including the JC Canada Group</li> </ul>
Commitment	<ul style="list-style-type: none"> <li>Up to \$85 million, comprised of: (i) up to \$85 million available to the US Borrowers; and (ii) up to \$5 million to the Canadian Borrowers which reduces on a dollar-for-dollar basis the commitments available for the US Borrowers</li> <li>Subject to a borrowing base calculation and other reserves consistent with the prepetition facility</li> </ul>	<ul style="list-style-type: none"> <li>Up to \$15 million, including: (i) \$5 million available on the date the Interim Order is entered; and (ii) \$10 million after the First Day Orders are entered by the US Court and the CCAA Court and certain other conditions</li> </ul>
DIP Collateral	<ul style="list-style-type: none"> <li>First priority basis by liens on the prepetition ABL Priority Collateral and all of the assets of the JC Canada Group (the “<b>DIP ABL Priority Collateral</b>”);</li> <li>Second priority basis on the prepetition Term Loan Priority Collateral</li> </ul>	<ul style="list-style-type: none"> <li>On a senior priority basis to the Term Loan Priority Collateral, subordinate only to the security interest held by Cerberus as the First Lien Term Loan;</li> <li>On a junior priority basis to the DIP ABL Priority Collateral, subordinate to the DIP ABL Facility and First Lien Term Loan;</li> </ul>
Interest Rate	<ul style="list-style-type: none"> <li>LIBOR plus 3.5% or Base Rate plus 2.5%;</li> <li>0.25% per annum of the unused commitment</li> </ul>	<ul style="list-style-type: none"> <li>LIBOR plus 9.0%;</li> <li>1.0% per annum of the unused commitment</li> </ul>
Maturity	<ul style="list-style-type: none"> <li>The earlier of (i) December 31, 2019; (ii) consummation of a sale or plan of reorganization; and (iii) acceleration of the DIP ABL Facility</li> </ul>	<ul style="list-style-type: none"> <li>The earlier of (i) December 31, 2019; (ii) consummation of a sale or plan of reorganization; and (iii) acceleration of the DIP Term Facility</li> </ul>
Budget & Liquidity Covenant	<ul style="list-style-type: none"> <li>Availability subject to borrowing base requirement</li> <li>Subject to compliance with the DIP Budget with certain permitted negative variances and minimum liquidity covenants</li> </ul>	<ul style="list-style-type: none"> <li>Subject to compliance with the DIP Budget with certain permitted negative variances and minimum liquidity covenants</li> </ul>

59. The Interim DIP Order provides for the following priorities as between the Chapter 11 Debtors' secured creditors in respect of the different classes of collateral provided as security by the JC Group in connection with the DIP Facilities and their prepetition secured credit facilities:

	<b>ABL Priority Collateral</b>	<b>Term Loan Priority Collateral</b>	<b>Canadian Collateral</b>
<b>Summary Collateral Description</b>	<ul style="list-style-type: none"> <li>Cash, accounts receivable and inventory of the US Debtors</li> </ul>	<ul style="list-style-type: none"> <li>Plant, property and equipment of the US Debtors and certain equity pledges of certain non-US subsidiaries, including a pledge of the majority of the shares of JC Canada</li> </ul>	<ul style="list-style-type: none"> <li>All assets and property of the JC Canada Group</li> </ul>
<b>Prepetition Priorities</b>	1st. ABL Facility 2nd. First Lien Term Loan 3rd. 1.5 Lien Term Loan 4th. Second Lien Term Loan	1st. First Lien Term Loan 2nd. 1.5 Lien Term Loan 3rd. Second Lien Term Loan 4th. ABL Facility	1st. ABL Canadian Sub-Facility
<b>Proposed Postpetition Priorities</b>	1st. Carve-Out (US Professional Fees) 2nd. DIP ABL Facility 3rd. First Lien Term Loan 4th. DIP Term Loan Facility 5th. 1.5 Lien Term Loan 6th. Second Lien Term Loan	1st. Carve-Out (US Professional Fees) 2nd. First Lien Term Loan 3rd. DIP Term Loan Facility 4th. 1.5 Lien Term Loan 5th. Second Lien Term Loan 6th. DIP ABL Facility	1st. Administration Charge 2nd. ABL Canadian sub-facility under the ABL DIP Facility and other ABL DIP Facility obligations to the extent permitted under the Marshalling Provision (as defined below) 3rd. DIP Term Facility to the extent permitted under the Marshalling Provision

60. The Proposed Information Officer is of the view that each of the DIP Facilities and the proposed recognition of the Interim DIP Order is reasonable. In assessing the reasonableness, the Proposed Information Officer was mindful that:
- (a) as it relates to the DIP ABL Facility, the DIP ABL Facility potentially increases the liability of the Canadian Borrowers and Canadian Guarantors relative to the prepetition ABL Facility. While the JC Canada Group were borrowers under the prepetition ABL Facility, they were only liable for obligations related to the ABL Canadian Sub-Facility which, as at the Filing Date, had no amounts drawn. The JC Canada Group was not a guarantor of, nor was it jointly or severally liable for, obligations of the US Borrowers under the prepetition ABL Facility (approximately \$49.8 million as at the Filing Date). The DIP ABL Facility contemplates that the JC Canada Group would be liable on a joint and several basis, for the US Borrowers' obligations. Given the immediate refinancing of the prepetition ABL Facility using proceeds from the DIP ABL Facility upon the issuance of the Interim DIP Order, the JC Canada Group would become liable for the US Borrowers obligations under the prepetition ABL Facility; and
  - (b) as it relates to the DIP Term Facility, while it is not a borrower under the DIP Term Facility, the JC Canada Group is providing a guarantee and would be liable on a joint and several basis for the US Borrowers' obligations, only on any "new money" drawn on the DIP Term Facility.
61. To potentially limit prejudice to Canadian stakeholders, paragraph 5.13 of the Interim DIP Order (the "**Marshalling Provision**") provides that each of the DIP Lenders is obligated to satisfy the respective DIP Obligations from the proceeds of DIP Collateral constituting

property of the US Borrowers before looking to the collateral of the Canadian Borrowers or Canadian Guarantors. It is intended that the collateral provided by the JC Canada Group in connection with DIP Facilities will only be used to satisfy borrowings of the US Debtors if the collateral of the US Debtors is insufficient to satisfy their obligations under the DIP Facilities.

62. The proposed Information Officer considered the following to assess the reasonableness of the DIP Facilities:
- (a) as described above, as at the Filing Date amounts payable to unsecured trade creditors of the JC Canada Group totaled approximately CAD\$850,000, of which approximately CAD\$400,000 is expected to be paid in the ordinary course, primarily to critical vendors and Load Broker Parties through recognition of the Interim Critical Vendors Order. Accordingly, approximately CAD\$450,000 will be stayed and potentially affected by the priming charge in the Interim DIP Order (previously defined herein as the Affected Creditor Group). The Affected Creditor Group is comprised of approximately 100 trade creditors in varying amounts with no single creditor owed more than CAD\$50,000;
  - (b) the amounts owing to the Affected Creditor Group of approximately CAD\$450,000 is relatively minor in comparison to the projected cash flow of the JC Canada Group during the first 13 weeks of the Restructuring Proceedings, comprised of receipts of approximately \$7.1 million and disbursements (before restructuring costs and intercompany charges) of approximately \$6.3 million, including \$3.5 million for employee wages and benefits, and approximately \$2.8 million to trade creditors and landlords;

- (c) an important stakeholder group in these Restructuring Proceedings is the Load Broker Parties. It is proposed that this group will be paid for pre and post-petition amounts payable in the ordinary course. In addition, the JC Canada Group will segregate the Load Broker Trust Funds of CAD\$500,000 to be held by the Information Officer in trust for the benefit of the Load Broker Parties to address potential future trust obligations;
- (d) as described above, as at the Filing Date, the JC Canada Group is in an intercompany payable position of approximately \$16.9 million which has accrued over time and not cash settled by the Canadian debtor. If the intercompany debt was cash settled on a regular basis, the JC Canada Group: (i) would likely have been a borrower on the prepetition ABL Canadian Sub-Facility; and (ii) would have required additional funding in excess of the availability under the Canadian borrowing base;
- (e) the DIP Facilities are required for the Chapter 11 Debtors to implement the RSA and a sale transaction that would allow the JC Group's business to carry on as a going concern in the future. The Proposed Information Officer understands that the DIP Lenders are not willing to advance the DIP Facilities unless the JC Canada Group is jointly and severally liable for all of the outstanding obligations thereunder. If the Chapter 11 Debtors, including the JC Canada Group, are unable to access incremental liquidity, the operations of the JC Canada Group would likely be discontinued in short order as it does not have the corporate infrastructure required to operate on a standalone basis nor sufficient liquidity beyond the immediate short term;

- (f) the DIP Facilities are required by the JC Canada Group. The Proposed Information Officer has worked with AlixPartners (and indirectly with the Chapter 11 Debtors management) to extract a Canada specific cash flow forecast from the Chapter 11 Debtors' DIP Budget. Based on that work, the JC Canada Group is projected to require funding during the Restructuring Proceedings and the Canada specific cash flow projects a minimum financing requirement of approximately \$250,000 during the first 13 weeks of the Restructuring Proceedings;
- (g) in an effort to consider the potential impact of discontinuing the JC Canada Group's business on stakeholders, the Proposed Information Officer prepared a preliminary and illustrative wind-down and liquidation analysis based on available information.<sup>5</sup> Based on this analysis, the Proposed Information Officer estimates that recoveries to unsecured creditors would likely be small (i.e. in a range of approximately 5% to 20%), after taking into consideration claims that could arise on liquidation, such as potential trust claims of the Load Broker Parties, employee termination and severance claims, lease termination claims and customer set-offs and damages claims for non-performance (and assuming that the intercompany debt claim of \$16.9 million would be asserted and prove to be a valid claim in a claims process). If the range of estimated recoveries were applied to the amounts owed to the Affected Creditor Group, aggregate estimated recoveries to the group in a liquidation scenario would likely range from approximately \$20,000 to \$90,000;

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<sup>5</sup> The Proposed Information Officer's liquidation analysis is primarily based upon a review of the JC Canada Group's financial statements. The Proposed Information Officer has not obtained appraisals valuing the hard Canadian assets nor has it performed a detailed analysis of the claims likely to arise upon a liquidation.

- (h) the Marshalling Provision incorporated into the Interim DIP Order whereby each of the DIP Lenders must satisfy the respective DIP Obligations from the proceeds of DIP Collateral constituting property of those Chapter 11 Debtors located in the United States before looking to the collateral of the Canadian Borrowers and Canadian Guarantors. However, the Proposed Information Officer notes that the DIP Term Facility (which the JC Canada Group is to be a secured guarantor on) is to rank in priority behind the DIP ABL Facility and the First Lien Term Loan which will total approximately \$238 million (assuming approval of the DIP ABL Facility and repayment of the prepetition ABL Facility). The Information Officer understands that a liquidation analysis has not been prepared by the US Debtors or their advisors, and is not in a position to comment on what the economic outcome of the DIP security marshalling would be in the event of a discontinuance of the Chapter 11 Debtors' businesses;
- (i) the Proposed Information Officer compared the pricing and other financial terms of the DIP ABL Facility to other similar DIP facilities (i.e. working capital revolving facilities) approved by the Canadian courts in previous CCAA proceedings. Based on the Proposed Information Officer's review, the cost of the proposed DIP ABL Facility is consistent with other similar recently approved DIP facilities. The Proposed Information Officer has performed a similar analysis on the DIP Term Facility and concluded that the cost of the DIP Term Facility is consistent with other recently approved DIP facilities of a similar type (i.e. term loan facilities).

63. The Affected Creditor Group is minor compared to the other Canadian stakeholder groups and within the context of the overall Restructuring Proceedings. Measures have been put in place to partially protect and minimize potential prejudice to Canadian unsecured creditors through the Interim Employee Wages Order, the Critical Vendors Order, the Interim Customer Programs Order, the proposed Load Broker Trust Funds and the Marshalling Provision under the Interim DIP Order. The Proposed Information Officer believes that the restructuring which the DIP Facilities will facilitate provides significantly more economic benefit to the majority of the JC Canada Group's stakeholders than would be received in a liquidation scenario.

#### **ADMINISTRATION CHARGE**

64. In addition to the charges in respect of the DIP Facilities, through the Supplemental Order the Chapter 11 Debtors are seeking to establish the Administration Charge, in the maximum amount of \$500,000, securing the professional fees of counsel to the Canadian Chapter 11 Debtors, the Information Officer and legal counsel to the Information Officer.
65. The Administration Charge is a customary protection provided to professionals assisting with insolvency proceedings. The Information Officer has reviewed the quantum of the proposed Administration Charge in this case and believes it is reasonable and appropriate in the circumstances.

#### **PROPOSED INITIAL ACTIVITIES OF THE INFORMATION OFFICER**

66. The draft Supplemental Order proposes that following its appointment, the initial activities of the Information Officer will include:

- (a) establishing a website at [www.alvarezandmarsal.com/JackCooperCanada](http://www.alvarezandmarsal.com/JackCooperCanada) to make available copies of the Orders granted in the CCAA Recognition Proceedings as well as other relevant motion materials and reports;
- (b) coordinating publication of a notice of the Chapter 11 Proceedings and CCAA Recognition Proceedings in *The Globe & Mail (National Edition)* newspaper, commencing within five business days from the date of the Initial Recognition Order, once a week for two consecutive weeks;
- (c) responding to creditor inquiries regarding the Restructuring Proceedings;
- (d) providing such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
- (e) providing the Court with periodic reports on the status of the Restructuring Proceedings, which reports may include information relating to the property and the business of the Chapter 11 Debtors or such other matters as may be relevant to these proceedings; and
- (f) engaging independent legal counsel in respect of the exercise of its powers and the performance of its obligations.

#### **A&M CANADA'S QUALIFICATION TO ACT AS INFORMATION OFFICER**

67. A&M Canada was engaged by the JC Canada Group effective July 26, 2019, for the purpose of preparing for the CCAA Recognition Proceedings and to act as the Proposed Information Officer. As such, the Proposed Information Officer is familiar with the business and operations of the JC Group and the JC Canada Group, and the key issues and stakeholders in the proposed CCAA Recognition Proceedings.

68. A&M Canada is a trustee within the meaning of subsection 2(1) of the *Bankruptcy and Insolvency Act* (Canada), has significant experience in connection with proceedings under the CCAA, including but not limited to acting as information officer in the CCAA recognition proceedings of Payless Holdings LLC, Modular Space Corporation, LightSquared LP, Durabla Canada Ltd., TLC Vision Corporation and Chemtura Canada Co./Cie.
69. A&M Canada is related to Alvarez & Marsal Holdings, LLC. Alvarez & Marsal Holdings, LLC is an independent international professional services firm, providing, among other things, bankruptcy, insolvency and restructuring services. The senior A&M Canada professional personnel with carriage of this matter include experienced insolvency and restructuring practitioners who are Chartered Professional Accountants, Chartered Insolvency and Restructuring Professionals and Licensed Insolvency Trustees, and whom have acted in cross-border restructurings and CCAA matters of a similar nature in Canada.
70. The Proposed Information Officer has retained Stikeman Elliott LLP to act as its independent legal counsel.
71. A&M Canada has consented to act as Information Officer should this Court approve the requested Initial Recognition Order.

## **RECOMMENDATIONS**

72. A&M Canada has reviewed, together with its legal counsel, the terms of the Initial Recognition Order and the Supplemental Order, and believes that the relief sought by the JC Group, as set out in the form of orders submitted to the Court for approval, are fair and reasonable in the circumstances, having regard to the current status of the JC Canada Group and the other Chapter 11 Debtors. A&M Canada believes that the terms of the

Supplemental Order relating to its role as Information Officer are fair and reasonable, and consistent with the terms of appointments of information officers in other recognition proceedings under the CCAA.

73. Based on the foregoing, the Proposed Information Officer respectfully recommends that this Court grant the relief requested by the JC Group in the Initial Recognition Order and Supplemental Order.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** at Toronto, Ontario this 9<sup>th</sup> day  
of August, 2019.

**ALVAREZ & MARSAL CANADA INC.**

in its capacity as the Proposed Information Officer of  
Jack Cooper Ventures, Inc., et al and not in its personal or corporate capacity

Per:           Alan J. Hutchens            
Alan J. Hutchens  
Senior Vice-President

**APPENDIX B**

**FIRST REPORT OF THE INFORMATION OFFICER  
DATED SEPTEMBER 6, 2019**

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

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

**AND IN THE MATTER OF JACK COOPER VENTURES, INC., JACK COOPER  
DIVERSIFIED, LLC, JACK COOPER ENTERPRISES, INC., JACK COOPER  
HOLDINGS CORP., JACK COOPER TRANSPORT COMPANY, INC., AUTO  
HANDLING CORPORATION, CTEMS, LLC, JACK COOPER LOGISTICS, LLC,  
AUTO & BOAT RELOCATION SERVICES, LLC, AXIS LOGISTIC SERVICES, INC.,  
JACK COOPER CT SERVICES, INC., JACK COOPER RAIL AND SHUTTLE, INC.,  
JACK COOPER INVESTMENTS, INC., NORTH AMERICAN AUTO  
TRANSPORTATION CORP., JACK COOPER TRANSPORT CANADA INC., JACK  
COOPER CANADA GP 1 INC., JACK COOPER CANADA GP 2 INC., JACK COOPER  
CANADA 1 LIMITED PARTNERSHIP, JACK COOPER CANADA 2 LIMITED  
PARTNERSHIP**

**FIRST REPORT OF THE INFORMATION OFFICER**

**ALVAREZ & MARSAL CANADA INC.**

**September 6, 2019**

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**APPENDIX A            PRE-FILING REPORT OF THE PROPOSED INFORMATION  
OFFICER**

## INTRODUCTION

1. On August 6, 2019 (the “**Filing Date**”), Jack Cooper Ventures Inc. (“**JCV**” or the “**Foreign Representative**”), Jack Cooper Transport Canada Inc. (“**JC Canada**”) and 17 subsidiaries and affiliates (collectively, the “**JC Group**” or the “**Chapter 11 Debtors**”)<sup>1</sup>, commenced voluntary reorganization proceedings (the “**Chapter 11 Proceedings**”) pursuant to Chapter 11 of the U.S. Bankruptcy Code with the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “**US Court**”).
2. On August 8, 2019, the US Court granted various orders in the Chapter 11 Proceedings (the “**First Day Orders**”), including an order authorizing JCV to act as foreign representative in the Chapter 11 Proceedings.
3. On August 9, 2019, this Court made two orders (the “**Initial Recognition Order**” and the “**Supplemental Order**”) that, among other things: (a) recognized the Chapter 11 Proceedings as a “foreign main proceeding” under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”); (b) recognized JCV as the “foreign representative” of the Chapter 11 Debtors; (c) stayed all proceedings against the Chapter 11 Debtors; (d) appointed Alvarez & Marsal Canada Inc. (“**A&M Canada**” or the “**Information Officer**”) as the information officer in respect of these proceedings under Part IV of the CCAA (the “**CCAA Recognition Proceedings**”), and together with the Chapter 11 Proceedings, the

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<sup>1</sup> **US Debtors:** Jack Cooper Ventures, Inc., Jack Cooper Diversified, LLC, Jack Cooper Enterprises, Inc., Jack Cooper Holdings Corp., Jack Cooper Transport Company, Inc., Auto Handling Corporation, CTEMS, LLC, Jack Cooper Logistics, LLC, Auto & Boat Relocation Services, LLC, Axis Logistic Services, Inc., Jack Cooper CT Services, Inc., Jack Cooper Rail and Shuttle, Inc., Jack Cooper Investments, Inc., North American Auto Transportation Corp. (collectively, the “**US Debtors**”); and **Canadian Debtors:** Jack Cooper Transport Canada, Inc., Jack Cooper Canada GP 1 Inc., Jack Cooper Canada GP 2 Inc., Jack Cooper Canada 1 Limited Partnership, Jack Cooper Canada 2 Limited Partnership (collectively, the “**JC Canada Group**”).

“**Restructuring Proceedings**”); and (e) recognized and gave effect in Canada to the First Day Orders.

4. At the commencement of the CCAA Recognition Proceedings, the US Court had granted, but not yet entered, three additional First Day Orders: the Equity Transfer Order, Prime Clerk Order and Interim Utilities Order (each defined and described in the Pre-Filing Report). The US Court entered these three orders on August 9, 12 and 16, 2019, respectively, and on August 22, 2019, this Court made an order (the “**Second Recognition Order**”) recognizing the three additional First Day Orders.
5. A&M Canada, in its capacity as Proposed Information Officer, filed with this Court a report dated August 9, 2019 (the “**Pre-Filing Report**”) to provide this Court with, among other things, information relating to the Chapter 11 Debtors’ business and operations and their debt and capital structures. A copy of the Pre-Filing Report is attached hereto as Appendix A and is available on the case website: [www.alvarezandmarsal.com/JackCooperCanada](http://www.alvarezandmarsal.com/JackCooperCanada).
6. On September 3, 2019, the US Court heard certain second day motions filed by the Chapter 11 Debtors and entered orders in respect of those motions (the “**Second Day Orders**”). The Second Day Orders include final orders of certain First Day Orders that were initially issued on an interim basis. The Foreign Representative is seeking to have certain Second Day Orders recognized in Canada by this Court, which are described in further detail below.

## TERMS OF REFERENCE AND DISCLAIMER

7. In preparing this report (the “**First Report**”), the Information Officer has relied solely on information and documents provided by the Foreign Representative, the other Chapter 11 Debtors, their US-based restructuring advisors, AlixPartners LLC (“**AlixPartners**”), and their Canadian legal counsel (collectively, the “**Information**”).
8. The Information Officer has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Information Officer has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CASs**”) pursuant to the *Chartered Professional Accountants Canada Handbook* (the “**Handbook**”), and accordingly, the Information Officer expresses no opinion or other form of assurance contemplated under CASs in respect of the Information.
9. This First Report should be read in conjunction with the Affidavit of Greg R. May, sworn on September 6, 2019 (the “**Second May Affidavit**”).
10. Unless otherwise stated, all monetary amounts contained herein are expressed in United States dollars.
11. Terms not otherwise defined in this First Report have the meanings ascribed to them in the Pre-Filing Report and the Second May Affidavit.

## PURPOSE OF REPORT

12. The purpose of this First Report is to provide the Court with information regarding the following:

- (a) certain Second Day Orders that the Foreign Representative is seeking to have recognized and given effect in Canada by this Court pursuant to the CCAA, including the Bid Procedures Order (as defined and described below);
- (b) the proposed intercompany charge on Canadian assets as security for intercompany claims arising on or after August 9, 2019 (the “**Intercompany Charge**”);
- (c) an update on the Load Broker Trust Funds (as defined below); and
- (d) a summary of the activities of the Information Officer since the date of its appointment.

#### **SECOND DAY ORDERS FOR WHICH RECOGNITION IS BEING SOUGHT**

13. On September 3, 2019, the US Court made a number of Second Day Orders, including the following for which recognition is being sought in Canada:
- (a) *Final Cash Management Order*, which among other things, authorizes: (i) the JC Group to continue to operate its cash management system, including maintaining existing bank accounts, and to continue to perform intercompany funding through the Cash Management System; and (ii) grants administrative expense status to all post-filing intercompany claims among the Chapter 11 Debtors. The Final Cash Management Order was modified: (i) to require the Chapter 11 Debtors to consult

with the UCC<sup>2</sup> and the Junior Term Loan Lenders<sup>3</sup> in certain situations, including prior to making any intercompany transactions over \$100,000 outside the ordinary course; and (ii) to incorporate certain reporting and consultation requirements with the UCC, the Prepetition Secured Parties and the US Trustee;

- (b) *Final Taxes Order*, which among other things, authorizes the JC Group to remit and pay all sales, use, excise, income, franchise, property, and other taxes and fees accrued prior to the Petition Date and that will become payable during the Restructuring Proceedings. The Final Taxes Order was modified to incorporate consultation requirements with the UCC and the Junior Term Loan Lenders with respect to the payment of prepetition taxes;
- (c) *Final Insurance Order*, which among other things, authorizes the JC Group to continue its prepetition insurance coverage, satisfy obligations related thereto, and amend, supplement and extend its insurance policies during the Restructuring Proceedings. The Final Insurance Order was modified to incorporate certain consultation requirements with the UCC and the Junior Term Loan Lenders;
- (d) *Final Surety Bond Order*, which among other things, authorizes the JC Group to maintain, continue and renew, in their sole discretion, all surety bonds provided to third parties to secure the Chapter 11 Debtors' payment or performance of certain obligations, including the maintenance of collateral and satisfaction of all required

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<sup>2</sup> On August 19, 2019, the U.S. Trustee filed a Notice of Appointment of Official Committee of Unsecured Creditors, notifying parties that the U.S. Trustee had appointed an Official Committee of Unsecured Creditors (the "UCC"). The members of the UCC are described in the Second May Affidavit.

<sup>3</sup> The Junior Term Loan Lenders are the holders of the 1.5 Lien Term Loan and the Second Lien Term Loan (all as defined in the Pre-Filing Report).

payments due on surety bonds. The Final Surety Bond Order was modified to incorporate certain consultation requirements with the UCC and the Junior Term Loan Lenders;

- (e) *Final Equity Transfer Order*, which among other things, approves the Equity Transfer Procedures (as detailed in Exhibit 1 to the Interim Order) and directs that any purchase, sale, other transfer of, or declaration of worthlessness with respect to, common stock in violation of the Equity Transfer Procedures shall be null and void. The Final Equity Transfer Order was modified to incorporate certain consultation requirements with the UCC and the Junior Term Loan Lenders;
- (f) *Final Critical Vendors Order*, which among other things, authorizes the JC Group to make payment of prepetition amounts to critical third-party vendors. The Final Critical Vendors Order was modified to incorporate certain consultation requirements with, and specific reporting to, the UCC and the Junior Term Loan Lenders prior to making critical vendor payments;
- (g) *Final Customer Programs Order*, which among other things authorizes the JC Group to honour prepetition claims arising under customer programs, including damages to cargo and reimbursable obligations, and authorizes the JC Group to continue such customer programs in the ordinary course. The Final Customer Programs Order was modified to incorporate certain consultation requirements with the UCC and the Junior Term Loan Lenders;
- (h) *Final Wages Order*, which among other things, authorizes the JC Group to pay prepetition wages, salaries, other compensation and reimbursable employee

expenses, and to continue the employee benefits programs in the ordinary course. The Final Wages Order was modified to: (i) include explicit authority for the Chapter 11 Debtors to pay severance amounts owed to non-insider former employees; and (ii) consult with the UCC and Junior Term Lenders in making payments on corporate credit cards; and

(i) *Bid Procedures Order*, which is described below.

14. A motion to obtain the Final Utilities Order and the Final DIP Order is scheduled to be heard by the US Court on September 12, 2019 at 10:00 a.m. and a motion for recognition before this Court is scheduled on September 18, 2019 at 10:00 a.m.
15. As described in the Second May Affidavit, since entering the DIP Facilities, the Chapter 11 Debtors and the DIP Agents have been working diligently to satisfy the post-closing conditions under the DIP Facilities, all of which are anticipated to be satisfied prior to the deadline for satisfaction of such conditions.

## **BID PROCEDURES ORDER**

### **Stalking Horse APA**

16. As described in the Pre-Filing Report, during the months leading up to the Restructuring Proceedings, the Chapter 11 Debtors engaged with its secured creditor group, including the Junior Term Loan Lenders, Cerberus and Wells Fargo (each as defined in the Pre-Filing Report) to negotiate a comprehensive restructuring plan that would address the JC Group's capital structure and better position the business for future success.

17. These discussions culminated in an agreement in principle pursuant to a restructuring support agreement (the “**RSA**”) that contemplates a sale of all or substantially all of the Chapter 11 Debtors’ assets to a newly formed entity affiliated with the Junior Term Loan Lenders to carry on the Chapter 11 Debtors’ business as a going concern (the “**Stalking Horse Bidder**”). To effect the contemplated transaction, the Junior Term Loan Lenders would act as a “stalking horse bidder” in a Court-approved sales process by credit bidding its prepetition secured debt (the “**Sale Process**”).
  
18. In accordance with the RSA, on August 23, 2019, the Chapter 11 Debtors and the Stalking Horse Bidder entered into an Asset Purchase and Sale Agreement (the “**Stalking Horse APA**”) for the sale of substantially all of the Chapter 11 Debtors’ assets to the Stalking Horse Bidder. The Stalking Horse APA is described in the Second May Affidavit. Key terms of the Stalking Horse APA include the following:

<b>Stalking Horse APA</b>	
Purchase Price	<ul style="list-style-type: none"> <li>• Cash Consideration equal to: (a) all fees and expenses of any professional retained by the Chapter 11 Debtors and the UCC in connection with these Restructuring Proceedings; (b) an amount sufficient to satisfy the costs and expenses of winding down the Chapter 11 Debtors' estates following the closing date; and (c) an additional amount to pay for any assets that cannot be acquired through a credit bid (if any), provided that such additional cash shall not exceed \$1,000,000;</li> <li>• Assumed Liabilities, including: (a) the ABL Exit Facility and the Cerberus Senior Secured Term Loan (by means of an agreed exit facility, the "<b>Cerberus Exit Facility</b>"); and (b) obligations under Assumed Contracts; and</li> <li>• Release of all Chapter 11 Debtors under the 1.5 Lien Term Loan and the Second Lien Term Loan and/or the DIP Term Facility, in an aggregate amount not less than: (a) \$425,000,000, minus (b) the Cash Consideration, minus (c) the aggregate outstanding principal amount under the DIP ABL Facility, the Canadian DIP Sub-Facility and the Cerberus Senior Secured Term Loan.</li> </ul>
Other conditions to be satisfied prior to closing	<ul style="list-style-type: none"> <li>• The Stalking Horse Bidder shall have liquidity of at least \$20,000,000 with any shortfall to be funded by the Stalking Horse Bidder;</li> <li>• The Stalking Horse Bidder shall have entered into the ABL Exit Facility and the Cerberus Exit Facility;</li> <li>• The U.S. Chapter 11 Debtors shall have withdrawn from all multiemployer pension plans to which they are currently obliged to make contributions; and</li> <li>• The absence of any valid termination of the DIP Interim Order and/or the DIP Final Order, the DIP Term Loan Agreement or the RSA.</li> </ul>
Expense Reimbursement	<ul style="list-style-type: none"> <li>• In the event the sale is not consummated with the Stalking Horse Bidder and the Chapter 11 Debtors close an alternate transaction for a higher purchase price, the Stalking Horse Bidder shall be reimbursed for its reasonable and documented fees and expenses; and</li> <li>• The Expense Reimbursement shall constitute an allowed super priority administrative expense claim against each of the Chapter 11 Debtors.</li> </ul>

### **Bid Procedures**

19. As part of the Sale Process contemplated in the RSA, the Chapter 11 Debtors have developed a bidding process designed to maximize the value of the Chapter 11 Debtors' assets and business through a competitive auction process (the "**Bidding Procedures**").

The Sale Process is being conducted by Houlihan Lokey, Inc. (“**Houlihan**”) to determine whether any offers superior to the credit bid can be obtained.

20. On September 3, 2019, the US Court entered the Bid Procedures Order which, *inter alia* (a) authorized the Chapter 11 Debtors to enter into the Stalking Horse APA; (b) approved the Bid Procedures and related dates and deadlines; (c) approved the Expense Reimbursement; (d) scheduled hearings and deadlines in connection with approval of the sale; and (e) granted related relief. Though the Bid Procedures Order was granted on September 3, 2019, the Sale Process was commenced by Houlihan on August 7, 2019 by sending a bid package to potentially interested parties.
21. The Sale Process does not preclude a potential purchaser from submitting a bid for the business and assets of the JC Canada Group on a standalone basis.
22. The Bid Procedures Order is described in the Second May Affidavit. Key terms and dates include the following:
  - (a) all qualified bids (a “**Qualified Bid**”) must be received by no later than October 1, 2019 at 5:00 p.m. Eastern Time (the “**Bid Deadline**”);
  - (b) a Qualified Bid must meet certain criteria as specified in the Bidding Procedures, including but not limited to: (i) it must clearly state which assets and which liabilities the bidder is proposing to assume; (ii) clearly state the purchase price, which shall be no less than \$425,000,000 plus all accrued and unpaid interest on certain of the Chapter 11 Debtors secured credit facilities, and the Expense Reimbursement; (iii) include unconditional committed financing; and (iv) be accompanied by a 10% cash deposit.

- (c) on or before October 2, 2019 at 5:00 p.m. Eastern Time, the Chapter 11 Debtors will determine which bids are Qualified Bids;
- (d) if no Qualified Bids are received by the Bid Deadline, then the Auction (as defined below) may be cancelled, and the Stalking Horse APA may be designated as the successful bid, in which case the Chapter 11 Debtors will pursue entry of an order by the US Court confirming the transaction at the Sale Hearing (as defined below), which will also require recognition by this Court;
- (e) if Qualified Bids are received by the Bid Deadline, the Chapter 11 Debtors will conduct an auction on October 4, 2019 at 10:00 a.m. Eastern Time at the offices of Paul, Weiss, Rifkind, Wharton & Garrison LLP in New York (the “**Auction**”);
- (f) following the Auction, the Chapter 11 Debtors will identify the highest or otherwise best Qualified Bid(s) (each, a “**Successful Bid**”); and
- (g) the Chapter 11 Debtors will seek the approval of the best bid(s) from the US Court on October 10, 2019 at 2:30 p.m. Eastern Time (the “**Sale Hearing**”). Any transaction involving the assts and business of the JC Canada Group will also require recognition by this Court.

23. At this time, JCV is seeking recognition by this Court of the Bid Procedures Order. The Information Officer considered the following in assessing the reasonableness of the Bid Procedures Order:

- (a) in the Information Officer’s view, the Sale Process and Bidding Procedures are commercially reasonable and intended to maximize value through a competitive auction process while also mitigating against downside risk for stakeholders by

providing certainty of a going-concern transaction to be completed pursuant to the Stalking Horse APA should the Sale Process not produce a superior result;

- (b) the Bid Deadline provides sufficient time to ensure potential bidders are able to perform diligence and prepare and submit Qualified Bids;
- (c) the Bidding Procedures provide the opportunity to identify a bidder for the business and assets of the JC Canada Group on a standalone basis;
- (d) the Expense Reimbursement is reasonable under the circumstances in combination with the Sale Process; and
- (e) the Information Officer does not believe the creditors of the JC Canada Group would be materially prejudiced by the Bid Procedures.

24. Based on the foregoing, the Information Officer believes that the Bid Procedures Order is fair and reasonable and recommends that the Court grant an order recognizing the Bid Procedures Order subject to the following comments regarding credit bidding for the assets of the JC Canada Group.

### **Credit Bidding**

25. As set out above, the Stalking Horse Bidder primarily intends to credit bid for the assets of the Chapter 11 Debtors. The Bidding Procedures Order contains certain provisions declaring the Stalking Horse Bidder to have such right for all of the assets of the Chapter

11 Debtors, including the assets of the JC Canada Group (the “**Canadian Assets**”), while preserving parties in interest right to object at a later date.

26. The Information Officer notes for the Court that, as set out in the Pre-Filing Report, the JC Canada Group was not a borrower or guarantor under the prepetition credit facilities owing to the Stalking Horse Bidder and therefore it does not have the right to credit bid such debt for the Canadian Assets.
27. The Stalking Horse Bidder also provided the Chapter 11 Debtors with the DIP Term Facility under which the JC Canada Group is a guarantor. The Bidding Procedures Order and Stalking Horse APA provide that the Stalking Horse Bidder may also credit bid the DIP Term Loan Facility for the assets of all the Chapter 11 Debtors, including the JC Canada Group. As set out in the Pre-Filing Report, the Interim DIP Order provided for a marshalling provision that set out that each of the DIP Lenders is obligated to satisfy the respective DIP Obligations from the proceeds of DIP Collateral constituting property of the US-based Chapter 11 Debtors before looking to the collateral of the JC Canada Group. The Information Officer understands that the Stalking Horse Bidder is continuing to work through the mechanics of its credit bid and allocation of the purchase price between the US collateral and the Canadian collateral.

## **INTERCOMPANY CHARGE**

28. As described in the Pre-Filing Report, the JC Canada Group is wholly dependent on certain of the Chapter 11 Debtors located in the United States and is the beneficiary of intercompany support, including: (a) payments made on behalf of the JC Canada Group; (b) head office shared services; and (c) intercompany vehicle leases.

29. Intercompany support and transactions have continued in the normal course and the related charges to the JC Canada Group are projected to be approximately \$260,000 per month.
30. The Chapter 11 Debtors are seeking a Court-ordered charge on the JC Canada Group's property securing all Allowed Intercompany Claims that arose or arise on or after August 9, 2019, which proposed charge would rank in priority to all unsecured claims, including claims of other post-filing creditors, but will be subordinate to the Administrative Charge and the DIP Charges.
31. The Information Officer is supportive of the Intercompany Charge as it will reduce the JC Canada Group's need to borrow under the ABL DIP Facility, if any, and incur interest costs to the detriment of the estate.
32. The Information Officer notes for the Court and stakeholders that since the Filing Date, due to cash flow timing issues in the United States, the US-based Chapter 11 Debtors have borrowed approximately \$619,000 from the JC Canada Group. Therefore, as of the date of this First Report, no amount would be secured by the Intercompany Charge.

#### **LOAD BROKER TRUST FUNDS**

33. Pursuant to the Supplemental Order, on August 12, 2019, the JC Canada Group deposited CAD\$500,000 with the Information Officer to be held in trust for the benefit of the Load Broker Parties (as defined in the Pre-Filing Report) to address any potential trust obligations under the *Highway Traffic Act* (Ontario) (the "**Load Broker Trust Funds**").
34. It is intended that the Information Officer will hold the Load Broker Trust Funds throughout the CCAA Recognition Proceedings and any payments by the Information

Officer from the Load Broker Trust Funds will be made pursuant to further Order of the Court.

35. Ongoing payments accruing in the ordinary course are continuing to be made to the Load Broker Parties by the JC Canada Group.

#### **ACTIVITIES OF THE INFORMATION OFFICER**

36. The activities of the Information Officer to date have included:
- (a) establishing the case website at [www.alvarezandmarsal.com/JackCooperCanada](http://www.alvarezandmarsal.com/JackCooperCanada) to make available copies of the orders granted in the CCAA Recognition Proceedings and other relevant motion materials and reports. In addition, there is a link on the Information Officer's website to the Chapter 11 Debtors' restructuring website maintained by Prime Clerk that includes copies of the US Court materials and orders, petitions and notices and other materials relevant to the Chapter 11 Proceedings;
  - (b) coordinating the publication of a notice of the Chapter 11 Proceedings and CCAA Recognition Proceedings (the "Notice") in *The Globe and Mail* (National Edition) on Wednesday August 14, 2019 and Wednesday August 21, 2019;
  - (c) responding to inquiries regarding the CCAA Recognition Proceedings and the Chapter 11 Proceedings;
  - (d) monitoring the Prime Clerk website for activity in the Chapter 11 Proceedings;

- (e) discussions with legal counsel, the Chapter 11 Debtors' management and Canadian legal counsel and AlixPartners regarding matters relevant to the CCAA Recognition Proceedings and the Chapter 11 Proceedings; and
- (f) preparing the Pre-Filing Report and this First Report and reviewing draft materials of the Foreign Representative in connection with the CCAA Recognition Proceedings.

## **RECOMMENDATIONS**

- 37. The Information Officer understands that the Second Day Orders for which recognition is being sought in Canada, including the Bid Procedures Order, are necessary to the Chapter 11 Debtors' continued business operations and that absent these orders, the reorganization efforts would be impaired.
- 38. The Information Officer has reviewed the Second Day Orders and believes that recognition of the orders is reasonable and appropriate in the circumstances. Based on the foregoing, the Information Officer respectfully recommends that this Court grant the relief requested by JCV.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** at Toronto, Ontario this 6<sup>th</sup> day  
of September 2019.

**ALVAREZ & MARSAL CANADA INC.**  
in its capacity as the Information Officer of  
Jack Cooper Ventures, Inc., et al and not in its personal or corporate capacity

Per: Alan J. Hutchens  
Alan J. Hutchens  
Senior Vice-President

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

Court File No. CV-19-625200-00CL

AND IN THE MATTER OF JACK COOPER VENTURES, INC., JACK COOPER DIVERSIFIED, LLC, JACK COOPER ENTERPRISES, INC., JACK COOPER HOLDINGS CORP., JACK COOPER TRANSPORT COMPANY, INC., AUTO HANDLING CORPORATION, CTEMS, LLC, JACK COOPER LOGISTICS, LLC, AUTO & BOAT RELOCATION SERVICES, LLC, AXIS LOGISTIC SERVICES, INC., JACK COOPER CT SERVICES, INC., JACK COOPER RAIL AND SHUTTLE, INC., JACK COOPER INVESTMENTS, INC., NORTH AMERICAN AUTO TRANSPORTATION CORP., JACK COOPER TRANSPORT CANADA INC., JACK COOPER CANADA GP 1 INC., JACK COOPER CANADA GP 2 INC., JACK COOPER CANADA 1 LIMITED PARTNERSHIP, JACK COOPER CANADA 2 LIMITED PARTNERSHIP

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

Proceeding commenced at Toronto

**FIRST REPORT OF THE  
INFORMATION OFFICE**

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

Court File No. CV-19-625200-00CL

AND IN THE MATTER OF JACK COOPER VENTURES, INC., JACK COOPER DIVERSIFIED, LLC, JACK COOPER ENTERPRISES, INC., JACK COOPER HOLDINGS CORP., JACK COOPER TRANSPORT COMPANY, INC., AUTO HANDLING CORPORATION, CTEMS, LLC, JACK COOPER LOGISTICS, LLC, AUTO & BOAT RELOCATION SERVICES, LLC, AXIS LOGISTIC SERVICES, INC., JACK COOPER CT SERVICES, INC., JACK COOPER RAIL AND SHUTTLE, INC., JACK COOPER INVESTMENTS, INC., NORTH AMERICAN AUTO TRANSPORTATION CORP., JACK COOPER TRANSPORT CANADA INC., JACK COOPER CANADA GP 1 INC., JACK COOPER CANADA GP 2 INC., JACK COOPER CANADA 1 LIMITED PARTNERSHIP, JACK COOPER CANADA 2 LIMITED PARTNERSHIP

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

Proceeding commenced at Toronto

**SECOND REPORT OF THE  
INFORMATION OFFICER**

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