

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

THE HONOURABLE MR.)
)
JUSTICE McEWEN)

MONDAY, THE 26TH
DAY OF OCTOBER, 2020



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
ROBERTS COMPANY CANADA LIMITED

SANCTION ORDER

THIS MOTION, made by Roberts Company Canada Limited (the "**Applicant**"), pursuant to the *Companies' Creditors Arrangement Act* (Canada), R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, among other things, approving and sanctioning the Plan of Compromise and Arrangement of the Applicant dated September 28, 2020 concerning, affecting and involving the Applicant (the "**Plan**"), as approved by the Affected Creditors Class at the Meeting held on October 16, 2020, and which is attached hereto as Schedule "A", was heard this day via Zoom videoconference due to the COVID-19 crisis.

ON READING the affidavit of Ravi Williams-Singh sworn October 20, 2020 (the "**Williams-Singh Affidavit**"), the Fifth Report of Richter Advisory Group Inc. ("**Richter**") in its capacity as the Monitor of the Applicant (the "**Monitor**") dated October 20, 2020 (the "**Fifth Report**"), the Affidavit of Paul van Eyk sworn October 20, 2020 (the "**van Eyk Affidavit**") and the Affidavit of Christine Mason sworn October 19, 2020 (the "**Mason Affidavit**") and on hearing the submissions of counsel for the Applicant, the Monitor, Bank of America, N.A. as Agent under the Fourth Amended and Restated Loan Agreement, dated as of January 31, 2017, and such other counsel in attendance, as indicated on the Counsel Slip, no one else appearing although duly served as appears from the affidavit of service, filed:

A. Service and Interpretation

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record in support of this motion, and the Fifth Report, be and is hereby abridged and validated so that this motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with.

2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Plan or, if not therein defined, then as defined in the Meeting Order granted in this proceeding on September 28, 2020 (the "**Meeting Order**").

B. Approval of Fees

3. **THIS COURT ORDERS** that the fees and disbursements of the Monitor, as described in the Fifth Report and as set out in the van Eyk Affidavit, including the estimated fees and disbursements of the Monitor up to its date of discharge, be and are hereby approved.

4. **THIS COURT ORDERS** that the fees and disbursements of the Monitor's legal counsel, Borden Ladner Gervais LLP ("**BLG**"), as described in the Fifth Report and as set out in the Mason Affidavit, including the estimated fees and disbursements of BLG in connection with services to be provided to the Monitor up to its date of discharge, be and are hereby approved.

5. **THIS COURT ORDERS** that the Applicant is hereby authorized to pay any professional fees and disbursements of the Monitor and BLG which exceed the estimates set out in the van Eyk Affidavit and the Mason Affidavit, to complete the administration of these CCAA Proceedings, with either: (i) the consent of the ABL Lender (as defined in the Amended and Restated Initial Order dated June 29, 2020 (the "**Amended and Restated Initial Order**")), or (ii) pursuant to further Order of the Court.

C. Conduct of the Meeting

6. **THIS COURT ORDERS AND DECLARES** that there has been good and sufficient service, delivery and notice of the Plan, the Meeting Order and the Meeting Materials to all Persons upon which notice, service and delivery were required.

7. **THIS COURT ORDERS AND DECLARES** that the Meeting was duly convened, held and conducted in conformity with the CCAA, the Meeting Order and all other Orders of this Court in the CCAA Proceedings.

D. Sanction of the Plan

8. **THIS COURT ORDERS AND DECLARES** that:

- (a) the Plan has been approved by the Required Majority of the Affected Creditors Class (as defined in the Meeting Order) at the Meeting, in conformity with the CCAA and the terms of the Meeting Order;
- (b) the Applicant has complied with the provisions of the CCAA and the Orders of this Court made in the CCAA Proceedings in all respects;
- (c) the Applicant has acted, and is acting, in good faith and with due diligence, and has not done or purported to do (nor does the Plan do, or purport to do) anything that is not authorized by the CCAA; and
- (d) the Plan, all terms and conditions thereof, and the matters and the transactions contemplated thereby, are fair and reasonable.

9. **THIS COURT ORDERS AND DECLARES** that the Plan and all associated steps, compromises, transactions, arrangements, and releases effected thereby are hereby sanctioned and approved pursuant to Section 6 of the CCAA.

E. Plan Implementation

Authorization to Implement the Plan

10. **THIS COURT ORDERS** that each of the Applicant and the Monitor, as applicable, is hereby authorized and directed to take all steps and actions, and to do all things, necessary or appropriate to implement the Plan in accordance with and subject to its terms and conditions, and enter into, execute, deliver, complete, implement and consummate all of the steps, transactions, distributions, payments, deliveries, allocations, instruments and agreements contemplated by, and subject to the terms and conditions of, the Plan, and all such steps and

actions are hereby authorized, ratified and approved. Neither the Applicant nor the Monitor shall incur any liability as a result of acting in accordance with the terms of the Plan and this Sanction Order.

11. **THIS COURT ORDERS** that each of the Applicant and the Monitor is hereby authorized and empowered to exercise all consent and approval rights provided for in the Plan in the manner set forth in the Plan, whether prior to or after the Effective Time.

12. **THIS COURT ORDERS** that (i) each of the Applicant, the Monitor, and any other Person required to make any distributions, deliveries or allocations or take any steps or actions related thereto pursuant to the Plan are hereby authorized and directed to complete such distributions, deliveries or allocations and to take any such related steps or actions, as the case may be, in accordance with the terms of the Plan, and such distributions, deliveries and allocations, and steps and actions related thereto, are hereby approved, and (ii) such distributions, deliveries or allocations shall be free and clear of all claims, rights and interests of any Person, including without limitation, the CCAA Charges.

Monitor's Certificate

13. **THIS COURT ORDERS** that, as soon as practicable following the Effective Time, the Monitor shall be authorized and directed to serve on the service list maintained by the Monitor in the CCAA Proceedings (the "**Service List**") and post on the website established by the Monitor in respect of these proceedings (the "**Monitor's Website**") a certificate in the form attached hereto as Schedule "B" (the "**Monitor's Certificate**"), signed by the Monitor, certifying that the Effective Date has occurred. The Monitor shall file the Monitor's Certificate with this Court as soon as reasonably practicable. Notwithstanding any other provision in the Plan and this Sanction Order, the Monitor shall not deliver the Monitor's Certificate unless and until the Monitor has received, from or on behalf of the Applicant, in immediately available funds, an amount sufficient to be distributed to each of the KERP beneficiaries, in indefeasible payment in full of all amounts owing and outstanding under the KERP and any other amounts secured by the KERP Charge (as such capitalized terms are defined in the Amended and Restated Initial Order) (the "**KERP Escrow Fund**").

Restructuring Steps

14. **THIS COURT ORDERS** that the Plan, subject to its terms and conditions including the conditions precedent to the implementation of the Plan described in Section 5.3 of the Plan, will be binding and effective as at the Effective Time upon and with respect to the Applicant, all Affected Creditors, the Released Parties and all other Persons named or referred to in, or subject to, the Plan or the Sanction Order.

15. **THIS COURT ORDERS** that the transactions, arrangements, reorganizations, transfer, assignments, cancellations, compromises, settlements, payments, extinguishments, discharges, injunctions and releases to be effected on the Effective Date are hereby authorized and approved and are and shall be deemed to occur and be effected in accordance with the terms of the Plan, without any further act or formality.

Administrative Reserve Fund

16. **THIS COURT ORDERS** that the Administrative Reserve Fund is hereby approved, and the Applicant shall hold the Administrative Reserve Fund, in trust, in accordance with the Plan. The Applicant is hereby authorized and directed to distribute and release funds from the Administrative Reserve Fund in accordance with the provisions of Section 4.3 and 4.6 of the Plan.

17. **THIS COURT ORDERS** that counsel to the Applicant, the Monitor and the Monitor's counsel shall be entitled to payment from the Administrative Reserve Fund for their fees and expenses in connection with performing any other work required after the Effective Time.

18. **THIS COURT ORDERS** that any amounts remaining in the Administrative Reserve Fund, as the case may be, after all distributions from the Administrative Reserve Account contemplated by the Plan are made in accordance therewith, shall be released from the Administrative Reserve Account in accordance with the Plan.

F. Effect of Plan Implementation

Effect on Affected Claims

19. **THIS COURT ORDERS** that, at the Effective Time, any and all Affected Claims of Affected Creditors shall be and shall be deemed to be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, and the ability of any Person to proceed against the Applicant in respect of or relating to any Affected Claims, whether directly, indirectly, derivatively or otherwise is hereby forever discharged, enjoined and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims are hereby permanently stayed, excepting only the obligations to make distributions and deliveries in respect of such Affected Claims in the manner and to the extent provided for in the Plan and this Sanction Order.

20. **THIS COURT ORDERS** that the treatment of Affected Claims under the Plan shall be final and binding for all purposes and enure to the benefit of the Applicant, all Affected Creditors, the Released Parties, and all other Persons named or referred to in, or subject to, the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

21. **THIS COURT ORDERS** that from and after the Effective Time, all Persons with an Affected Claim shall be deemed to have granted, executed and delivered to the Applicant all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

22. **THIS COURT ORDERS** that any Person that did not file a Proof of Claim or, in the case of an Employee Restructuring Claim, a Proof of Claim or a Notice of Dispute of Revision or Disallowance (each as defined in the Claims Procedure Order), as applicable, by the Claims Bar Date, the Restructuring Period Claims Bar Date, and the Employee Restructuring Claims Bar Date (as each term is defined in the Claims Procedure Order), as applicable, or such other date provided for in the Claims Procedure Order, as applicable, and any Person with an Affected Claim that is not a Proven Claim or an Unresolved Claim, shall be and is hereby fully, finally, irrevocably and forever barred from making any Claim and shall not be entitled to any

consideration under the Plan, and such Person's Claim shall be and is hereby fully, finally, irrevocably and forever barred and extinguished. For greater certainty, the foregoing shall not apply to Unaffected Claims.

23. **THIS COURT ORDERS** that paragraph 22 herein, and paragraphs 21, 26, 29, 33, 36 of the Claims Procedure Order, apply with respect to any and all Claims against the Applicant that are not expressly compromised or excluded pursuant to the Plan.

24. **THIS COURT ORDERS** that, from and after the Effective Time, each Person named or referred to in, or subject to the Plan, will be deemed to have consented and agreed to all of the provisions of the Plan.

Non-Termination of Existing Agreements and Waiver of Defaults

25. **THIS COURT ORDERS** that all contracts, leases, agreements and other arrangements to which the Applicant is a party and that have not been terminated or disclaimed pursuant to the applicable paragraph of the Initial Order and related provision of the CCAA will be and remain in full force and effect as of the Effective Time, and no Person who is a party to any such arrangement may accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution or other remedy) or make any demand under or in respect of any such arrangement and no automatic termination will have any validity or effect, by reason of:

- (a) any event that occurred on or prior to the Effective Time and is not continuing that would have entitled such Person to enforce those rights or remedies (including defaults or events of default arising as a result of the insolvency of the Applicant), provided however that this paragraph 25(a) shall not apply to the ABL Lender (as defined in the Amended and Restated Initial Order) in respect of any agreement or other arrangement with the ABL Lender to which the Applicant is a party;
- (b) the insolvency of the Applicant or the fact that the Applicant sought or obtained relief under the CCAA; or

- (c) any steps, compromises, releases, discharges, cancellations, transactions, arrangements or reorganizations effected pursuant to the Plan or any action taken or transaction effected pursuant to the Plan.

26. **THIS COURT ORDERS** that from and after the Effective Date, all Persons shall be deemed to have waived any and all defaults of the Applicant then existing or previously committed by the Applicant, or caused by the Applicant, directly or indirectly, or non-compliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale, deed, license, permit or other agreement, written or oral, and any and all amendments or supplements thereto (each, an "**Agreement**"), existing between such Person and the Applicant arising directly or indirectly from the filing by the Applicant under the CCAA and the implementation of the Plan, including without limitation any of the matters or events listed in paragraph 25 hereof and any and all notices of default and demands for payment or any step or proceeding taken or commenced in connection therewith under an Agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing herein shall be deemed to excuse the Applicant from performing their obligations under the Plan or be a waiver of defaults by the Applicant under the Plan and the related documents. For greater certainty, the foregoing shall not apply to any agreement or other arrangement with the ABL Lender (as defined in the Amended and Restated Initial Order).

Conflict with Plan

27. **THIS COURT ORDERS** that from and after the Effective Time on the Effective Date, any conflict between:

- (a) the Plan; and
- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, trust indenture, note, loan agreement, commitment letter, agreement for sale, lease or other agreement, written or oral and any and all amendments or

supplements thereto existing between any Person and the Applicant as at the Effective Date,

will be deemed to be governed by the terms, conditions and provisions of the Plan and this Sanction Order, which shall take precedence and priority; provided, however, that the foregoing shall not apply to any agreement or other arrangement with the ABL Lender (as defined in the Amended and Restated Initial Order).

Bankruptcy

28. **THE COURT ORDERS AND DECLARES** that, notwithstanding (i) the pendency of the CCAA Proceedings; (ii) any application for a bankruptcy, receivership or other order now or hereafter issued pursuant to the BIA, the CCAA or otherwise in respect of the Applicant and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of the Applicant, the transactions contemplated by the Plan will be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Applicant or its assets and will not be void or voidable by creditors of the Applicant, nor will the Plan, or the payments and distributions contemplated pursuant thereto constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA, the CCAA or any other applicable federal or provincial legislation, nor will the Plan constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

Plan Releases and Injunctions

29. **THIS COURT ORDERS AND DECLARES** that the compromises, arrangements, releases, discharges and injunctions contemplated in the Plan granted for the benefit of the Released Parties, including, without limitation, pursuant to Sections 7.1 and 7.2 of the Plan, are integral components of the Plan and are necessary for, and vital to, the success of the Plan and that, as of the Effective Time, all such compromises, arrangements, releases, discharges and injunctions are hereby sanctioned, approved and given full force and effect, and all such compromises, arrangements, releases, discharges and injunctions shall be binding upon and effective against all Affected Creditors, the Applicant and all other Persons; provided, however,

that the foregoing shall not apply to affect the rights or obligations under the Plan, including, without limitation, the rights of the Affected Creditors to receive distributions in respect of their Affected Claims in accordance with the Plan, or in respect of any Non-Released Claim or, any claims against a Director, in his or her capacity as such, referred to in subsection 5.1(2) of the CCAA.

G. The Applicant and Other Parties

CCAA Charges

30. **THIS COURT ORDERS** that:

- (a) the Directors' Charge (as provided for and defined in the Amended and Restated Initial Order and any subsequent Orders in the CCAA Proceedings) shall be terminated, discharged, expunged and released upon service of the Monitor's Second Certificate (as defined below) on the Service List;
- (b) the Administration Charge (as provided for and defined in the Amended and Restated Initial Order and any subsequent Orders in the CCAA Proceedings) shall be terminated against the Property (as defined in the Amended and Restated Initial Order) other than the Administrative Reserve at the Effective Time but shall continue to apply as against the Administrative Reserve Fund only and shall be terminated, discharged, expunged and released as against the Administrative Reserve Fund upon service of the Monitor's Second Certificate on the Service List;
- (c) the KERP Charge (as provided for and defined in the Amended and Restated Initial Order and any subsequent Orders in the CCAA Proceedings) shall be terminated as against the Property (as defined in the Amended and Restated Initial Order) other than the KERP Escrow Fund at the Effective Time but shall continue to apply as against the KERP Escrow Fund only and shall be terminated, discharged, expunged and released as against the KERP Escrow Fund upon service of the Monitor's Second Certificate on the Service List; and

- (d) the ABL Lender's DIP Charge (as provided for and defined in the Amended and Restated Initial Order and any subsequent Orders in the CCAA Proceedings) shall be terminated, discharged, expunged and released at the Effective Time.

Applicant's Directors

31. **THIS COURT ORDERS AND DECLARES** that the activities and conduct of the Directors of the Applicant in the CCAA Proceedings, as disclosed in the affidavits filed with the Court on behalf of the Applicant from time to time and the reports of the Monitor to the Court from time to time (including, without limitation, in relation to negotiating, executing and implementing the Plan) be and are hereby ratified and approved.

Monitor

32. **THIS COURT ORDERS AND DECLARES** that the Monitor has complied with the provisions of the CCAA and the Orders of this Court made in the CCAA Proceedings in all respects.

33. **THIS COURT ORDERS AND DECLARES** that the Monitor has not done or purported to do anything that is not authorized by the CCAA.

34. **THIS COURT ORDERS AND DECLARES** that the activities and conduct of the Monitor in the CCAA Proceedings, as disclosed in the Fifth Report, and in its other reports to the Court from time to time, including, without limitation, in relation to conducting and administering the Meeting on October 16, 2020 (as more particularly described in the Fifth Report of the Monitor) be and are hereby ratified and approved, provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize any such approval, and that the Monitor has satisfied all of its obligations up to and including the date of this Sanction Order and all claims against the Monitor arising from or relating to the services provided to the Applicant up to and including the date of this Sanction Order are barred.

35. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA and the powers provided to the Monitor herein, under the Plan and under the Orders of this Court, shall be and is hereby authorized, directed and empowered to

perform its functions and fulfill its obligations under the Plan to facilitate the implementation of the Plan and to complete all matters incidental to the termination of the CCAA Proceedings.

36. **THIS COURT ORDERS** that: (a) in carrying out the terms of this Sanction Order and the Plan, the Monitor shall have all the protections given to it by the CCAA and the other Orders in these proceedings, and as an officer of the Court, including the stay of proceedings in its favour; (b) the Monitor shall incur no liability or obligation for any act or omission as a result of carrying out any duties or work in connection with the Sanction Order and/or the Plan, save and except for any gross negligence or willful misconduct on its part; (c) the Monitor shall be entitled to rely on the books and records of the Applicant and any information provided by the Applicant without independent investigation; and (d) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

H. Extension and Termination of the Stay Period

37. **THIS COURT ORDERS** that the Stay Period (as defined in the Amended and Restated Initial Order) in respect of the Applicant, is hereby further extended up to and including the date upon which the Monitor serves the Monitor's Second Certificate on the Service List.

38. **THIS COURT ORDERS** that other than as expressly set out herein, the provisions of the Amended and Restated Initial Order, including the Stay Period, shall terminate as at date on which the Monitor serves the Monitor's Second Certificate on the Service List, except with respect to the protections granted therein in favour of the Monitor. All other Orders of the Court made in the CCAA Proceeding shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by or are inconsistent with this Sanction Order or any further Order of this Court in this CCAA Proceeding.

39. **THIS COURT ORDERS** that upon: (i) fulfillment of the Monitor's duties under the Claims Procedure Order and this Sanction Order; (ii) the Monitor receiving an acknowledgement of payment in full of the claims secured by the Administration Charge; and (iii) payment, by the Applicant from the KERP Escrow Fund, to each of the KERP beneficiaries of all amounts owing and outstanding under the KERP and any other amounts secured by the KERP Charge, the

Monitor shall serve on the Service List a certificate substantially in the form attached hereto as Schedule "C" (the "**Monitor's Second Certificate**").

40. **THIS COURT ORDERS** that the Monitor is hereby directed to post the Monitor's Second Certificate on the Monitor's Website and file a copy of the Monitor's Second Certificate with the Court as soon as is practical following service thereof on the Service List.

41. **THIS COURT ORDERS** that, upon service of the Monitor's Second Certificate on the Service List, the CCAA Proceedings as they relate to the Applicant shall be terminated, and Richter shall be discharged from its duties as the Monitor and shall have no further duties or responsibilities as Monitor from and after the date upon which the Monitor's Second Certificate is served upon the Service List and shall be forever released, remised and discharged from any claims against it relating to its activities as Monitor.

42. **THIS COURT ORDERS** that, notwithstanding its discharge and the termination of the CCAA Proceedings, Richter and its counsel shall continue to have the benefit of the provisions of all Orders made in these CCAA Proceedings, including all releases, approvals, and protections in favour of Richter in its capacity as Monitor and its counsel.

43. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor except with prior leave of the Court and on prior written notice to the Monitor.

I. General Provisions

Notice

44. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause a copy of this Sanction Order to be posted on the Monitor's Website, and the Applicant shall serve a copy on the parties on the Service List and those parties who appeared at the hearing of the motion for this Sanction Order.

45. **THIS COURT ORDERS** that the measures in paragraph 44 shall constitute good and sufficient service and notice of this Order on all Persons who may be entitled to receive notice thereof or who may have an interest in these proceedings, and no other form of notice or service

need be made on such Persons and no other document or material need be served on such Persons in respect of these proceedings.

Effect, Recognition and Assistance

46. **THIS COURT ORDERS** that, notwithstanding any other provision of this Sanction Order, the Applicant and the Monitor shall remain entitled to seek advice, directions or assistance from the Court in respect of the interpretation and implementation of this Sanction Order and the performance by the Applicant and the Monitor of their respective obligations under the Plan, the Sanction Order and any other matters that pertain to the completion of the administration of the CCAA Proceedings.

47. **THIS COURT ORDERS** that this Sanction Order shall have full force and effect in all provinces and territories in Canada and abroad and as against all Persons against whom it may be otherwise enforceable.

48. **THIS COURT ORDERS AND DECLARES** that, pursuant to section 142 of the *Courts of Justice Act* (Ontario), no person shall be liable for any act done in good faith in accordance with any Order issued in this proceeding, and any person who takes any action whatsoever in reliance on this Sanction Order prior to the commencement of any appeal hereof or the expiry of any appeal period shall not be prejudiced or harmed in any manner by any such subsequent appeal.

49. **THIS COURT ORDERS** that, notwithstanding Rule 59.05, this Order is effective from the date that it is made, and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing when the Court returns to regular operations.

50. **THIS COURT ORDERS AND REQUESTS** the aid and recognition (including assistance pursuant to section 17 of the CCAA) of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or territory or any court or any judicial, regulatory or administrative

body of the United States and the states or other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this court in carrying out the terms of this Sanction Order and the Plan.

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SCHEDULE "A"

**PLAN OF COMPROMISE AND ARRANGEMENT OF ROBERTS COMPANY
CANADA LIMITED**

Court File No.: CV-20-00643158-00CL

**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 A PLAN OF COMPROMISE OR ARRANGEMENT OF ROBERTS
COMPANY CANADA LIMITED

PLAN OF COMPROMISE AND ARRANGEMENT

pursuant to the *Companies' Creditors Arrangement Act* concerning, affecting and involving

ROBERTS COMPANY CANADA LIMITED

September 28, 2020

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PLAN OF COMPROMISE AND ARRANGEMENT

All capitalized terms have the meaning ascribed to them in Section 1.1 herein.

WHEREAS, the Applicant is a debtor company (as such term is defined in the CCAA);

WHEREAS, on the Filing Date, the Court granted the Initial Order in respect of the Applicant, which Initial Order was amended and restated by the Amended and Restated Initial Order;

WHEREAS, on July 28, 2020 the Court granted the Claims Procedure Order, which, among other things, established a procedure for the identification and quantification of certain claims against the Applicant and its Directors and Officers in the CCAA Proceedings;

WHEREAS, on September 28, 2020 the Applicant intends to seek a Meeting Order, among other things, authorizing the Applicant to file the Plan and to convene a meeting of Affected Creditors for the purposes of considering and voting on the Plan;

NOW THEREFORE, the Applicant hereby proposes this Plan in furtherance of its restructuring pursuant to the CCAA.

ARTICLE 1 INTERPRETATION

1.1 Definitions

In the Plan, unless otherwise stated or the context otherwise requires:

"ABL Credit Agreement" means the Fourth Amended and Restated Loan Agreement, dated January 31, 2017, as subsequently amended by amending agreements dated as of October 5, 2018, January 22, 2019, July 26, 2019, and January 27, 2020, and by the ABL Forbearance Agreement, and as further amended, supplemented and otherwise modified from time to time.

"ABL Forbearance Agreement" means the Forbearance Agreement and Amendment No. 5 to the Fourth Amended and Restated Loan Agreement dated June 26, 2020, as amended, restated or otherwise modified from time to time.

"ABL Lender" means, collectively the Agent and the Lenders.

"ABL Lender's DIP Charge" means the charge provided for at paragraph 34 of the Amended and Restated Initial Order in favour of the ABL Lender, as security for all of the obligations of the Applicant to the ABL Lender relating to advances made to the Applicant under the ABL Credit Agreement from and after the date of the Amended and Restated Initial Order.

"Administration Charge" means the charge provided for at paragraph 32 of the Amended and Restated Initial Order, securing the professional fees and disbursements of the Monitor, counsel to the Monitor and counsel to the Applicant.

"Administrative Reserve Account" means a segregated interest-bearing trust account established by the Applicant to hold the Administrative Reserve Fund.

"Administrative Reserve Fund" means a Cash reserve in an amount to be agreed to by the Monitor and the Applicant, with the consent of the ABL Lender, at least two (2) Business Days prior to the

Effective Date to be deposited by the Applicant into the Administrative Reserve Account for the purpose of paying the following Unaffected Claims: Claims secured by one of the CCAA Charges, and the CCAA Priority Payment Claims, in accordance with Section 4.3 hereof.

"**Affected Claims**" means all Claims other than Unaffected Claims.

"**Affected Creditors**" means any Person having an Affected Claim, but only with respect to and to the extent of such Affected Claim.

"**Affected Creditors Class**" means the class consisting of the Affected Creditors established under and for the purposes of the Plan, including voting in respect thereof.

"**Affiliate**" means, any affiliated body corporate as that term is defined in the CBCA.

"**Agent**" means BOA in its capacity as agent for the Lenders.

"**Amended and Restated Initial Order**" means the Order made by the Court in the CCAA Proceedings on July 8, 2020, as such Order may be amended, restated or varied from time to time.

"**Applicant**" means Roberts Company Canada Limited.

"**BIA**" means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended.

"**BOA**" means Bank of America, N.A.

"**BOA Claim**" means any claim (including, without limitation, a Claim, Post-Filing Claim and/or Secured Claim) of BOA or the ABL Lender against any Person, including any claim arising in connection with the ABL Credit Agreement or the ABL Forbearance Agreement;

"**Business**" means the ordinary and going concern business of the Applicant.

"**Business Day**" means a day, other than a Saturday, Sunday, statutory or civic holiday on which banks are generally open for business in Toronto, Ontario.

"**Cash**" means cash, certificates of deposit, bank deposits, commercial paper, treasury bills and other cash equivalents.

"**CBCA**" means the *Canada Business Corporations Act*, R.S.C. 1985, c. c-44, as amended.

"**CCAA**" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.

"**CCAA Charges**" means, collectively, the Administration Charge, the Directors' Charge, the KERP Charge and the ABL Lender's DIP Charge.

"**CCAA Priority Payment Claims**" means claims for amounts required to be paid by subsections 6(3), (5) and (6) of the CCAA.

"**CCAA Proceedings**" means the proceedings commenced by the Applicant under the CCAA on the Filing Date bearing Court File No.: CV-20-00643158-00CL.

"CCAA Termination Order" means any order granted and issued by the Court in respect of the Applicant terminating the CCAA Proceedings, as the same may be amended, supplemented or restated from time to time in accordance with its terms.

"Claim" means:

- (a) any right or claim of any Person against the Applicant, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), in existence on the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts that existed prior to the Filing Date and any other claims that would have been claims provable in bankruptcy had the Applicant become bankrupt on the Filing Date, including for greater certainty any claim against the Applicant for indemnification by any Director or Officer in respect of a Director/Officer Claim (but excluding any such claim for indemnification that is covered by the Directors' Charge (as defined in the Initial Order)), in each case, where such monies remain unpaid as of the date of the Claims Procedure Order (each a **"Pre-Filing Claim"** and collectively, the **"Pre-Filing Claims"**);
- (b) any Restructuring Period Claim;
- (c) any Director/Officer Claim; and
- (d) any Employee Restructuring Claim,

including any Claim arising through subrogation against the Applicant or any Director or Officer, provided however, that in any case "Claim" shall not include an Excluded Claim.

"Claims Procedure" means the procedures outlined in the Claims Procedure Order in connection with the identification, quantification and resolution of Claims, including Pre-filing Claims, Restructuring Period Claims, Director/Officer Claims and Employee Restructuring Claims, as amended or supplemented by further order of the Court.

"Claims Procedure Order" means the Order made by the Court in the CCAA Proceedings on July 28, 2020 establishing the Claims Procedure, as such Order may be amended, restated or varied from time to time.

"Conditions Precedent" means those conditions precedent to the implementation of the Plan set out in Section 5.3 hereof.

"Convenience Creditor" means an Affected Creditor with a Convenience Creditor Claim.

"Convenience Creditor Claim" means: (a) any Proven Claim of an Affected Creditor in an amount that is less than or equal to \$7,000; and (b) any Proven Claim of an Affected Creditor that has delivered to the Monitor a Convenience Creditor Election.

"Convenience Creditor Election" means an election form to be completed by an Affected Creditor with a Proven Claim in excess of \$7,000 that wishes to be treated as a Convenience Creditor for distribution purposes under the Plan and delivered to the Monitor.

"Court" means the Ontario Superior Court of Justice (Commercial List).

"Creditor" means a Person having a Claim and may, where the context requires, include the transferee or assignee of a transferred Claim that is recognized as a Creditor by the Monitor in accordance with the Claims Procedure Order, or a trustee, liquidator, receiver, receiver and manager or other Person acting on behalf of such Person.

"Directors" means collectively, anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or a *de facto* director of the Applicant, and **"Director"** means any of them.

"Directors' Charge" means the charge provided for at paragraph 22 of the Amended and Restated Initial Order in favour of the Applicant's Directors and Officers securing the Applicant's indemnity obligations to those Directors and Officers as set forth in the Amended and Restated Initial Order.

"Director/Officer Claim" means any existing or future right or claim of any Person against one or more of the Directors and/or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessment and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer.

"Distribution Date" means that date which is ten (10) calendar days after the Effective Date, or such earlier or later date(s) as may be determined by the Applicant, in consultation with the Monitor.

"Effective Date" means the Business Day on which the Plan becomes effective, which for greater certainty, shall be the Business Day designated by the Applicant in consultation with the Monitor and reflected on the Monitor's Implementation Certificate filed with the Court as contemplated by section 6.4 hereof.

"Effective Time" means 5:00 p.m. (Toronto time) on the Effective Date.

"Employee" means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a current or former employee of the Applicant whether on a full-time, part-time or temporary basis, other than a Director or Officer, including any individuals on disability leave, parental leave or other absence.

"Employee Restructuring Claim" means the Claim of any Employee for vacation, termination, severance pay, wages, commissions, or other remuneration, arising as a result of the termination of employment of such Employee by the Applicant prior to the Filing Date or during the CCAA Proceedings to and including the date of the CCAA Termination Order.

"Filing Date" means June 29, 2020.

"Governmental Authority" means any domestic or foreign legislative, executive, judicial or administrative body or person having jurisdiction in the relevant circumstances.

"Initial Distribution Amount" means the payment to be made to Affected Creditors (other than Convenience Creditors) in respect of their Proven Claims on the Distribution Date pursuant to section 4.1(b)(i) of the Plan.

"Initial Order" means the Order of the Court made pursuant to the CCAA in respect of the Applicant on June 29, 2020, as amended and restated on July 8, 2020, and as further amended, restated or varied from time to time.

"Intercompany Claim" means any Claims of an Affiliate (including for greater certainty, the Parent) of the Applicant against the Applicant.

"KERP" has the meaning ascribed to it at paragraph 35 of the Amended and Restated Initial Order.

"KERP Charge" means the charge provided for at paragraph 36 of the Amended and Restated Initial Order in favour of the key employees referred to in the KERP.

"Lenders" means BOA and the lenders from time to time party to the ABL Credit Agreement.

"Meeting" means the meeting of the Affected Creditors Class to be called, convened and conducted in accordance with the Plan and the Meeting Order at which the Affected Creditors will consider and vote on the Resolution.

"Meeting Order" means an Order to be sought establishing the Affected Creditors Class for the purposes of this Plan and for voting purposes, and directing the calling and holding of the Meeting to vote on the Resolution, as such Order may be amended, restated or varied from time to time.

"Monitor" means Richter Advisory Group Inc., in its capacity as the Court-appointed monitor of the Applicant pursuant to the Initial Order.

"Monitor's Implementation Certificate" means a certificate to be filed by the Monitor in the CCAA Proceedings confirming that the Plan has been implemented in accordance with its terms.

"Monitor's Website" means <https://www.richter.ca/insolvencycase/roberts-company-canada-limited/>.

"Non-Released Claims" has the meaning set out in Section 7.3 hereof.

"Officers" means, collectively anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of the Applicant, and **"Officer"** means any one of them.

"Order" means an order of the Court made in the CCAA Proceedings.

"Parent" means collectively, Q.E.P. Co., Inc. and Roberts Consolidated Industries, Inc.

"Person" means any individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization, government or agency or instrumentality thereof, or any other corporate, executive, legislative, judicial, regulatory or administrative entity howsoever designated or constituted, including, without limitation, any present or former shareholder, supplier, customer, employee, agent, client, contractor, lender, lessor, landlord, sub-landlord, tenant, sub-tenant, licensor, licensee, partner or advisor.

"Plan" means this Plan of Compromise and Arrangement filed by the Applicant pursuant to the CCAA, including any Schedules hereto, as may be amended, varied or supplemented hereafter in accordance with the terms hereof, or made at the direction of the Court in accordance with the Meeting Order.

"Post-Filing Claim" means any indebtedness, liability or obligation of the Applicant of any kind that arises after the Filing Date based wholly on facts arising after the Filing Date, provided that Post-Filing Claims shall not include any Restructuring Period Claims or Employee Restructuring Claim.

"Pre-Filing Claim" has the meaning ascribed to that term in the definition of "Claim" herein.

"Promissory Note" has the meaning set out in Section 4.1(b)(ii) hereof.

"Proof of Claim" means a proof of claim filed in accordance with the Claims Procedure Order.

"Proven Claim" means the Affected Claim of an Affected Creditor (or portion thereof) as finally determined for distribution and voting purposes in accordance with the Claims Procedure Order or any other Order of the Court and the CCAA.

"Record Date" means October 14, 2020, or such later date as may be ordered by the Court.

"Released Claims" has the meaning set out in Section 7.2 hereof.

"Released Parties" means, collectively, (i) the Applicant; (ii) the Affiliates, including for greater certainty, the Parent; (iii) the Monitor; (iv) any Person claimed to be liable derivatively through any or all of the foregoing Persons; and (v) the respective Representatives (including Responsible Persons) of any or all of the foregoing Persons.

"Representatives" means, in relation to a Person, such Person's current and former directors, officers, partners, employees, consultants, legal counsel, actuaries, advisers and agents, including their respective heirs, executors, administrators and other legal representatives, successors and assigns, and each of their respective employees and partners.

"Required Majority" means that number of Affected Creditors representing at least a majority in number of the Proven Claims, whose Affected Claims represent at least two-thirds in value of the Proven Claims that vote upon the Resolution validly voting in favour of the Resolution in person, or by proxy, or who are deemed to vote in favour of the Resolution pursuant to the Plan and the Meeting Order.

"Resolution" means the resolution to approve the Plan that will be voted on by the Affected Creditors Class at the Meeting.

"Responsible Persons" means any Director and any Person who, prior to the Effective Time, was requested to act, and who is acting or did or does act or is deemed or treated by Applicable Law to be acting or to have acted, as a director, officer or Person of a similar position of another entity in which the Applicant has a direct or indirect interest.

"Restructuring Period Claim" means any right or claim of any Person against the Applicant in connection with any indebtedness, liability or obligation of any kind whatsoever owed by the Applicant to such Person arising out of the restructuring, disclaimer, rescission, termination or breach by the Applicant on or after the Filing Date of any contract, lease or other agreement or arrangement whether written or oral.

"Richter" means Richter Advisory Group Inc. in respect of the services it provided to the Applicant before and after the Filing Date including in its capacity as Monitor, and any of its affiliates, partners, officers, directors, employees, agents, subcontractors and legal counsel.

"Sanction Order" means an Order to be made by the Court pursuant to section 6(1) of the CCAA, among other things, sanctioning the Plan and providing for the releases and other relief contemplated in the Plan, as such Order may be amended by any court of competent jurisdiction, in form and content satisfactory to the Applicant and the Monitor, each acting reasonably.

"Secured Claim" means a Claim or portion thereof that (i) is secured by security validly charging or encumbering the property of the Applicant as of the Filing Date or thereafter pursuant to an Order (including statutory and possessory liens that create security interests) but only up to the value of such collateral (having regard to the actual realizable value of the property subject to such charge or encumbrance and the legal priority of such charge or encumbrance), and (ii) is entitled to be proven as a secured claim pursuant to the provisions of the CCAA.

"Service List" means the service list kept by the Monitor in the CCAA Proceedings.

"Stay Period" has the meaning set out at paragraph 15 of the Amended and Restated Initial Order, as amended from time to time by subsequent Orders.

"Tax" or "Taxes" means any and all taxes, duties, fees, premiums, assessments, imports, levies and other charges of any kind whatsoever, including all interest, penalties, fines, additions to tax or other additional amounts in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada and other government pension plan premiums or contributions.

"Unaffected Claims" means, collectively:

- (a) any Claim secured by any of the CCAA Charges;
- (b) any CCAA Priority Payment Claims;
- (c) any Secured Claim;

- (d) any BOA Claim;
- (e) any Claim that cannot be compromised pursuant to subsections 5.1(2) and 19(2) of the CCAA;
- (f) any Post-Filing Claims; and
- (g) any Intercompany Claims.

"Unaffected Creditor" means a Creditor with an Unaffected Claim.

"Undeliverable Distributions" has the meaning set out in Section 4.5 hereof.

"Unresolved Claims" means a Claim or any portion thereof, that at the relevant time is disputed or otherwise unresolved and has not been accepted for the purposes of voting on and/or receiving distributions under the Plan and is not barred pursuant to the Claims Procedure Order.

1.2 Construction

For the purposes of this Plan:

- (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions;
- (b) unless otherwise expressly provided herein, any reference in this Plan to an instrument, agreement or an Order or an existing document or exhibit filed or to be filed means such instrument, agreement, Order, document or exhibit as it may have been or may be amended, modified, or supplemented in accordance with its terms;
- (c) unless otherwise specified, all references to currency are in Canadian dollars;
- (d) the division of this Plan into articles and sections are for convenience of reference only and do not affect the construction or interpretation of this Plan, nor are the descriptive headings or articles and sections intended as complete or accurate descriptions of the content thereof;
- (e) the use of words in the singular or plural, or with a particular gender, including a definition, will not limit the scope or exclude the application of any provision of the Plan or a schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) the words "includes" and "including" and similar terms of inclusion will not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather will mean "includes but is not limited to" and "including but not limited to", so that references to included matters will be regarded as illustrative without being either characterizing or exhaustive;
- (g) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day means prior to 5:00 p.m. (Toronto time) on such Business Day;

- (h) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done will be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (i) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature or Governmental Authority includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and
- (j) references to a specified "article" or "section" will, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms "the Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions will be deemed to refer generally to the Plan and not to any particular article, section or other portion of the Plan and includes any documents supplemental hereto.

1.3 Governing Law

The Plan will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of the Plan and all proceedings taken in connection with the Plan and its provisions will be subject to the exclusive jurisdiction of the Court.

1.4 Currency

For the purposes of distributions under the Plan, payments and distributions provided for in the Plan may, at the Applicant's option and discretion, be made in the foreign currency in which the applicable Creditor is normally paid or in Canadian dollars, and any Claims denominated in a foreign currency may be converted to Canadian dollars at the Bank of Canada daily average exchange rate in effect as at the date of the Filing Date (as set out in the Claims Procedure Order).

1.5 Schedules

The following is a Schedule to the Plan:

Schedule "A"- Form of Promissory Note

ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN

2.1 Purpose of Plan

The purposes of the Plan are to:

- (a) complete a restructuring of the Applicant;
- (b) provide for a compromise of, and consideration for, all Affected Claims that are Proven Claims by providing holders of Affected Claims that are Proven Claims with distributions as set out in Section 4.1 of the Plan; and

- (c) effect a release and discharge of all Affected Claims and Released Claims and give effect to the releases in favour of the Released Parties,

in the expectation that all Affected Creditors will derive a greater benefit from the implementation of the Plan than they would derive from the Applicant's bankruptcy or liquidation.

2.2 Persons Affected

The Plan provides for the compromise, discharge and release at the Effective Time of all Affected Claims against the Applicant and against the Directors and Officers, and a full, final and irrevocable release of all Released Claims. The Plan will become effective on the Effective Date in accordance with the steps set out herein, and shall be binding on and enure to the benefit of the Applicant, the Affected Creditors, the Released Parties and all other Persons as provided for herein or subject to this Plan, and their respective successors and assigns and their respective heirs, executors, administrators and other legal representatives, successors and assigns.

2.3 Unaffected Claims

The Plan does not affect the Unaffected Claims subject to the express provisions hereof providing for the treatment of Released Claims. Unaffected Creditors will not be entitled to vote on the Plan in respect of their Unaffected Claims. Unaffected Claims shall be dealt with in accordance with Section 4.3 hereof or otherwise satisfied in accordance with the applicable agreements and other arrangements between Unaffected Creditors and the Applicant. Nothing in this Plan shall affect the Applicant's rights and defences, both legal and equitable, with respect to any Unaffected Claim, including all rights with respect to legal and equitable defences or entitlements to set-offs and recoupments against such claims.

2.4 Intercompany Claims

In order to maximize distributions to the Affected Creditors, the Affiliates of the Applicant, including for greater certainty, the Parent, have foregone any distributions under this Plan in respect of their claims against the Applicant. Accordingly, no distributions shall be made pursuant to this Plan in respect of Intercompany Claims and all such Intercompany Claims shall be treated as Unaffected Claims and shall be fully preserved and not released, discharged or extinguished pursuant to Section 3.5 hereof.

ARTICLE 3

CLASSIFICATION OF CREDITORS, VOTING CLAIMS AND RELATED MATTERS

3.1 Classes of Creditors

For the purposes of voting on the Plan, there will only be one class of Creditors, being the Affected Creditors Class. For the purposes of voting on the Plan, each Convenience Creditor shall be deemed to be in, and shall be deemed to vote in and as part of, the Affected Creditors Class.

3.2 Meeting

The Meeting shall be held in accordance with the CCAA, the Meeting Order, and the Plan. The only Persons entitled to attend the Meeting are the Chair, the Secretary and the Scrutineers (each as defined in the Meeting Order); Affected Creditors and their legal counsel and advisors; the Applicant and its legal counsel and advisors; the Directors and Officers and their legal counsel and

advisors; the Monitor and its legal counsel and advisors; and those Persons, including the holders of proxies, entitled to vote at the Meeting and their legal counsel and advisors. Any other Person may be admitted on invitation of the chair of the Meeting.

3.3 Voting at the Meeting

At the Meeting, the Affected Creditors Class shall vote on whether to approve the Resolution and each Affected Creditor with a Proven Claim shall be entitled to one vote, which vote shall have a value equal to the dollar value of its Proven Claim.

Notwithstanding the foregoing, each Convenience Creditor with a Proven Claim of \$7,000 or less is irrevocably deemed to have voted the full amount of its Proven Claims in favour of the approval of the Resolution without requirement for such Convenience Creditor to file a proxy to vote in favour of the Plan, in consideration for the Plan providing for the full payment of their Proven Claim. An Affected Creditor with a Proven Claim in excess of \$7,000 that wishes to be treated as a Convenience Creditor under the Plan must deliver a duly completed and executed Convenience Creditor Election to the Monitor in accordance with the terms of the Meeting Order, and upon doing so such Affected Creditor: (i) is irrevocably deemed to have voted the full amount of its Proven Claim in favour of the Resolution as a member of the Affected Creditors Class; and (ii) shall be treated as a Convenience Creditor for the purpose of distributions made under the Plan.

3.4 Unaffected Claims

Unaffected Creditors will not be entitled to vote on the Plan in respect of their Unaffected Claim. Those Unaffected Claims specified in Section 4.3 hereof will be paid in accordance with Section 4.3 hereof, or otherwise satisfied in accordance with the applicable agreements and other arrangements between Unaffected Creditors and the Applicant.

3.5 Extinguishment of Claims

At the Effective Time, in accordance with the sequence of steps set out in Section 6.2 hereof and the terms of the Plan and Sanction Order, the treatment of Affected Claims (including Proven Claims and Unresolved Claims) and Released Claims, in each case as set forth herein, will be final and binding on the Applicant, Affected Creditors (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and any Person holding a Released Claim. All Affected Claims and all Released Claims will be fully, finally, irrevocably and forever released, discharged, cancelled and barred and the Applicant will thereupon have no further obligation whatsoever in respect of the Affected Claims and the Released Claims, as applicable; provided that (i) nothing herein releases the Applicant from the obligation to make distributions in the manner and to the extent provided for in the Plan; and (ii) such discharge and release of the Applicant will be without prejudice to the right of an Affected Creditor in respect of an Unresolved Claim to prove such Unresolved Claim in accordance with the Claims Procedure Order.

3.6 Fractions

An Affected Creditor's Proven Claim shall not include fractional numbers and Proven Claims shall be rounded down to the nearest whole dollar amount without compensation.

3.7 Voting of Unresolved Claims

Subject to Section 3.3 and Section 3.4, each Affected Creditor holding an Unresolved Claim as of the date of the Meeting shall be entitled to attend and vote at the Meeting. The Monitor shall keep a separate record of votes cast by Affected Creditors holding Unresolved Claims and shall report to the Court as to the number and amounts of any such votes if determined necessary by the Monitor. The votes cast in respect of any Unresolved Claims shall not be counted for any purpose unless, until and only to the extent that such Unresolved Claim is finally determined to be a Proven Claim.

3.8 Order to Establish Procedure for Valuing Voting Claims

The procedure for valuing Claims and resolving Unresolved Claims for voting purposes shall be as set forth in the Claims Procedure Order, the Meeting Order, the CCAA and the Plan. The Applicant and the Monitor shall have the right to seek the assistance of the Court in valuing any Unresolved Claim in accordance with the Claims Procedure Order, the Meeting Order, the CCAA and the Plan, if required, to ascertain the result of any vote on the Plan.

3.9 Approval by Required Majority

In order to be approved, the Plan must receive an affirmative vote by the Required Majority of the Affected Creditors Class.

3.10 Guarantees and Similar Covenants

No Person who has a claim under any guarantee, surety, indemnity or similar covenant in respect of any Claim which is compromised and released under the Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim which is compromised under the Plan will be entitled to any greater rights as against the Applicant than the Person whose Claim is compromised under the Plan.

3.11 Assignment of Claims Prior to the Meeting

An Affected Creditor may transfer or assign the whole of its Claim prior to the Meeting in accordance with the Claims Procedure Order, provided that the Applicant and the Monitor shall not be obliged to deal with any such transferee or assignee as an Affected Creditor in respect thereof, including allowing such transferee or assignee to vote at the Meeting, unless actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received by the Monitor prior to 5:00 p.m. on the Record Date and acknowledged in writing by the Monitor and the Applicant. Thereafter, such transferee or assignee shall, for all purposes in accordance with the Claims Procedure Order, the Meeting Order, the CCAA and the Plan constitute an Affected Creditor and shall be bound by any and all notices previously given to the transferor or assignor in respect of such Claim. Such transferee or assignee shall not be entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such person to the Applicant and Claims acquired by a transferee or assignee will not merge, consolidate or combine with any of the transferee's or assignee's other Claims.

For greater certainty, the Applicant and the Monitor shall not recognize partial transfers or assignments of Claims by Affected Creditors.

ARTICLE 4
DISTRIBUTIONS AND PAYMENTS

4.1 Distributions to Affected Creditors

(a) Convenience Creditors

On the Distribution Date, the Applicant shall, with the support of the Parent using its existing facilities (as may be amended, modified or restated), distribute to each Convenience Creditor with a Proven Claim an amount in Cash equal to the lesser of (a) \$7,000 and (b) the value of such Convenience Creditor's Proven Claim, by (i) prepaid ordinary mail to the last known address for such Convenience Creditor or (ii) wire transfer of immediately available funds to an account designated in writing by the Convenience Creditor to the Monitor (with any wire transfer or similar fee being satisfied from the distribution amount), provided that no distribution will be made in an amount less than \$20.00. Any liability of the Applicant to a Convenience Creditor for any distribution in an amount less than \$20.00 will be forever discharged and extinguished.

(b) Affected Creditors Other Than Convenience Creditors

On the Distribution Date:

- (i) the Applicant shall, with the support of the Parent using its existing facilities (as may be amended, modified or restated), distribute to each Affected Creditor (that is not a Convenience Creditor) with a Proven Claim the Initial Distribution Amount, being an amount in Cash equal to 20 cents (\$0.20) for every dollar of such Affected Creditor's Proven Claim, by (a) prepaid ordinary mail to the last known address for such Affected Creditor or (b) wire transfer of immediately available funds to an account designated in writing by the Affected Creditor to the Monitor (with any wire transfer or similar fee being satisfied from the distribution amount); **AND**
- (ii) the Applicant shall distribute to each Affected Creditor (that is not a Convenience Creditor) with a Proven Claim a promissory note (each a "**Promissory Note**"), in the form substantively similar to Schedule "A" attached hereto, with a face value equal to 30 cents (\$0.30) for every dollar of such Affected Creditor's Proven Claim, which will be payable by the Applicant in eighteen (18) equal consecutive monthly installments on the last day of each calendar month, commencing on January 31, 2021, by (a) prepaid ordinary mail to the last known address for such Affected Creditor or (b) wire transfer of immediately available funds to an account designated in writing by the Affected Creditor to the Monitor (with any wire transfer or similar fee being satisfied from the distribution amount), in accordance with the terms and conditions of the Promissory Note and subject to Section 4.1 (c) hereof, as applicable,

provided that no distribution pursuant to Section 4.1(b) hereof will be made in an amount less than \$20.00 to any Affected Creditor. Any liability of the Applicant to such Affected Creditor for any distribution in an amount less than \$20.00 will be forever discharged and extinguished.

(c) Condition Precedent to Applicant's Obligations under the Promissory Note

The payments to be made under a Promissory Note referenced in Section 4.1(b)(ii) are conditional upon the Applicant generating sufficient free cashflows from the operation of its business, after payment of amounts required to service secured debt obligations, lease and equipment financing obligations, employee wages, capital maintenance costs and other ordinary course obligations required to operate the Applicant's business, which will require the ongoing uninterrupted supply of goods and services necessary to operate the Applicant's business by suppliers without any material price increases or requirement for prepayments during the term of the Promissory Note.

4.2 Unresolved Claims and Distributions

An Affected Creditor holding an Unresolved Claim will not be entitled to receive a distribution under the Plan in respect of any portion thereof unless and until such Unresolved Claim becomes a Proven Claim. Distributions pursuant to and in accordance with this Plan shall be paid or distributed in respect of any Unresolved Claim that is finally determined to be a Proven Claim in accordance with this Plan and the Meeting Order.

4.3 Payment of Unaffected Claims

To the extent not already paid, any Unaffected Claim that is a Claim secured by one of the CCAA Charges or a CCAA Priority Payment Claim, shall be paid within five (5) Business Days of the Effective Date by the Applicant from the Administrative Reserve Fund. To the extent that the value of any such Unaffected Claim is at issue, the Monitor shall attempt to resolve such Unaffected Claim and may seek the advice and direction of the Court in connection therewith.

4.4 Taxes

In connection with the Plan and all distributions hereunder, the Applicant shall, to the extent applicable, comply with all Tax withholding and reporting requirements imposed by any law of a federal, state, provincial, local, or foreign taxing authority, and all distributions hereunder shall be subject to, and made net of, any such withholding and reporting requirements. Notwithstanding any other provision of the Plan, each Affected Creditor that is to receive a distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed by any governmental entity, including income, withholding and other Tax obligations, on account of such distribution.

4.5 Undeliverable Distributions

If a distribution to an Affected Creditor in respect of its Proven Claim is returned as undeliverable (each, an "**Undeliverable Distribution**"), no further delivery will be required unless and until the Applicant is notified in writing of such Affected Creditor's then current address. Any obligation to an Affected Creditor relating to an Undeliverable Distribution will expire three (3) months after the date of such distribution, after which date any liability to such Affected Creditor under the Plan will be forever barred, discharged, released and extinguished with prejudice and without compensation. In addition, following that date, the Applicant shall not be liable to the Affected Creditor or any other Person for any damages related to the Undeliverable Distribution. No interest shall be payable in respect of an Undeliverable Distribution.

4.6 Return of Funds to the Applicant

If, after all distributions from the Administrative Reserve Account contemplated by the Plan are made in accordance herewith, the Applicant has funds remaining in its possession in the Administrative Reserve Account, such excess funds shall be released from the Administrative Reserve Account and repaid to the Applicant, with the consent of the ABL Lender.

4.7 Assignment of Claims Subsequent to the Meeting

After the Meeting, an Affected Creditor may transfer or assign the whole, but not part, of its Claim, provided that the Applicant shall not be obliged to make distributions to any transferee or assignee of an Affected Creditor's Claim or otherwise deal with such transferee or assignee as an Affected Creditor in respect thereof unless and until actual notice of the transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been received by the Monitor prior to 5:00 p.m. on that day that is at least five (5) Business Days prior to the Distribution Date. Thereafter, such transferee or assignee shall, for all purposes in accordance with the Claims Procedure Order, constitute an Affected Creditor and shall be bound by notices given and steps taken in respect of such Affected Creditor's Claim. For greater certainty, the Applicant shall not recognize partial transfers or assignments of Affected Creditors' Claims. A transferee or assignee of an Affected Creditor's Claim shall not be entitled to set-off, apply, merge, consolidate, or combine any such Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such transferee or assignee to the Applicant. For greater certainty, any Convenience Creditor Election by an Affected Creditor that transfers or assigns its Claim, shall be binding on any transferee or assignee of such an Affected Creditor's Claim.

4.8 Intercompany Claims

Notwithstanding Sections 4.1 to 4.2 hereof, any Person having an Intercompany Claim shall not be entitled to a distribution under the Plan.

ARTICLE 5 SANCTION ORDER AND CONDITIONS TO PLAN IMPLEMENTATION

5.1 Application for Sanction Order

If the Plan is approved by the Required Majority of the Affected Creditors Class, the Applicant shall apply to the Court for the Sanction Order. The Applicant shall use commercially reasonable efforts to obtain the Sanction Order on October 26, 2020, or as soon thereafter as practicable. Subject to the Sanction Order being granted and the satisfaction or waiver by the Applicant of the Conditions Precedent, the Plan will be implemented by the Applicant as provided in Article 6 hereof.

5.2 Effect of the Sanction Order

In addition to sanctioning the Plan, the Sanction Order to be sought by the Applicant will, without limitation to any other terms that it may contain:

- (a) confirm that the Meeting was duly called and held in accordance with the Meeting Order;
- (b) declare that: (i) the Plan has been approved by the Required Majority of the Affected Creditors Class in conformity with the CCAA; (ii) the Applicant has complied with the

provisions of the CCAA and the Orders in all respects; (iii) the Court is satisfied that the Applicant has not done or purported to do anything that is not authorized by the CCAA; and (iv) the Plan, and the transactions contemplated thereby are fair and reasonable;

- (c) declare that, as at the Effective Time, the Plan and all associated steps, compromises, transactions, arrangements, assignments, releases and the restructuring effected thereby are sanctioned, approved, binding and effective as herein set out upon the Applicant, all Affected Creditors, and all other Persons affected by the Plan;
- (d) declare that the compromises, arrangements, discharges and the releases referred to in the Plan are approved and shall become binding and effective in accordance with the Plan;
- (e) compromise, discharge and release the Applicant from any and all Affected Claims and declare that the ability of any Person to proceed against the Applicant in respect of or relating to any such Affected Claims and claims shall be forever discharged, extinguished, released and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims and claims shall be permanently stayed against the Applicant, subject only to the right of Affected Creditors to receive distributions pursuant to the Plan in respect of their Affected Claims;
- (f) declare that, notwithstanding: (i) the pendency of the CCAA Proceedings; (ii) any applications for a bankruptcy, receivership or other order now or hereafter issued pursuant to the BIA, the CCAA or otherwise in respect of the Applicant and any bankruptcy, receivership or other order issued pursuant to any such applications; and (iii) any assignment in bankruptcy made or deemed to be made in respect of the Applicant, the transactions contemplated by the Plan will be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Applicant or its assets and will not be void or voidable by Creditors of the Applicant, nor will the Plan, or the payments and distributions contemplated pursuant thereto constitute nor be deemed to constitute a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA, CCAA or any other applicable federal or provincial legislation, nor will the Plan constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation;
- (g) declare that, subject to the performance by the Applicant of its obligations under the Plan, all obligations, contracts, agreements, leases or other arrangements to which the Applicant is a party shall be and remain in full force and effect, unamended, as at the Effective Date, unless disclaimed or resiliated by the Applicant prior to the Effective Date, and no party to any such obligation or agreement shall, on or following the Effective Date, accelerate, terminate, refuse to renew, rescind, refuse to perform or otherwise disclaim or resiliate its obligations thereunder, or enforce or exercise (or purport to enforce or exercise) any right or remedy under or in respect of any such obligation or agreement, by reason:
 - (i) of any event which occurred prior to, and not continuing after, the Effective Date or which is or continues to be suspended or waived under the Plan, which would have entitled any other party thereto to enforce those rights or remedies;
 - (ii) that the Applicant has sought or obtained relief or has taken steps as part of the Plan or under the CCAA;

- (iii) of any default or event of default arising as a result of the financial condition or insolvency of the Applicant;
 - (iv) of the effect upon the Applicant of the completion of any of the transactions contemplated under the Plan; and
 - (v) of any compromises, settlements, restructurings and releases effected pursuant to the Plan;
- (h) authorize all Persons, named in the Plan, including the Applicant and the Monitor, to perform their functions and fulfil their obligations under the Plan to facilitate the implementation of the Plan;
 - (i) declare that all distributions to the Affected Creditors under the Plan are for the account of the Applicant and the fulfillment of the Applicant's obligations under the Plan;
 - (j) declare that, as at the Effective Time, the Applicant shall no longer be subject to the CCAA Proceedings, provided that the Monitor's powers and functions with respect to the resolution and administration of Unresolved Claims, making distributions under the Plan and completing its obligations relating to the Plan shall continue;
 - (k) declare that any Affected Claim that is not a Proven Claim or Unresolved Claim is forever barred and extinguished;
 - (l) direct the Monitor to file the Monitor's Implementation Certificate in the CCAA Proceedings;
 - (m) declare that each of the CCAA Charges will be terminated, discharged, expunged and released;
 - (n) approve the conduct of the Directors of the Applicant during the CCAA Proceedings;
 - (o) approve all conduct of Richter in relation to the Applicant and bar all claims against Richter arising from or relating to the services provided to the Applicant up to and including the date of the Sanction Order;
 - (p) confirm the releases contemplated in Section 7.2 hereof and at the Effective Time, compromise, discharge and release the Released Parties from any and all Released Claims of any nature in accordance with the Plan and Section 7.2 hereof, and declare that the ability of any Person to proceed against the Released Parties (or any of them) in respect of or relating to any Released Claim will be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such Released Claims be permanently stayed;
 - (q) as of the Effective Time, bar, stop, stay and enjoin the commencing, taking, applying for or issuing or continuing of any and all steps or proceedings, including without limitation, administrative hearings and orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any Released Party in respect of all Released Claims and any matter which is released pursuant to Article 7 hereof; and

- (r) declare that the Applicant and the Monitor may apply to the Court for advice and direction in respect of any matters arising from or in relation to the Plan or implementation thereof after the Effective Date.

5.3 Conditions Precedent to Plan Implementation

The implementation of this Plan is subject to the satisfaction or waiver of the following Conditions Precedent on or prior to the Effective Date:

- (a) the Plan has been approved by the Required Majority of the Affected Creditors Class;
- (b) the Plan has been approved and sanctioned by the Court;
- (c) all relevant Persons will have executed, delivered and filed all documents and other instruments that, in the opinion of the Applicant, acting reasonably, are necessary to implement the provisions of the Plan or the Sanction Order; and
- (d) the maximum amount payable by the Applicant under Section 4.1(a), 4.1(b)(i), under all Promissory Notes issued pursuant to Section 4.1(b)(ii), and under Section 4.3 hereof is satisfactory to the ABL Lender.

Any Condition Precedent other than any statutory requirements regarding the voting, approval and sanctioning of the Plan pursuant to the provisions of the CCAA and the Condition Precedent in Section 5.3(d) may be waived by the Applicant with the consent of the Monitor. The Condition Precedent in Section 5.3(d) may only be waived by the Applicant with the consent of the Monitor and the ABL Lender.

ARTICLE 6 RESTRUCTURING AND PLAN IMPLEMENTATION

6.1 Corporate and Other Authorizations

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the Plan involving corporate or other action of the Applicant will occur and be effective as of the Effective Time and will be authorized and approved under the Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by any of the Directors and Officers. All necessary approvals to take actions, if required, shall be deemed to have been obtained from the board of directors of the Applicant.

6.2 Transactions

On or prior to the Effective Date, all Conditions Precedent must be satisfied or waived in accordance with the Plan and the Sanction Order, and all actions, documents, agreements and funding necessary to implement all of the transactions set out in Section 6.2 hereof must be in place and be final and irrevocable prior to the Effective Date.

On the Effective Date, the following will occur, and be deemed to have occurred:

- (a) subject to the consent of the ABL Lender, the Applicant shall hold funds, in trust, in an amount sufficient to fund all distributions contemplated by Section 4.3 hereof from the Administrative Reserve Fund; and
- (b) all Affected Claims and Released Claims will be fully, finally, irrevocably and forever released, discharged, cancelled and barred in accordance with Section 3.5 and Article 7 hereof.

6.3 Effective Date

Upon satisfaction or waiver of the Conditions Precedent, the Applicant will proceed to implement the Plan. In consultation with the Monitor, the Applicant will designate the Effective Date and will implement the Plan on that date.

6.4 Monitor's Certificate – Plan Implementation

As soon as practicable following the occurrence of the Effective Time, the Monitor will serve on the Service List in the CCAA Proceedings and post on the Monitor's Website the Monitor's Implementation Certificate confirming that the Effective Date has occurred and will file such certificate with the Court.

ARTICLE 7 EFFECT OF PLAN

7.1 Binding Effect of the Plan

The Plan (including, without limitation, the releases and injunctions contained herein), upon being sanctioned and approved by the Court pursuant to the Sanction Order shall be binding as of the Effective Time on all Persons irrespective of the jurisdiction in which the Persons reside or in which the Claims arose and shall constitute:

- (a) a full, final and absolute settlement of all rights of any Affected Creditor; and
- (b) an absolute release, extinguishment and discharge of all indebtedness, liabilities and obligations of or in respect of any Affected Claim.

7.2 Released Parties

From and after the Effective Time, each of the Released Parties will be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, liens and other recoveries on account of any indebtedness, liability, obligation, demand or cause of action of whatever nature that any Person (including any Person who may claim contribution or indemnification against or from the Released Parties) may be entitled to assert, including any and all Claims in respect of statutory liabilities of Directors and Officers, whether known or unknown, matured or unmatured, direct, indirect or derivative, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Effective Time relating to, arising out of or in connection with any Claim, including any Claim arising out of (i) the restructuring, disclaimer, resiliation, breach or termination of any contract, lease, agreement or other arrangement, whether written or oral, (ii) the Business; (iii) the Plan; (iv) any transaction referenced in and relating to the Plan; and (v) the CCAA

Proceedings (collectively, the "**Released Claims**"). Notwithstanding the foregoing, nothing in this Section 7.2 will release Non-Released Claims.

From and after the Effective Time, all Persons, along with their respective affiliates, present and former officers, directors, employees, associated individuals, auditors, financial advisors, legal counsel, other professionals, sureties, insurers, indemnities, agents, dependants, heirs, representatives and assigns, as applicable, are permanently and forever barred, estopped, stayed and enjoined, on and after the Effective Time, with respect to Released Claims, from:

- (a) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits, demands or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any of the Released Parties;
- (b) enforcing, levying, attaching, collecting or otherwise recovering or enforcing by any manner or means, directly or indirectly, any judgment, award, decree or order against any of the Released Parties or their property;
- (c) commencing, conducting or continuing in any manner, directly or indirectly, any action, suits or demands, including without limitation by way of contribution or indemnity or other relief, in common law, or in equity, breach of trust or breach of fiduciary duty or under the provisions of any statute or regulation, or other proceedings of any nature or kind whatsoever (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against any Person who, as a result, makes or might reasonably be expected to make a claim, in any manner or forum, against any of the Released Parties;
- (d) creating, perfecting, asserting or otherwise enforcing, directly or indirectly, any lien or encumbrance of any kind; or
- (e) taking any actions to interfere with the implementation or consummation of this Plan or the transactions contemplated therein.

7.3 **Claims Not Released**

For clarity, nothing in Sections 7.1 or 7.2 will release or discharge:

- (a) the Applicant from or in respect of any Unaffected Claim or its obligations to Affected Creditors under the Plan;
- (b) a Released Party in respect of a claim whereby the Released Party is adjudged by the express terms of a judgment rendered on a final determination on the merits by the Court or by a court of competent jurisdiction in a judgement recognized by the Court to have committed fraud or wilful misconduct or to have been grossly negligent or, in the case of Directors, in respect of any claim referred to in section 5.1(2) of the CCAA; and
- (c) any BOA Claim,

(collectively, the "**Non-Released Claims**").

7.4 Consents, Waivers and Agreements at the Effective Time

At the Effective Time, each Affected Creditor will be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety. Without limiting the foregoing, each Affected Creditor will be deemed:

- (a) to have executed and delivered to the Applicant all consents, assignments, releases and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety;
- (b) to have waived any default by or rescinded any demand for payment against the Applicant that has occurred on or prior to the Effective Date;
- (c) to have agreed that, if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Affected Creditor and the Applicant with respect to an Affected Claim as at the Effective Date and the provisions of the Plan, then the provisions of the Plan take precedence and priority and the provisions of such agreement or other arrangement are amended accordingly; and
- (d) from and after the Effective Time, such Affected Creditor shall be deemed to have waived any and all defaults of the Applicant then existing or previously committed or caused by the Applicant, directly or indirectly, or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, express or implied, in any contract, credit document, agreement for sale, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Affected Creditor and the Applicant arising from the CCAA Proceedings or the transactions contemplated by the Plan and the failure by the Applicant to receive any consent from such Affected Creditor to any transaction contemplated by the Plan and any and all notices of default and demands for payment under any instrument, including any guarantee arising from such default, shall be deemed to have been rescinded.

ARTICLE 8 GENERAL

8.1 Amendments to the Plan

Before and during the Meeting, with the prior written consent of the Monitor and the ABL Lender, the Applicant may at any time and from time to time, amend, restate, modify and/or supplement the Plan provided that any such amendment, restatement, modification or supplement must be contained in a written document which is filed with the Court and (i) if made prior to or at the Meeting, communicated to the Affected Creditors in the manner contemplated by the Meeting Order; and (ii) if made following the Meeting, approved by the Court and following notice to the Affected Creditors.

After the Meeting, with the prior written consent of the Monitor and the ABL Lender, the Applicant may at any time and from time to time amend, restate, modify and/or supplement the Plan:

- (a) without an Order if, in the opinion of the Monitor, such amendment, restatement, modification or supplement would not be materially prejudicial to the interests of the Affected Creditors under the Plan or is necessary to give effect to the full intent of the Plan or the Sanction Order; or

- (b) pursuant to an Order made on notice to all Persons potentially affected by such, amendment, restatement, modification or supplement.

Any amended, restated, modified or supplemented Plan or Plans filed with the Court and, if required by this Section 8.1, approved by the Court, will for all purposes be and be deemed to be a part of and incorporated in the Plan.

8.2 Severability

If, prior to the Effective Time, any term or provision of the Plan is held by the Court to be invalid, void or unenforceable, the Court, at the request of the Applicant and subject to the consent of the Monitor and the ABL Lender, may either (i) sever such term or provision from the balance of the Plan and provide the Applicant with the option to proceed with the implementation of the balance of the Plan, or (ii) alter and interpret such provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of such provision, and such provision will then be applicable as altered or interpreted and the remainder of the provisions of the Plan will remain in full force and effect and will in no way be invalidated by such alteration or interpretation.

8.3 Deeming Provisions

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

8.4 Paramountcy

From and after the Effective Time, any conflict between the Plan and the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, bylaws of the Applicant, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between one or more of the Affected Creditors and the Applicant as at the Effective Date will be deemed to be governed by the terms, conditions and provisions of the Plan and the Sanction Order.

8.5 Set-Off

Subject to Sections 3.8 and 4.7, the law of set-off applies to all Affected Claims.

8.6 Responsibilities of the Monitor

The Monitor is acting and will continue to act in all respects in its capacity as Monitor in the CCAA Proceedings with respect to the Applicant (and not in its personal capacity). The Monitor will not be responsible or liable for any obligations of the Applicant. The Monitor will have the powers and protections granted to it by the Plan, the CCAA and any other Order made in the CCAA Proceedings. Richter will incur no personal liability whatsoever whether on its own part or in respect of any failure on the part of the Applicant to observe, perform or comply with any of its obligations under the Plan. Any release, discharge or other benefit conferred upon the Monitor pursuant to the Plan will enure to the benefit of Richter. The Monitor in its personal capacity will be a third party beneficiary to the Plan entitled to enforce such releases, discharges and benefits in accordance with the terms of the Plan.

8.7 Different Capacities

Persons who are affected by the Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, a Person will be entitled to participate hereunder in each such capacity in accordance with the Meeting Order. Any action taken by a Person in one capacity will not affect such Person in any other capacity, unless otherwise provided in the Meeting Order, or unless expressly agreed by the Person in writing.

8.8 Further Assurances

At the request of the Applicant, each of the Persons named or referred to in, or subject to, the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein, notwithstanding any provision of the Plan that deems any transaction or event to occur without further formality.

8.9 Notices

Except as otherwise provided for in the Meeting Order, any other notice or other communication to be delivered or filed hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail, facsimile or by e-mail addressed to the respective parties as follows:

(a) If to the Applicant:

1001 Broken Sound Parkway, NW, Suite "A",
Boca Raton, Florida 33487
Attention: Adam Morgan
Email: amorgan@qep.com

With a copy to:

Bennett Jones LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, Ontario, Canada
M5X 1A4

Attention: Raj Sahni and Danish Afroz
Email: sahnir@bennettjones.com; afrozd@bennettjones.com

(b) If to the Monitor:

Richter Advisory Group Inc., in its capacity as Court-appointed monitor of Roberts
Company Canada Limited

181 Bay Street, #3510
Bay Wellington Tower
Toronto, Ontario, Canada
M5J 2T3

Attention: Paul Van Eyk and Duncan Lau
Email: pvaneyk@richter.ca/dlau@richter.ca

With a copy to:

Borden Ladner Gervais LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 3400
Toronto, Ontario, Canada
M5H 4E3

Attention: Roger Jaipargas
Email: RJaipargas@blg.com

or to such other address as any party may from time to time notify the others in accordance with this section, or, in the case of an address change for the Applicant or the Monitor, by posting notice of such address change on the Monitor's Website. Any such communication so given or made will be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 4:00 p.m. (Toronto time) on such day. Otherwise, such communication will be deemed to have been given and made and to have been received on the next following Business Day.

8.10 Further Assurances

Each of the Persons named or referred to in, or subject to, the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan, or any other events or transactions contemplated herein, notwithstanding any provision of the Plan that deems any event or transaction to occur without further formality.

8.11 Language

This Plan, as well as any notices, schedules or other documents related thereto has been and will be prepared in the English language only. To the extent a French language or other translation is prepared, any such translation will be for informational purposes only, it being intended that the English language version will govern and prevail in all respects.

8.12 Acts to Occur on Next Business Day

If any distribution, payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such distribution, payment or the performance of such act may be completed on the next succeeding Business Day, but will be deemed to have been completed as of the required date.

8.13 Non-Consummation of the Plan

If the Plan is revoked at any time prior to the Effective Time, it will be null and void in all respects. Nothing contained in the Plan and no act taken in preparation for the implementation of the Plan will (a) constitute or be deemed to constitute a waiver or release of any Claims by or against the Applicant or any other Person; (b) prejudice the rights of the Applicant or any other Person in any

further proceeding involving the Applicant; or (c) constitute an admission of any sort by the Applicant or any Person.

[Signatures on the following page]

DATED at Toronto, Ontario, as of this 28th day of September, 2020.

) **ROBERTS COMPANY CANADA LIMITED**

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)

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)

)

Per: _____

Name:

Title:

) I have authority to bind the Corporation

SCHEDULE "B"

MONITOR'S CERTIFICATE

Court File No. CV-20-00643158-00CL

**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 A PLAN OF COMPROMISE OR ARRANGEMENT OF
ROBERTS COMPANY CANADA LIMITED

MONITOR'S CERTIFICATE

WHEREAS pursuant to the Order of this Court dated June 29, 2020, Richter Advisory Group Inc. was appointed as the monitor (the "**Monitor**") of Roberts Company Canada Limited (the "**Applicant**") in the within CCAA proceedings bearing Court File No.: CV-20-00643158-00CL (the "**CCAA Proceedings**");

AND WHEREAS pursuant to the Order of this Court dated September 28, 2020, the Applicant filed the plan of compromise and arrangement pursuant to the *Companies' Creditors Arrangement Act* (Canada) (as may be amended or restated in accordance with its terms, the "**Plan**");

AND WHEREAS the Plan has been sanctioned by this Honourable Court by Order dated October 26, 2020 (the "**Sanction Order**");

AND WHEREAS section 6.4 of the Plan and paragraph 13 of the Sanction Order require the Monitor to serve on the service list in the CCAA Proceedings and post on the website established by the Monitor in respect of these CCAA Proceedings a certificate, signed by the Monitor, certifying that the Effective Date has occurred;

AND WHEREAS the Effective Date has occurred;

AND WHEREAS all capitalized terms used but not defined herein shall have the meanings given to them in the Plan;

THE MONITOR HEREBY CERTIFIES that:

1. Pursuant to the terms of the Plan, the Effective Date has occurred;
2. The Monitor has received, from or on behalf of the Applicant, in immediately available funds, an amount sufficient to be distributed by the Applicant to each of the KERP beneficiaries, in indefeasible payment in full of all amounts owing and outstanding under the KERP and any other amounts secured by the KERP Charge (as such capitalized terms are defined in the Amended and Restated Initial Order); and
3. This Certificate is delivered by the Monitor on _____, 2020.

RICHTER ADVISORY GROUP INC., solely in its capacity as court appointed monitor of the Applicant, and not in its personal capacity or in any other capacity

Per: _____
Name:
Title:

SCHEDULE "C"

MONITOR'S SECOND CERTIFICATE

Court File No. CV-20-00643158-00CL

**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 A PLAN OF COMPROMISE OR ARRANGEMENT OF
ROBERTS COMPANY CANADA LIMITED

MONITOR'S SECOND CERTIFICATE

WHEREAS pursuant to the Order of this Court dated June 29, 2020, Richter Advisory Group Inc. was appointed as the monitor (the "**Monitor**") of Roberts Company Canada Limited (the "**Applicant**"), in the within CCAA proceedings (the "**CCAA Proceedings**");

AND WHEREAS pursuant to the Order of this Court dated September 28, 2020 (the "**Meeting Order**"), the Applicant filed the plan of compromise and arrangement pursuant to the *Companies' Creditors Arrangement Act* (Canada) (as may be amended or restated in accordance with its terms, the "**Plan**");

AND WHEREAS the Plan has been sanctioned by this Honourable Court by Order dated October 26, 2020 (the "**Sanction Order**");

AND WHEREAS the Sanction Order requires that, upon: (i) fulfillment of the Monitor's duties under the Claims Procedure Order and the Sanction Order; (ii) the Monitor receiving an acknowledgement of payment in full of the claims secured by the Administration Charge; and (iii) payment, by the Applicant from the KERP Escrow Fund, to each of the KERP beneficiaries of all amounts owing and outstanding under the KERP and any other amounts secured by the KERP Charge, the Monitor shall serve on the service list in the CCAA Proceedings a certificate, signed by the Monitor, certifying same;

AND WHEREAS the Monitor has: (i) completed its duties under the Claims Procedure Order and the Sanction Order; (ii) received an acknowledgement of payment in full of the claims secured by the Administration Charge; and (iii) received an acknowledgement from the Applicant of payment by the Applicant from the KERP Escrow Fund to each of the KERP beneficiaries of all amounts owing and outstanding under the KERP and any other amounts secured by the KERP Charge;

AND WHEREAS all capitalized terms used but not defined herein shall have the meanings given to them in the Plan;

THE MONITOR HEREBY CERTIFIES that:

1. The Monitor has completed its duties under the Claims Procedure Order and the Sanction Order;
2. The Monitor has received an acknowledgement of payment in full of the claims secured by the Administration Charge;
3. The Monitor has received an acknowledgement of payment by the Applicant from the KERP Escrow Fund to each of the KERP beneficiaries of all amounts owing and outstanding under the KERP and any other amounts secured by the KERP Charge; and
4. Upon the filing of this Monitor's Second Certificate:
 - (a) the CCAA Proceedings shall be terminated;
 - (b) the Monitor shall be discharged and released from its duties, obligations and responsibilities as Monitor of the Applicant and shall be forever released, remised and discharged from any claims against it relating to its activities as Monitor; and
 - (c) the Directors' Charge, the Administration Charge, and the KERP Charge (as each term is provided for and defined in the Amended and Restated Initial Order) shall be terminated, discharged, expunged and released.

5. This Certificate is delivered by the Monitor on _____, 2020.

RICHTER ADVISORY GROUP INC., solely
in its capacity as court appointed monitor of the
Applicants, and not in its personal capacity or in
any other capacity

Per: _____
Name:
Title:

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED AND IN THE MATTER OF A PLAN OR COMPROMISE OR ARRANGEMENT OF ROBERTS COMPANY CANADA LIMITED

Court File No. CV-20-00643158-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceedings commenced in Toronto

SANCTION ORDER

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