

ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY

THE HONOURABLE
JUSTICE

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THURSDAY, THE 6TH
DAY OF FEBRUARY, 2025



Court File No. 32-3175819
Estate No. 32-3175819
BK-25-03175820-0032

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF UCG LAND INC., IN THE CITY OF
HAMILTON, IN THE PROVINCE OF ONTARIO**

Court File No. 32-3175820
Estate No. 32-3175820
BK-25-03175819-0032

**IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF UPPER CANADA GROWERS
LTD., IN THE CITY OF HAMILTON, IN THE PROVINCE OF
ONTARIO**

ORDER
(INITIAL PROPOSAL ORDER)

THIS MOTION, made by Upper Canada Growers Ltd. (“UCG”) and UCG Land Inc. (“LandCo”, and together with UCG, the “Companies”) pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (the “BIA”), for an order, among other things: (a) administratively consolidating the estates of the Companies on a *nunc pro tunc* basis; (b) extending the time for the Companies to file a proposal under section 50.4(9) of the BIA until April 1, 2025; (c) approving the First Report of the Proposal Trustee (each as defined herein); (d) enhancing certain powers of the Proposal Trustee; (e) approving the DIP Term Sheet and authorizing the Companies to access the DIP Facility (each as defined herein); (f) establishing the Charges (as

defined herein); and (g) approving a KERP (as defined herein), was heard this day at the courthouse at 45 Main Street East #500, in Hamilton, Ontario.

ON READING the affidavit of Robert Haynes sworn on January 29, 2025 (the “**Haynes Affidavit**”), the First Report (the “**First Report**”) of BDO Canada Limited in its capacity as proposal trustee of the Companies (the “**Proposal Trustee**”) dated January 29, 2025, and on being advised that the Companies each filed a Notice of Intention to Make a Proposal (each, an “**NOI Proceeding**” and together, the “**NOI Proceedings**”) pursuant to section 50.4(1) of the BIA on January 17, 2025 (the “**NOI Filing Date**”), and on hearing the submissions of the respective counsel for the Companies, the Proposal Trustee, and such other counsel and parties as are listed on the Participant Information Form, no one else appearing although duly served as appears from the Affidavit of Service of Talya Bertler, sworn January 29, 2025 and the Affidavit of Service of David Seifer, sworn January 29, 2025, filed, and on being advised of the support of the DIP Lender (as defined herein) for this Order:

SERVICE AND INTERPRETATION

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, Motion Record and First Report are hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used but not defined in this Order shall have the meanings given to them in the First Report and the Haynes Affidavit, as applicable.
3. **THIS COURT ORDERS** that all references to currency herein shall be in Canadian dollars.

ADMINISTRATIVE CONSOLIDATION

4. **THIS COURT ORDERS** that the NOI Proceeding of UCG and the NOI Proceeding of LandCo hereby administratively consolidated and authorized and directed to continue under the following title of proceedings:

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SUPERIOR COURT OF JUSTICE
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OF ONTARIO**

5. **THIS COURT ORDERS** that the Companies shall file a copy of this Order in the court file for each of the NOI Proceedings but that all other materials in the NOI Proceedings shall be filed only in the NOI Proceeding of UCG (Court File No. 32-3175820, Estate No. 32-3175820 and Court No. BK-25-03175819-0032), and hereby dispenses with further filing thereof in the NOI Proceeding of LandCo (Court File No. 32-3175819, Estate No. 32-3175819, and Court No. BK-25-03175820-0032).

6. **THIS COURT ORDERS** that the Proposal Trustee is authorized and directed to administer the NOI Proceedings, on a consolidated basis, in carrying out its duties and responsibilities as proposal trustee under the BIA and in accordance with this Order, including, without limitation:

- (a) sending notices to creditors of the Companies pursuant to one consolidated notice;
- (b) calling and conducting any meetings of creditors of the Companies pursuant to one combined advertisement;
- (c) issuing consolidated reports in respect of the estates of the Companies;

- (d) preparing, filing, advertising and distributing any and all filings or notices relating to the administration of the estates of the Companies;
- (e) taxing its fees and those of its counsel; and,
- (f) seeking any relief before this Court.

7. **THIS COURT ORDERS** that the administrative consolidation of the NOI Proceedings shall not:

- (a) affect the separate legal status and corporate structures of the Companies;
- (b) cause either of the Companies to be liable to any claim for which it is otherwise not liable; or,
- (c) affect the Proposal Trustee's or any creditor's right to seek to disallow any claim, including on the basis that it is duplicative.

8. **THIS COURT ORDERS** paragraphs 4 to 7 (inclusive) of this Order shall apply *nunc pro tunc* to (a) this Motion and all materials filed in respect thereof, and (b) the Motion filed herewith seeking, among other things, the approval of the SISP (as defined in the First Report) and all materials filed in respect thereof.

EXTENSION OF TIME TO FILE A PROPOSAL

9. **THIS COURT ORDERS** that pursuant to section 50.4(9) of the BIA, the time for the Companies to file a proposal is hereby extended up to and including April 1, 2025.

APPROVAL OF FIRST REPORT

10. **THIS COURT ORDERS** that the First Report, as well as the actions, conduct and activities of the Proposal Trustee as described therein, be and are hereby approved; provided, however, that only the Proposal Trustee, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

POSSESSION OF PROPERTY

11. **THIS COURT ORDERS** that the Companies shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Companies shall continue to carry on business in a manner consistent with the preservation of their respective businesses (collectively, the “**Business**”) and Property.

12. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Companies are and shall be entitled but not required to pay all reasonable expenses incurred in carrying on the Business in the ordinary course after the NOI Filing Date, subject to the terms of the DIP Term Sheet. Without limiting the foregoing, subject to the terms of the DIP Term Sheet, the Companies shall be entitled, but not required, to pay the following expenses, whether incurred prior to or after the date of this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, and expenses payable on or after the date of this Order, incurred in the ordinary course of the Business and consistent with existing compensation policies and arrangements;
- (b) the fees and disbursements of any Assistants (as defined herein) retained or employed by the Companies, at their standard rate and charges; and
- (c) with the consent of the Proposal Trustee and the DIP Lender, amounts owing for goods or services supplied to the Companies prior to the NOI Filing Date up to the maximum aggregate amount of \$100,000, if, in the opinion of the Companies and the Proposal Trustee, those goods and services are critical to the Business.

PROPOSAL TRUSTEE

13. **THIS COURT ORDERS** that the Proposal Trustee continues to be and is hereby authorized to take all steps required to fulfill its duties under the BIA or as an officer of this Court, including to perform such duties as are required to give effect to the terms of this Order and such other orders as may be made by this Court from time to time.

14. **THIS COURT ORDERS** that, without limiting the duties and powers of the Proposal Trustee under the BIA, the Proposal Trustee is authorized, but not obliged, to do any of the following in the name of and on behalf of the Companies, where the Proposal Trustee considers it necessary or desirable, provided that such exercise of power is consistent with the terms of the DIP Term Sheet:

- (a) to exercise any rights and powers that may be exercised by one or more directors or officers of the Companies in their capacity as director or officer, including, without limitation, to:
 - (i) perform any functions or duties, and enter into such agreements or incur such obligations as the Proposal Trustee considers necessary or desirable in order to facilitate or assist the Proposal Trustee in fulfilling its obligations under this or any other orders of this Court or pursuant to the BIA, including but not limited to the solicitation, negotiation and completion of one or more sales of or investments in the Companies, the Property or the Business, the taking of other steps to realize upon any of the Property, and the distribution of the net proceeds of any of the foregoing;
 - (ii) engage, retain or terminate the services of any officers, employees, consultants, agents, representatives, advisors, or other persons or entities (collectively, “**Assistants**”), from time to time as the Proposal Trustee deems necessary or appropriate to assist with the exercise of the duties of the Proposal Trustee herein and as set forth under the BIA, with liberty to retain such further Assistants as the Proposal Trustee deems reasonably necessary or desirable in the ordinary course of Business or for the carrying out of the terms of this Order or any other Order of this Court;
 - (iii) initiate, prosecute and/or continue the prosecution of any and all proceedings and defend all proceedings now pending or hereafter instituted with respect to the Companies or the Property, and, subject to further Order of this Court, to settle or compromise any such proceedings;
 - (iv) engage, deal, communicate, negotiate and, with further Order of this Court, settle with any creditor or other stakeholder of the Companies, including any governmental authority;
 - (v) deal with any taxing or regulatory authority, including to execute any appointment or authorization form on behalf of the Companies that any taxing or regulatory authority may require;
 - (vi) claim any and all insurance refunds or tax refunds to which the Companies are entitled, on behalf of the Companies; and,

- (vii) file or take such actions necessary for the preparation and filing of, on behalf of and in the name of the Companies (i) any tax returns and (ii) the Companies' employee-related remittances, T4 statements and records of employment for the Companies' former employees;
- (b) monitor the Companies' receipts and disbursements;
- (c) review all disbursements of the Companies in the amount of \$25,000 or greater and, if the Proposal Trustee deems the disbursement necessary or appropriate to maintain or facilitate the Business, to approve such disbursement;
- (d) report to this Court at such times and intervals as the Proposal Trustee may deem appropriate with respect to the Property, the Business and other such matters as may be relevant to these NOI Proceedings;
- (e) assist the Companies, to the extent required, in their dissemination to the DIP Lender and its counsel on a bi-weekly basis of financial and other information as set out in the DIP Term Sheet and as may otherwise be agreed upon by the Companies and the DIP Lender;
- (f) advise the Companies in the preparation of the Companies' cash flow statements and other financial reporting reasonably required by the DIP Lender, which information shall be reviewed with the Proposal Trustee and delivered to the DIP Lender and its legal counsel on a periodic basis but not less than bi-weekly or as otherwise agreed to by the DIP Lender;
- (g) have full and complete access to the Property, including but not limited to the premises, books, records, data, including data in electronic form, and other financial records of the Companies, to the extent necessary to perform its duties and obligations set out herein and under the BIA;
- (h) engage independent legal counsel or such other persons as the Proposal Trustee deems necessary or advisable;
- (i) perform such other duties as are required by this Order or any other Order of this Court; and,

- (j) take any steps reasonably incidental to the exercise of the powers hereby granted or the performance of any statutory obligations,

and, in each case, where the Proposal Trustee takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of the directors and officers of the Companies, and without interference.

15. **THIS COURT ORDERS** that the Proposal Trustee shall not take possession of the Property or the Business and shall not, in fulfilling its obligations hereunder or pursuant to the BIA, be deemed to have taken possession or control of the Property or the Business, or any part thereof.

16. **THIS COURT ORDERS** that the Proposal Trustee shall incur no liability or obligation as a result of its appointment or the carrying out of its duties under the BIA or the provisions of this Order or any other Orders which may be made by this Court, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Proposal Trustee by the BIA or any other applicable legislation.

DIP FINANCING

17. **THIS COURT ORDERS** that the Companies are hereby authorized and empowered to obtain and borrow under a credit facility (the “**DIP Facility**”) from The Bank of Nova Scotia (in such capacity, the “**DIP Lender**”) in order to finance the Companies’ working capital requirements and other general corporate purposes and capital expenditures, provided that the aggregate borrowings under the DIP Facility shall not exceed the principal amount of \$2,700,000, unless permitted by further Order of the Court.

18. **THIS COURT ORDERS** that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Facility Loan Agreement between the Companies and the DIP Lender dated as of January 28, 2025 in the form attached to the Haynes Affidavit with such minor modification and amendments that may be agreed to by the parties thereto and consented to by the Proposal Trustee (the “**DIP Term Sheet**”).

19. **THIS COURT ORDERS** that the Companies are hereby authorized and empowered to execute and deliver such ancillary credit agreements, mortgages, charges, hypothecs and security

documents, guarantees, and other definitive documents (collectively, including the DIP Term Sheet, the “**DIP Credit Documents**”) as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Companies are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Credit Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

20. **THIS COURT ORDERS** that as security for the payment and performance by the Companies of their obligations under the DIP Term Sheet and any DIP Credit Documents, the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$2,700,000 plus interest, fees and expenses, unless permitted by further Order of the Court, and which shall not secure an obligation that exists before the NOI Filing Date. The DIP Charge shall have the priority set out in paragraph 29 hereof.

21. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the DIP Credit Documents;
- (b) upon the occurrence of an Event of Default (as defined in the DIP Term Sheet) under the DIP Credit Documents, the DIP Lender, subject to the notice requirements under the DIP Credit Documents and any restrictions contained therein, may cease making advances to the Companies and set off and/or consolidate any amounts owing by the DIP Lender to the Companies against the obligations of the Companies to the DIP Lender under the DIP Credit Documents or the DIP Lender Charge, make demand, accelerate payment and give other notices, or, upon two (2) business days’ notice to the Companies and the Proposal Trustee, exercise any and all other rights and remedies against the Companies or the Property under or pursuant to the DIP Credit Documents and the DIP Charge, including, without limitation, to apply to this Court for the appointment of a receiver, receiver and

manager or interim receiver, or for a bankruptcy order against the Companies and for the appointment of a trustee in bankruptcy of any of the Companies; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Companies or the Property.

22. **THIS COURT ORDERS** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Term Sheet, the DIP Credit Documents, or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (collectively, a “**Variation**”), such Variation shall not in any way impair, limit or lessen the priority, protections, rights or remedies of the DIP Lender, whether under this Order (as made prior to the Variation), the DIP Term Sheet, the DIP Credit Documents or the DIP Charge with respect to any advances made or obligations incurred prior to the DIP Lender receiving notice of the Variation, and the DIP Lender shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Term Sheet or the DIP Credit Documents.

23. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any proposal filed by the Companies under the BIA, with respect to any advances made under the DIP Credit Documents.

ADMINISTRATION CHARGE

24. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and counsel to the Companies shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on or subsequent to the NOI Filing Date, by the Companies as part of the costs of these proceedings. The Companies are hereby authorized and directed to pay the accounts of the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Companies on a weekly basis, or as they may otherwise agree.

25. **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee and counsel to the Companies shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which Administration Charge shall not exceed an

aggregate amount of \$500,000, as security for payment of their respective professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order, in respect of this proceeding. The Administration Charge shall have the priority set out in paragraph 29 hereof.

DIRECTORS' AND OFFICERS' INDEMNIFICATIONS AND CHARGE

26. **THIS COURT ORDERS** that the Companies shall indemnify their directors and officers against obligations and liabilities that they may incur as a director or officer of the Companies after the NOI Filing Date, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

27. **THIS COURT ORDERS** that the directors and officers of the Companies shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$150,000, as security for the indemnity provided in paragraph 26 of this Order. The Directors' Charge shall have the priority set out in paragraph 29 herein.

28. **THIS COURT ORDERS** that notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the directors and officers of the Companies shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 26 of this Order.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

29. **THIS COURT ORDERS** that the priorities of the Administration Charge, the DIP Charge, and the Directors' Charge (collectively, the "**Charges**"), as among them, with respect to the Property shall be as follows:

First – the Administration Charge (to the maximum amount of \$500,000);

Second – the DIP Charge (to the maximum amount of \$2,700,000 plus interest, fees and expenses); and,

Third – the Directors’ Charge (to the maximum amount of \$150,000).

30. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

31. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (including any statutory, deemed or constructive trust), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

32. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Companies shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Companies also obtains the prior written consent of the Proposal Trustee and the beneficiaries of the Charges (collectively, the “**Chargees**”), or further Order of this Court.

33. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order subsequently made; (c) the filing of any, or the deemed occurrence of any, assignments for the general benefit of creditors made pursuant to the BIA; (d) the filing of any applications under the *Companies’ Creditors Arrangement Act* (Canada); (e) the provisions of any federal or provincial statutes; or (f) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease or other agreement (collectively, an “**Agreement**”) which binds the Companies, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Credit Documents shall create or be deemed to constitute a breach by the Companies of any Agreement to which they are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Companies entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the DIP Credit Documents; and
- (c) the payments made by the Companies pursuant to this Order, the DIP Credit Documents and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

KEY EMPLOYEE RETENTION PLAN

34. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the First Report, is hereby approved and given full force and effect in accordance with its terms and the Companies are hereby directed to make when due the payments provided for thereunder.

SEALING OF CONFIDENTIAL EXHIBIT

35. **THIS COURT ORDERS** that Confidential Appendix “1” appended to the Haynes Affidavit is hereby sealed, shall not form part of the public record, and shall only be unsealed upon further Order of the Court.

SERVICE OF DOCUMENTS

36. **THIS COURT ORDERS** that the Guide Concerning Commercial List E-Service (the “**Guide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the “**Rules**”), this Order shall constitute an order for substituted service pursuant to

Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <https://www.bdo.ca/services/financial-advisory-services/business-restructuring-turnaround-services/current-engagements/upper-canada-growers-ltd>.

37. **THIS COURT ORDERS** that the Companies, the Proposal Trustee and their respective counsel are at liberty to serve or distribute this Order, and other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding copies thereof by electronic message to the Companies' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

38. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Guide is not practicable, the Companies and the Proposal Trustee and their respective counsel and agents are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding copies thereof by prepaid ordinary mail, courier, personal delivery, email or facsimile transmission to the Companies' creditors or other interested parties at their respective addresses (including email addresses) as last shown on the records of the Companies and that any such service or distribution shall be deemed to be received on the earlier of (a) the date of transmission thereof, if sent by electronic message on or prior to 5:00 p.m. Eastern Time; (b) the next business day following the date of forwarding or transmission thereof, if sent by courier, personal delivery, facsimile transmission or electronic message sent after 5:00 p.m. Eastern; or (c) on the third business day following the date of forwarding thereof, if sent by ordinary mail.

GENERAL

39. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

40. **THIS COURT ORDERS** that the Companies, the Proposal Trustee, and the DIP Lender may, from time to time, apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

41. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, agency or regulatory or administrative bodies, having jurisdiction in Canada, the United States of America or any other jurisdiction, to give effect to this Order and to assist the Companies, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, agencies and regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Companies and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Companies and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

42. **THIS COURT ORDERS** that each of the Companies and the Proposal Trustee be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Proposal Trustee is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

43. **THIS COURT ORDERS** that any interested party, including the Companies, the Proposal Trustee and the DIP Lender, may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Companies, the Proposal Trustee and the DIP Lender, or upon such other notice, if any, as this Court may order.

44. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Time on the date of this Order without the need for entry or filing.

Justice J. Henderson

Issued and Entered Electronically by

Register T. Lecuyer

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SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Hamilton

**ORDER
(INITIAL PROPOSAL ORDER)**

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