

COURT FILE NUMBER      **2001- 06997**  
COURT                      COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL CENTRE        Calgary



IN THE MATTER OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, RSC 1985,  
c C-36, as amended

AND IN THE MATTER OF THE  
COMPROMISE OR ARRANGEMENT OF  
BOW RIVER ENERGY LTD.

DOCUMENT                      **ORIGINATING APPLICATION**

Inv # 6137  
Commercial  
June 1, 2020  
13:30  
Mme. Justice Grosse

ADDRESS FOR SERVICE AND      Robyn Gurofsky/Jessica Cameron  
CONTACT INFORMATION OF        Borden Ladner Gervais LLP  
PARTY FILING THIS                1900, 520 3<sup>rd</sup> Ave. S.W.  
DOCUMENT                            Calgary, AB T2P 0R3  
   Telephone: (403) 232-9774/9715  
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   [jcameron@blg.com](mailto:jcameron@blg.com)  
   File No. 441275/000025

**NOTICE TO THE RESPONDENTS: SEE ATTACHED SCHEDULE "A"**

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date:                      June 1, 2020  
Time:                      1:30 p.m.  
Where:                    Calgary Courts Centre, 601 – 5<sup>th</sup> Street S.W., Calgary AB  
Before:                    The Honourable Justice Grosse

Go to the end of this document to see what you can do and when you must do it.

**Remedy Sought:**

1. The Applicant, Bow River Energy Ltd. (“**Bow River**” or the “**Applicant**”), seeks an initial order (the “**Initial Order**”) under the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the “**CCAA**”) granting an interim stay pursuant to section 11 of the CCAA and granting such other relief on the terms substantially set out in the draft Initial Order attached hereto as **Schedule “B”**, including, *inter alia*, the following relief:
  - (a) abridging the time for and deeming service of this Originating Application and supporting materials to be good and sufficient;
  - (b) declaring that Bow River is a company to which the CCAA applies;
  - (c) declaring that Bow River shall enjoy the benefits and the protections provided for, and shall be subject to the restrictions as set out, in the Initial Order and any amendments thereto;
  - (d) authorizing the Applicant to remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”) and to continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property;
  - (e) entitling the Applicant to make payment of all obligations owing in respect of employee wages and benefits;
  - (f) entitling the Applicant to pay reasonable expenses incurred by it in operating the Business in the ordinary course, including making payments of obligations owing in respect of goods and services supplied to the Applicant prior to the date of the Initial Order, subject to the consent of the Monitor (as defined below);
  - (g) staying, for an initial period of not more than ten (10) days (the “**Initial Stay Period**”), all proceedings and remedies taken or that might be taken in respect of the Applicant, the Business, or the Property, except as otherwise set forth in the Initial Order or otherwise permitted by law, and upon subsequent application, a further period of time to be determined;
  - (h) preventing any Person (as defined in the Initial Order) from accelerating performance of any rights in respect of the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Honourable Court;
  - (i) restraining any Person from interfering with the supply of goods or services to the Applicant;

- (j) staying all proceedings and remedies taken or that might be taken in respect of claims against the directors or officers of the Applicant that relate to liability of such Persons in their capacity as directors or officers of the Applicant, except as otherwise set forth in the Initial Order or otherwise permitted by law;
- (k) appointing BDO Canada Limited as monitor (the “**Monitor**”) of the Applicant in these proceedings;
- (l) authorizing the Applicant to pay all reasonable fees and disbursements of their counsel, the Monitor and the Monitor’s counsel;
- (m) granting the following charges over the Property of the Applicant in the following relative priorities:
  - (i) First – a charge in favour of the Monitor, its legal counsel, and the Applicant’s legal counsel to a maximum amount of \$300,000;
  - (ii) Second – a charge in favour of the directors and officers of the Applicant to a maximum amount of \$400,000;
- (n) scheduling a comeback application for a hearing at a date and time to be set by this Honourable Court, but in any event, no later than June 11, 2020; and
- (o) such further and other relief as the Applicant may request and this Honourable Court deems just.

**Basis for this Claim:**

2. The Applicant is a company to which the CCAA applies and meets the statutory requirements to be eligible for relief under the CCAA.
3. The Applicant is a Calgary, Alberta-based, privately-held, junior energy producer with expertise in the exploration, development, and production of oil and natural gas. Specifically, Bow River utilizes horizontal wells, secondary recovery methods, and high-volume lift technology to maximize recovery from heavy oil assets. These processes have allowed the Applicant to acquire undervalued, under-exploited and mature oil and gas assets in the three core areas of Provost Alberta, West Central Saskatchewan and Northwest Saskatchewan.
4. As a junior energy producer, the Applicant is highly dependent on the price of oil and gas to maintain viable and well-capitalized operations.

5. The Applicant has been significantly impacted by the various industry challenges facing Western Canadian oil and natural gas markets, including depressed oil and natural gas pricing for an extended period of time.
6. Commencing in 2014, oil and natural gas prices in North America declined significantly and remained volatile. Despite this, Bow River successfully weathered this economic downturn by completing a series of refinancing arrangements with various parties.
7. After emerging from the 2014 economic downturn, Bow River refocused its efforts on making strategic asset acquisitions, while simultaneously disposing of redundant non-core assets, increasing production, attempting to remain well capitalized through the issuance of promissory notes and debentures to close associates of the Applicant, and entering into certain hedging agreements to manage its operating expenses.
8. Beginning in the fourth quarter of 2018, the Applicant began to experience financial pressure yet again due to the volatile energy markets. The Applicant initiated immediate cost savings measures and successfully operated through this price downturn as well.
9. While prices recovered to some degree after 2018, a more dramatic downturn over the last four months has presented difficulties which Bow River has not been able to overcome in its present circumstances. In April 2020, West Texas Intermediate (“**WTI**”) and Western Canadian Select (“**WCS**”) oil prices declined 71% and 92% respectively, in comparison to the 2019 average prices. Bow River sells its oil production based on WCS pricing.
10. Further, natural gas prices are presently not at a level that enables Bow River’s natural gas business to be cash positive.
11. Despite Bow River’s efforts to improve its capital structure, optimize operations and reduce expenses, the Company has continued to be negatively impacted by, among other things, continued and further dramatic reductions in oil and natural

gas pricing and reduced revenues due to capital conservation and liquidity preservation efforts.

12. For a junior oil and natural gas company like Bow River, the above noted commodity price declines have proved disastrous. In the first quarter of 2020 alone, the Company is estimating a 285% drop in EBITDA and a 350% drop in cash flow compared to their prior forecast run at the end of December 2019.
13. In addition, the Company's operations have been adversely impacted by the public health emergency caused by the COVID-19 pandemic, the public health orders introduced by the Government of Alberta requiring self-isolation and restricting gatherings of more than 15 people, and the closure or significantly reduced operations of most companies in and around Calgary, Canada and North America.
14. The Company, with the assistance of its legal and financial advisors, has continued efforts to manage its liquidity position and to review potential strategic options and alternatives to address its financial position. The Company believes that its current capital structure remains significantly over-leveraged in the context of reduced operating revenues in the current depressed market environment, and is not sustainable absent a significant increase in commodity prices, a reduction of certain of its fixed costs and a restructuring of its current debt.
15. In light of its current financial circumstances, the Applicant urgently requires the protection of the CCAA in order to stabilize its Business and provide time to the Applicant to identify and assess potential transactions and review other strategic alternatives that may be available to maximize the value of the Applicant for all of its stakeholders.
16. The Applicant has claims against it in excess of \$5,000,000 and is insolvent.
17. BDO Canada Limited has consented to act as the Court-appointed Monitor of the Applicant in these proceedings, if so appointed by the Court.

18. Such other grounds as set out in the Affidavit of Daniel G. Belot, sworn May 29, 2020 (the “**Initial Affidavit**”).
19. The provisions of the CCAA and this Court’s equitable jurisdiction.
20. Such further and other grounds as counsel may advise and this Court may permit.

**Affidavit or other evidence to be used in support of this application:**

21. The Affidavit of Daniel G. Belot, sworn May 29, 2010.
22. The consent of BDO Canada Limited to act as Monitor of the Applicant.
23. Such further and other evidence as counsel may advise and this Honourable Court may permit.

**Applicable Acts and regulations:**

24. *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended.
25. *Judicature Act*, RSA 2000, c J-2, as amended.
26. *Alberta Rules of Court*, Alta Reg 124/2010, as amended.
27. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

**How the Application is Proposed to be Heard or Considered:**

28. In person via videoconference before the Honourable Justice Grosse on June 1, 2020 at 1:30, or as soon thereafter as counsel may be heard.

**WARNING**

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant(s) a reasonable time before the application is to be heard or considered.

# **Schedule “A”**

## Service List



COURT FILE NUMBER

**2001-**

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

Calgary

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, RSC 1985, c C-36, as amended

AND IN THE MATTER OF THE COMPROMISE OR  
ARRANGEMENT OF BOW RIVER ENERGY LTD.

DOCUMENT

**SERVICE LIST**

|   |   |
|---|---|
| <p>Borden Ladner Gervais LLP<br/>1900, 520 3<sup>rd</sup> Ave SW<br/>Calgary, AB T2P 0R3</p> <p>Attention: Robyn Gurofsky / Jessica Cameron</p> <p>Email: rgurofsky@blg.com<br/>jcameron@blg.com</p> <p>Counsel for Bow River Energy Ltd.</p> | <p>Alberta Energy Regulator<br/>Suite 1000, 250 - 5 Street SW,<br/>Calgary, AB T2P 0R4</p> <p>Email: insolvency@ aer.ca</p>   |
| <p>Department of Justice, Government of Canada<br/>510, 606 - 4 St. SW<br/>Calgary, AB T2P IT1</p> <p>Attention: Jill L. Medhurst</p> <p>Email: jill.medhurst-tivadar@justice.gc.ca</p> <p>Counsel for CRA</p>                                | <p>Jim Pattison Industries Ltd.<br/>1235 73<sup>rd</sup> Ave SE<br/>Calgary, AB T2H 2X1</p> <p>Email: info@jplease.com</p> <p>Secured Creditor</p>                                    |
| <p>Jim Pattison Industries Ltd.<br/>4937 Regent Street<br/>Burnaby, BC V5C 4H4</p> <p>Email: info@jplease.com</p> <p>Secured Creditor</p>   | <p>Rick Deleff<br/>PO Box 483<br/>Consort, AB T0C 1B0</p> <p>Email: rdeleff@xplornet.com</p> <p>Secured Creditor</p>  |
| <p>Randall Eresman<br/>1701, 1234 5<sup>th</sup> Ave NW<br/>Calgary, AB T2N 0R1</p> <p>Email: reresman@gmail.com<br/>trisha.woodlock@eresman.ca</p> <p>Secured Creditor</p>   | <p>Eresman 2013 Family Trust<br/>1701, 1234 5<sup>th</sup> Ave NW<br/>Calgary, AB T2N 0R1</p> <p>Email: reresman@gmail.com<br/>trisha.woodlock@eresman.ca</p> <p>Secured Creditor</p> |
| <p>Jim W. Buckee<br/>Ebblestone House, Homington<br/>Salisbury, England<br/>XX SP5 4NG</p> <p>Email: jwbuckee@gmail.com</p> <p>Secured Creditor</p>   | <p>Hop Investment Ltd.<br/>1440, 33311<sup>th</sup> Avenue SW<br/>Calgary, AB T2R 1L9</p> <p>Email: lester@hopestate.ca<br/>denny@hopestate.ca</p> <p>Secured Creditor</p>            |
| <p>R.D. Scurfield &amp; Associates Inc.<br/>PO Box 1200<br/>Banff, AB T1L 1B2</p> <p>Email: rds@skibanff.com</p> <p>Secured Creditor</p>  | <p>Allan Sawin<br/>9111 39<sup>th</sup> Ave<br/>Edmonton, AB T6E 5Y2</p> <p>Email: asawin@embee.ca</p> <p>Secured Creditor</p>  |

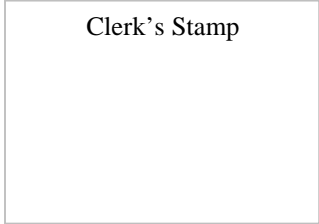
|  |   |
|--|---|
| <p>Henry Cohen<br/>135 Strathallan Blvd.<br/>Toronto, ON M5N 1S9</p> <p>Email: henry.cohen@fcenergy.com</p> <p>Secured Creditor</p>  | <p>Prairie Provident Resources Canda Ltd.<br/>1100, 640 5th Street SW<br/>Calgary, AB T2P 3G4</p> <p>Email: gtaylor@ppr.ca</p> <p>Secured Creditor</p>                      |
| <p>Paulette Geis<br/>149 Schooner Landing NW<br/>Calgary, AB T3L 1X5</p> <p>Email: wayne.geis@shaw.ca</p> <p>Secured Creditor</p>  | <p>Gary Nissen<br/>350 4723 1<sup>st</sup> Street SW<br/>Calgary, AB T2G 4Y8</p> <p>Email: sharon@cail.ca<br/>gary@cail.ca</p> <p>Secured Creditor</p>                      |
| <p>Debora Proud (Copez Properties)<br/>130, 707 10<sup>th</sup> Ave SW<br/>Calgary, AB T2R 0B3</p> <p>Email: Lvarin@copez.com<br/>pcohos@copez.com</p> <p>Secured Creditor</p> | <p>Kim Cohos (Copez Properties)<br/>130, 707 10<sup>th</sup> Ave SW<br/>Calgary, AB T2R 0B3</p> <p>Email: Lvarin@copez.com<br/>pcohos@copez.com</p> <p>Secured Creditor</p> |
| <p>Royhop Hospitality Corp.<br/>c/o Dentons LLP<br/>1500, 850 - 2nd Street SW<br/>Calgary, AB T2P 0R8</p> <p>Email: corporate.calgary@dentons.com</p> <p>Secured Creditor</p>  | <p>JWI Investment LP<br/>200, 3132 118<sup>th</sup> Ave SE<br/>Calgary, AB T2Z 3X1</p> <p>Email: info@tamanicommunities.com</p> <p>Secured Creditor</p>                     |
| <p>RCAP Leasing Inc.<br/>300, 5575 North Service RD<br/>Burlington, ON L7L 6M1</p> <p>Email: csc@rcapleasing.com</p> <p>Secured Creditor</p>                                   | <p>Element Fleet Management Inc.<br/>900, 4 Robert Speck Parkway<br/>Mississauga, ON L4Z 1S1</p> <p>Email: annualreturns@blakes.com</p> <p>Secured Creditor</p>             |
| <p>Xerox Canada Ltd.<br/>500, 20 York Mills Road<br/>Toronto, ON M2P 2C2</p> <p>Email: edmanualreturns@fieldlaw.com</p> <p>Secured Creditor</p>                                | <p>Balinhard Capital Corporation<br/>3220, 255 5<sup>th</sup> Ave SW<br/>Calgary, AB T2P 3G6</p> <p>Email: larry.moeller@edcofin.com</p> <p>Secured Creditor</p>            |

|  |   |
|--|---|
| <p>Dale Eresman<br/>742 22<sup>nd</sup> Ave NW<br/>Calgary, AB T2M 1N9</p> <p>Email: eresmande@gmail.com</p> <p>Secured Creditor</p>   | <p>Bill Oliver<br/>1305 Prospect Avenue SW<br/>Calgary, AB T2T 0X7</p> <p>Email: bill.lori.oliver@gmail.com</p> <p>Secured Creditor</p>   |
| <p>Saskatchewan Ministry of Energy and Resources<br/>1000, 2103 11th Ave<br/>Regina, SK S4P 3Z8</p> <p>Email: chad.adams@gov.sk.ca</p> | <p>Saskatchewan Energy Regulator<br/>Saskatchewan Ministry of Energy and Resources<br/>1000, 2103 11th Ave<br/>Regina, SK S4P 3Z8</p> <p>Email: candy.dominique@gov.sk.ca<br/>megan.mcgillivray@gov.sk.ca</p> |

# **Schedule “B”**

Initial Order

COURT FILE NUMBER   **2001-**  
COURT                    COURT OF QUEEN’S BENCH OF  
                              ALBERTA  
JUDICIAL CENTRE       Calgary



IN THE MATTER OF THE *COMPANIES'*  
*CREDITORS ARRANGEMENT ACT*, RSC 1985,  
c C-36, as amended

AND IN THE MATTER OF THE  
COMPROMISE OR ARRANGEMENT OF  
BOW RIVER ENERGY LTD.

DOCUMENT               **INITIAL ORDER**

ADDRESS FOR SERVICE AND       Robyn Gurofsky/Jessica Cameron  
CONTACT INFORMATION OF        Borden Ladner Gervais LLP  
  1900, 520 3<sup>rd</sup> Ave. S.W.  
PARTY FILING THIS               Calgary, AB T2P 0R3  
  Telephone: (403) 232-9774/9715  
DOCUMENT                         Facsimile: (403) 266-1395  
  Email: [rgurofsky@blg.com](mailto:rgurofsky@blg.com)  
  [jcameron@blg.com](mailto:jcameron@blg.com)  
  File No. 441275/000025

**DATE ON WHICH ORDER WAS PRONOUNCED: June 1, 2020**

**LOCATION WHERE ORDER WAS PRONOUNCED: Calgary, Alberta**

**NAME OF JUSTICE WHO MADE THIS ORDER: The Honourable Justice A.D. Grosse**

**UPON** the application of Bow River Energy Ltd. (the “**Applicant**”); **AND UPON** having read the Originating Application, the Affidavit of Daniel G. Belot sworn May 29, 2020 (the “**Belot Affidavit**”) and the Affidavit of Service of Stella Kim sworn May ·, 2020, filed; **AND UPON** reading the consent of BDO Canada Limited (“**BDO**”) to act as Monitor; **AND UPON** being advised that secured creditors who are likely to be affected by the charges created herein have been provided notice of this application; **AND UPON** hearing counsel for the Applicant, the proposed Monitor, and any other parties present at the Application;

**IT IS HEREBY ORDERED AND DECLARED THAT:****SERVICE**

1. The time for service of the notice of application for this order (the “**Order**”) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

**CAPITALIZED TERMS**

2. Capitalized terms used but not otherwise defined in this Order shall have the meaning given to such terms in the Belot Affidavit.

**APPLICATION**

3. The Applicant is a company to which the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) applies.

**PLAN OF ARRANGEMENT**

4. The Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (the “**Plan**”).

**POSSESSION OF PROPERTY AND OPERATIONS**

5. The Applicant shall:
  - (a) remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”);
  - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the “**Business**”) and Property;
  - (c) be authorized and empowered to continue to retain and employ the employees, independent contractors, consultants, agents, experts, accountants, counsel, financial advisors, investment bankers and such other persons (collectively “**Assistants**”) currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order;

- (d) be entitled to continue to utilize the central cash management system currently in place as described in the Belot Affidavit or replace it with another substantially similar central cash management system (the “**Cash Management System**”), and any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System; and
  - (e) be entitled to continue to utilize the corporate credit cards in place with Scotiabank (the “**Credit Cards**”) and shall make full repayment of all amounts outstanding thereunder, including with respect to any pre-filing charges.
6. To the extent permitted by law, the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, whether incurred prior to or after this Order:
- (a) all outstanding and future wages, salaries, compensation, employee and pension benefits, director fees and expenses, vacation pay and expenses (including without limitation, payroll and benefits processing and servicing expenses) payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
  - (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order; and



- (c) with consent of the Monitor, amounts owing for goods or services supplied to the Applicant, including for periods prior to the date of this Order if, in the opinion of the Applicant following consultation with the Monitor, the supplier or vendor of such goods or services is necessary for the operation or preservation of the Business or the Property.
- 7. Except as otherwise provided to the contrary herein, the Applicant shall be entitled but not required to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this Court, which expenses shall include, without limitation:
  - (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
  - (b) payment for goods or services actually supplied to the Applicant following the date of this Order.
- 8. The Applicant shall remit, in accordance with legal requirements, or pay:
  - (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province thereof or any other taxation authority that are required to be deducted from employees' wages, including, without limitation, amounts in respect of:
    - (i) employment insurance,
    - (ii) Canada Pension Plan,
    - (iii) Quebec Pension Plan, and
    - (iv) income taxes,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
  - (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and that are attributable to or in respect of the carrying on of the Business by the Applicant.
9. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicant from time to time for the period commencing from and including the date of this Order (“**Rent**”), but shall not pay any rent in arrears.
10. Except as specifically permitted in this Order, the Applicant is hereby directed, until further order of this Court:
- (a) to make no payments of principal, interest thereon or otherwise on account of: (i) amounts owing by the Applicant as of the date of this Order or otherwise becoming due and owing during these CCAA proceedings pursuant to the Debentures, and (ii) amounts owing by the Applicant to any of its other creditors as of the date of this Order;

- (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and
- (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

11. The Applicant shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding \$150,000 in any one transaction or \$600,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) disclaim, in whole or in part, with the prior consent of the Monitor (as defined below) or further order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and
- (d) pursue all avenues of refinancing or restructuring of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or restructuring,

all of the foregoing to permit the Applicant to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. The Applicant shall provide each of the relevant landlords with notice of the Applicant’s intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord

disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:
  - (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor five (5) business days prior written notice; and
  - (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY**

14. Until and including June 11, 2020, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings

currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further order of this Court or the written consent of the Applicant and the Monitor.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

15. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall:
- (a) empower the Applicant to carry on any business that the Applicant is not lawfully entitled to carry on;
  - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
  - (c) prevent the filing of any registration to preserve or perfect a security interest;
  - (d) prevent the registration of a claim for a lien; or
  - (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment.
16. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Applicant and the Monitor at the first available opportunity.

#### **NO INTERFERENCE WITH RIGHTS**

17. During the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the

Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

18. During the Stay Period, all Persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicant, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, insurance, shipping and transportation services, utility or other services to the Business or the Applicant,

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. The Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the payment practices of the Applicant, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

19. Nothing in this Order has the effect of prohibiting a Person from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 16 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim

against the directors or officers that arose before the date of this Order and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

21. The Applicant shall indemnify its current and future directors and officers (the “D&Os”) against obligations and liabilities that they may incur as directors and/or officers of the Applicant after the commencement of the within proceedings, 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.
22. The D&Os of the Applicant 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 \$400,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors’ Charge shall have the priority set out in paragraphs 32 and 34 of this Order.
23. 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 Applicant’s D&Os 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 24 of this Order.

#### **APPOINTMENT OF MONITOR**

24. BDO is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicant with the powers and obligations set out in the CCAA or set forth herein, and the Applicant and its shareholders, D&O’s, and Assistants shall advise the Monitor of all material steps taken by the Applicant pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the

assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:
- (a) monitor the Applicant's receipts and disbursements, Business and dealings with the Property;
  - (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein and immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
  - (c) assist the Applicant in its preparation of the Applicant's cash flow statements and reporting required from time to time;
  - (d) assist the Applicant, to the extent required by the Applicant, with respect to any sale or investment solicitation process;
  - (e) advise the Applicant, to the extent required by the Applicant, in its development of the Plan and any amendments to the Plan;
  - (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
  - (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicant to the extent that is necessary to adequately assess the Property, Business, and financial affairs of the Applicant or to perform its duties arising under this Order;
  - (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;



- (i) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicant and any other Person; and
  - (j) perform such other duties as are required by this Order or by this Court from time to time.
26. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal or waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order be deemed to be in possession of any of the Property within the meaning of any federal or provincial environmental legislation.
27. The Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential; the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.
28. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any

gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. The Monitor, counsel to the Monitor, and counsel to the Applicant, shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings) by the Applicant, in each case at their standard rates and charges, subject to the terms set forth in their respective engagement letters with the Applicant, as applicable, as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the foregoing parties in accordance with the payment terms agreed between the Applicant and such parties.
30. The Monitor and its legal counsel shall pass their accounts from time to time.
31. The Monitor, counsel to the Monitor, and counsel to the Applicant, shall be entitled to the benefits of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$300,000, as security for the professional fees and disbursements incurred both before and after the granting of this Order at the standard rates and charges of the Monitor and such counsel, subject to the terms set forth in their respective engagement letters, as applicable. The Administration Charge shall have the priority set out in paragraphs 32 and 34 of this Order.

#### **VALIDITY AND PRIORITY OF CHARGES**

32. The priorities of the Directors’ Charge and the Administration Charge, as among them, shall be as follows:
  - (a) First – Administration Charge (to the maximum amount of \$300,000); and
  - (b) Second – Directors’ Charge (to the maximum amount of \$400,000).
33. The filing, registration or perfection of the Directors’ Charge or the Administration Charge, (together, the “**Charges**”) shall not be required, and 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.

34. Each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and, subject always to section 34(11) of the CCAA, such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person that has received notice of this Application.
35. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicant also obtains the prior written consent of the Monitor and the beneficiaries of the applicable Charge(s), or further order of this Court.
36. The Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, 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 in this Order;
  - (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications;
  - (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA;
  - (d) the provisions of any federal or provincial statutes; or
  - (e) 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, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
    - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, shall create

or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;

- (ii) 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 creation of the Charges; and
- (iii) the payments made by the Applicant pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

### **ALLOCATION**

37. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Charges amongst the various assets comprising the Property.

### **SERVICE AND NOTICE**

38. The Monitor shall (i) without delay, publish in *Calgary Herald* and *Daily Oil Bulletin* a notice containing the information prescribed under the CCAA; (ii) within five (5) days after the date of this Order (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1,000 and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with section 23(1)(a) of the CCAA and the regulations made thereunder.
39. The Monitor shall establish a website in respect of the within CCAA proceedings at: <https://www.bdo.ca/en-ca/extranets/bowriver/> (the “**Proceedings Website**”).
40. The Applicant and, where applicable, the Monitor, are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or other electronic transmission to the Applicant’s creditors or other interested parties at their respective addresses as last shown on the records of the

Applicant and that any such service, distribution or notice shall be deemed to be received: (a) if sent by courier, on the next business day following the date of forwarding thereof, (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.

41. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the “**Service List**”) to be maintained by the Applicant. The Monitor shall post and maintain an up-to-date form of the Service List on the Proceedings Website (<https://www.bdo.ca/en-ca/extranets/bowriver/>).
42. The Applicant and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicant’s creditors or other interested parties and their advisors.
43. Any party to these proceedings may serve or distribute any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to the email addresses of counsel as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on the Proceedings Website.
44. Except with respect to any application to be heard on the Comeback Date (as defined below), and subject to further order of this Court in respect of urgent motions, any interested party wishing to object to the relief sought in an application brought by the Applicant or the Monitor in these proceedings shall, subject to further order of this Court, provide the Service List with responding application materials or a written notice (including by e-mail) stating its objection to the application and the grounds for such objection by no later than 5:00 p.m. Mountain Standard Time on the date that is four (4) days prior to the date such application is returnable (the “**Objection Deadline**”). The Monitor shall have the ability to extend the Objection Deadline after consulting with the Applicant.

45. Following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the Applicant shall inform the Commercial Coordinator in writing (which may be by e-mail) of the absence or the status of any objections to the application, and the judge having carriage of the application may determine the manner in which the application and any objections to the application, as applicable, will be dealt with.
46. Any interested party (other than the Applicant and the Monitor) that wishes to amend or vary this Order shall bring an application before this Court on a date to be fixed by this Court upon the granting of this Order (the “**Comeback Date**”), and any such interested party shall give not less than two (2) business days’ notice to the Service List and any other Person(s) likely to be affected by the relief sought by such party in advance of the Comeback Date. For greater clarity, such application shall be returnable on the Comeback Date. The Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and the priorities thereof set forth in paragraphs 32 and 34 hereof with respect to any fees, expenses and disbursements incurred, as applicable, until the date this Order may be amended, varied or stayed.
47. After the Comeback Date, any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days’ notice to any other party or parties likely to be affected by the Order sought, or upon such other notice as this Court may order.

#### **GENERAL**

48. The Applicant or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions in the discharge of its powers and duties hereunder.
49. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor’s reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

50. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager or a trustee in bankruptcy of the Applicant, the Business or the Property.
51. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicant and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.
52. Each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Monitor is authorized and empowered to act as a representative in respect of the within proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
53. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.