

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicant is a company to which the CCAA applies.

PLAN OF ARRANGEMENT

3. **THIS COURT ORDERS** that the Applicant shall have the exclusive and sole authority to file and shall, subject to further order of this Court, file with this Court on or before April 12, 2002 a proposal for a plan or plans of compromise or arrangement (hereinafter collectively referred to as the "Plan") between, *inter alia*, the Applicant and one or more classes of its secured and/or unsecured creditors as it may deem appropriate.

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Applicant shall remain in possession and control of its property, assets and undertakings (collectively the "Property"), and shall, subject to further Order of this Court, continue to carry on business in a manner consistent with the preservation of the Applicant's business (the "Business") and the Property and shall be authorized and empowered to continue to retain and employ the agents, advisors, contractors, employees, servants, solicitors, auditors and other assistants, consultants and valuers currently in its employ, with liberty to retain such further agents, advisors, contractors, employees, servants, solicitors, auditors, assistants, consultants and valuers including, without limitation, those who were formerly, are now or may in the future be retained, employed or paid by the Applicant or any person, firm, corporation or other entity related to or affiliated with the Applicant, as it deems reasonably necessary or desirable in the ordinary course of business or for the purpose of the Plan or the carrying out of the terms of this Order, or otherwise subject to the approval of this Court.

5. **THIS COURT ORDERS** that the Applicant is authorized and required to pay forthwith all outstanding fees and expenses of the Applicant's legal counsel and financial advisor for services provided up to the date of this Order.

6. **THIS COURT ORDERS** that, after the date hereof and except as otherwise provided to the contrary herein, the Applicant shall be entitled, but not required, to pay all reasonable expenses incurred by the Applicant in carrying on the Business in the ordinary course both prior to and after this Order and in carrying out the provisions of this Order, which expenses, pending any further order of this Court, include, without limitation, payment of:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers' insurance), maintenance and security;
- (b) all outstanding and future wages, commissions, salaries, employee benefits, employee incentives, vacation pay for continuing employees in the normal course, retention and bonus payments accrued or accruing due to employees;
- (c) the fees and disbursements of the Monitor, including the fees and disbursements on a solicitor and his or her own client basis of any counsel retained by the Monitor, to be paid weekly or more frequently, and any reasonable retainer in respect of such fees and disbursements;
- (d) the fees and disbursements of any auditor, financial advisor, or other professional retained by the Applicant in respect of these proceedings and the Plan, to be paid weekly or more frequently, and any reasonable retainer in respect of such fees and disbursements;
- (e) the fees and disbursements, on a solicitor and his or her own client basis, of counsel retained by the Applicant in respect of these

proceedings and the Plan, and any reasonable retainer in respect of such fees and disbursements;

- (f) the fees and disbursements, on a solicitor and client basis, of one (1) counsel retained jointly by the officers and directors, (unless this Court determines that the directors and officers shall retain more than one (1) counsel to act on their behalf), if any, in respect of these proceedings and the Plan, and any reasonable retainer in respect of such fees and disbursements;
- (g) goods or services actually supplied to the Applicant following the date of this Order; and
- (h) subject to subparagraphs (a) – (f) above, any outstanding payments for goods or services supplied to the Applicant prior to the date of this Order.

7. **THIS COURT ORDERS** that the Applicant shall remit, in accordance with legal requirements, or pay any of the following obligations which are incurred prior to, on or after the date of this Order by the Applicant:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of employment insurance, Canada Pension Plan, any provincial pension plan and income taxes;
- (b) amounts accruing and payable by the Applicant in respect of employment insurance, Canada Pension Plan, any provincial pension plan, workers compensation, employer health taxes and similar obligations of any jurisdiction with respect to employees;

- (c) all goods and services or other applicable sales taxes payable by the Applicant or its customers or suppliers in connection with the sale of goods and services by the Applicant to such customers;
- (d) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority and which are attributable to or in respect of the carrying on of the Business by the Applicant;
- (e) any payment required to be deposited into, or otherwise held in trust pursuant to applicable laws, rules or regulations in connection with or resulting from the Business;
- (f) all outstanding and future premiums, including without limitation run-off, tail or extension premiums, on directors and officers' liability and other insurance; and
- (g) all amounts owing to securities regulators, stock exchanges or associated entities.

RESTRUCTURING

8. **THIS COURT ORDERS** that, notwithstanding paragraphs 4 through 7 hereof, the Applicant shall have the right to:

- (a) permanently or temporarily cease, down-size or shut down any of its operations;
- (b) dispose of or sell any inventory or redundant or non-material assets, not to exceed \$500,000 in any one transaction or series of connected transactions without prior court approval, and to make provision for any consequences thereof in the Plan;

- (c) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate, and to make payment to such employee(s) on such terms as may be agreed upon between the Applicant and such employee(s) or, failing such agreement, to deal with the consequences thereof in the Plan;
- (d) subject to paragraphs 9 and 10, vacate, abandon or quit any leased premises and/or terminate, resile from, or repudiate any lease and any ancillary agreements relating to any leased premises, on not less than 7 days' notice in writing to the relevant landlord, and to make payment to such landlord on such terms as may be agreed upon between the Applicant and such landlord or, failing such agreement, to deal with the consequences thereof in the Plan;
- (e) terminate such of its arrangements or agreements of any nature whatsoever, whether oral or written, as the Applicant deems appropriate, and to make payments to such parties on such terms as may be agreed upon between the Applicant and such counter-parties or, failing such agreement, to deal with the consequences thereof in the Plan;
- (f) pursue all avenues of financing and offers for the sale of material parts of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any sale or financing in any one transaction or a series of connected transaction in excess of \$500,000; and
- (g) if necessary or desirable, unwind, in whole or in part, for the purposes of carrying on its Business or for the purposes of carrying out anything permitted in paragraphs 6 through 8, of this Order, inclusive, the \$4.5 million convertible subordinated debenture granted by Microforum Financial Services Inc. ("MFS") in favour of Microforum and/or the

partial assignment and licence of the CALMS credit process software technology granted by Microforum to MFS,

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

9. **THIS COURT ORDERS** that the Applicant shall provide each of the relevant landlords with written notice of the Applicant's intention to remove any fixtures from any leased premises referred to in paragraph 8(d) of this Order at least 7 days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of the Court upon application by the Applicant on at least 2 days' notice to such landlord and any such secured creditor. If the Applicant has otherwise vacated, abandoned or quit any such leased premises, it shall not be considered to be in occupation thereof pending resolution of any such dispute.

10. **THIS COURT ORDERS** that, if leased premises are quit, vacated or abandoned by the Applicant, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of the quitting, vacating or abandonment of such leased premises, and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith, and provided further that nothing in this paragraph 10 shall be deemed to resolve any issue relating to the removal of fixtures and the rights of

any landlord under this paragraph 10 shall be subject to the resolution of such disputes.

STAY OF PROCEEDINGS

11. **THIS COURT ORDERS** that until and including February 28, 2002 (the "Stay Period") or such later date as may be ordered by the Court:

- (a) any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings, enforcement processes or other remedies taken or that may be taken by any of the Applicant's creditors, customers, clients, suppliers, lessors (including, without limitation, lessors or sub-lessors of real property), tenants, co-tenants, limited partners, co-venturers, partners, or by any governments (including, without limitation, any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government in Canada or elsewhere), or any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, or by any other person, firm, corporation, association or entity (herein, collectively, "Persons" and individually, a "Person") against or in respect of the Applicant, its directors, officers or employees in such capacity, any of the Applicant's Property, now owned or hereafter acquired, wheresoever located, whether in possession of the Applicant or any other Person and whether held by the Applicant directly or indirectly, as principal or nominee, beneficially or otherwise, as the case may be, whether pursuant to the *Bankruptcy and Insolvency Act* (the "BIA"), the *Winding-up and Restructuring Act*, or otherwise, shall be stayed and suspended;
- (b) the right of any Person to make demand or draw under any debentures, notes, bonds or instruments of similar effect issued by or on behalf of the Applicant, to take possession of, to foreclose upon or

to otherwise realize upon or deal with any of the Property or to continue such actions or proceedings if commenced prior to the date of this Order, is hereby restrained;

- (c) the right of any Person (including, without limitation, any authority with jurisdiction to levy realty taxes) to commence or continue realization in respect of any encumbrance, tax, lien, charge, mortgage, attornment of rents or other security held in relation to, or any trust attaching to, the Property, including the right of any Person to take any step in asserting or perfecting any right or interest, including, without limitation, the removal of any tooling, inventory, service parts, equipment, supplies and intellectual property or any right to the revindication of any goods supplied to the Applicant, whether taken in the Province of Ontario or elsewhere, and whether pursuant to the BIA or otherwise, is hereby restrained;
- (d) the right of any Person to assert, enforce or exercise any right (including, without limitation, any right of dilution, buy-out, divestiture, forced sale, acceleration, termination, revocation, suspension, modification, cancellation or right to revoke any qualifications or registration), option or remedy available to it, including such right, option or remedy arising under or in respect of any agreement (including, without limitation, any partnership agreement, management agreement, franchise agreement, shareholders' agreement, co-ownership agreement, agreement of purchase and sale, customer contract, purchase order, supply contract or lease) to which the Applicant, or any Person in which the Applicant has an interest, is a party, arising out of, relating to or triggered by the occurrence of any default or non-performance by the Applicant thereunder, the making or filing of these proceedings, or any allegation

contained in these proceedings including, without limitation, the making of any demand, the sending of any notice, the right to crystallize any security interest, the right to accelerate the repayment of any outstanding indebtedness, the right to terminate, accelerate rent due under, and/or interfere with the Applicant's quiet possession in respect of or otherwise deal with a lease of lands pursuant to which the Applicant is a tenant, are hereby restrained;

- (e) all Persons are hereby restrained from exercising any extra-judicial remedy against the Applicant, including, without limitation, the registration or re-registration of any securities owned by the Applicant into the name of any Persons or their nominees, the exercise of any voting rights attaching to securities owned by the Applicant, any right of distress, repossession or consolidation of accounts in relation to amounts due or accruing due in respect of or arising from any indebtedness or obligation of the Applicant as at the date hereof; and
- (f) all Persons are hereby restrained from exercising any right of set-off or off set or consolidation of accounts as against the Applicant or as against amounts now or hereafter owing to the Applicant.

EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that, during the Stay Period, the right of any Person, to assert, enforce or exercise any right (including, without limitation, rights under subsection 224(1.2) of the *Income Tax Act* (Canada) or its provincial equivalents, any right of dilution, registration, attornment, encumbrance, buy-out, divestiture, repudiation, rescission, *resiliation*, forced sale, acceleration, set-off, repossession, distress, conversion, possession, termination, suspension, modification or cancellation or right to revoke any qualification or registration), option or remedy arising by law, by virtue of any agreement or by any other means:

- (a) against the Applicant or the Property; or
- (b) as a result of any default or non-performance by the Applicant, the making or filing of these proceedings or any allegation contained in these proceedings,

be and is hereby restrained.

13. **THIS COURT ORDERS** that, during the Stay Period, no action may be commenced or continued against any of the present or former directors or officers of the Applicant with respect to any claim against the directors or officers which arose before the date hereof and which relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by the Court or is refused by the creditors or the Court.

14. **THIS COURT ORDERS** that nothing in this Order shall restrict or prejudice the rights of the Applicant to be entitled to any volume discount payments or credits, and that no Person, shall be entitled to set-off any amounts due to the Applicant or against any cash in advance payment delivered by the Applicant to any such Persons, and any such Persons shall forthwith deliver to the Applicant any goods in their possession for which the Applicant has provided any such cash in advance payments.

NON-INTERFERENCE WITH RIGHTS

15. **THIS COURT ORDERS** that, during the Stay Period, no Person shall, without leave, discontinue, fail to renew, alter, interfere with, *resiliate* or terminate any right, contract, arrangement, agreement, licence or permit: (a) in favour of or held by the Applicant or in respect of the Business or Property; or (b) as a result of any default or non-performance by the Applicant, the making or filing of these proceedings or any allegation contained in these proceedings.

16. **THIS COURT ORDERS** that all Persons having other agreements with the Applicant are hereby restrained from accelerating, terminating, *resiliating*, suspending, modifying, determining or cancelling such agreements, notwithstanding any provisions contained in such agreements to the contrary, without the prior written consent of the Applicant and the Monitor or without the leave of this Court, and that all such Persons shall continue to perform and observe the terms, conditions and provisions contained in such agreements on their part to be performed or observed and, without limitation, all Persons be and they are hereby restrained until further Order of this Court from terminating, *resiliating*, cancelling or otherwise withdrawing any licences, sub-licences, grants, permits, approvals or consents, and from disturbing or otherwise interfering in any way with the present or future occupation by the Applicant of any premises leased or subleased by the Applicant, and the landlords of premises leased or subleased by the Applicant are hereby specifically restrained from taking any steps to terminate or *resiliate* any lease or sublease to which the Applicant is party, whether by notice of termination or otherwise, without the prior written consent of both the Applicant and the Monitor or without the leave of this Court, all subject to the obligation of the Applicant to pay occupation rent for the period commencing with the date of this Order for leased premises of which the Applicant enjoys actual occupation, but not arrears, unless and until such leased premises are vacated, abandoned or quit in accordance with paragraph 8(d) of this Order.

17. **THIS COURT ORDERS** that from 12:01 a.m. (Toronto time) on the date of this Order, to the time of the granting of this Order, any act or action taken or notice given by creditors or other Persons in furtherance of their rights to commence or continue realization or take or enforce any other step or remedy against the Applicant, including the application of funds in the reduction of any debt, set-off or the consolidation of accounts, will be deemed not to have been taken or given as the case may be, subject to the right of such Persons to further apply to this Court in respect of such step, act, action or notice given, provided that the foregoing shall not

apply to prevent any creditor who, during such period, effected any registrations with respect to security granted prior to the date of this Order or who obtained third party consents in relation thereto.

18. **THIS COURT ORDERS** that the provisions of this Order do not stay the exercise of any the remedies referred to in sections 11.1(2) or 11.1(3) of the CCAA with respect to "eligible financial contracts" as defined in section 11.1(1) of the CCAA nor do they stay any action, suit or proceeding against a Person other than the Applicant who is obligated under a letter of credit or guarantee in relation to the Applicant.

19. **THIS COURT ORDERS** that, to the extent that any statutory limitation periods relating to the Applicant, the Business or the Property may expire or terminate with the passage of time, the term of such limitation periods shall hereby be deemed to be extended by a period of time equal to the duration of the stay of proceedings effected by this Order and any further Order of this Court and, for greater certainty, in the event that the Applicant becomes bankrupt or a receiver is appointed in respect of the Applicant within the meaning of section 243(2) of the BIA, the period between the date of this Order and the day on which such stay of proceedings is ended shall not be counted in determining the 30-day period referred to in Section 81.1 of the BIA or the 15-day period referred to in Section 81.2 of the BIA, provided that this paragraph shall not be construed to extend the term of any lease that expires during the pendency of such stay of proceedings.

CONTINUATION OF SERVICES

20. **THIS COURT ORDERS** that, during the Stay Period, all Persons having written or oral agreements with the Applicant for the supply of goods and/or services (including, without limiting the generality of the foregoing, all computer software, communication and other data services, computer hardware, electronics, programming, telecommunications, Internet services, installation and repair contracts, centralized banking and collection services (including, without limitation,

credit card services, payroll servicing, insurance, transportation services, utilities or other required services)), by or to the Applicant or its Business or any of the Property, are hereby restrained until further order of this Court from discontinuing, failing to renew on reasonable terms, altering, interfering with, *resiliating* or terminating the supply of such goods or services so long as the normal prices or charges for such goods and services provided or received after the date of this Order are paid in accordance with present payment practices, or as may be hereafter agreed to by the Applicant from time to time.

21. **THIS COURT ORDERS** that, notwithstanding any other provision hereof: (a) no creditor of the Applicant shall be under any obligation after the making of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant; and (b) the Applicant may, by written consent of its counsel of record herein, agree to waive any of the protections provided to it herein.

22. **THIS COURT ORDERS** that the Applicant shall be entitled to exercise any rights of set-off and claim any allowances or benefits which it is entitled to claim against amounts payable by the Applicant to any Person, including, without limitation, amounts payable to any supplier of goods or services or any landlord of premises leased or occupied by the Applicant, and including rights arising in connection with any agreements or arrangements with any supplier or customer.

PAYMENT OF CREDITORS

23. **THIS COURT ORDERS** that, except as expressly permitted by paragraphs 5 and 6, and except as otherwise provided in this Order, the Applicant is hereby directed, until further order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of this date; and (b) to grant no mortgages, charges or other security upon or in respect of any of its present or future Property, other than as provided in this Order. The Applicant is, subject to paragraph 6, hereby entitled to

order the stop-payment of any cheques issued by the Applicant and still outstanding as of the date of this Order.

POWER TO BORROW

24. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered, subject to the existing rights of any creditors holding valid security to:

- (a) borrow such additional funds as it may deem necessary on an unsecured basis; and
- (b) grant such security as it may deem necessary to any lender providing new advances subsequent to the date of this Order, which security shall rank ahead of any security in existence prior to the time of the making of this Order provided that any security granted by the Applicant pursuant to this paragraph 24(b) shall be subordinate in all respects to the Directors and Officers' Charge (as hereinafter defined), to the Professional Advisors' Charge (as hereinafter defined), and to any security hereafter granted to a provider of debtor-in-possession financing.

DIRECTORS AND OFFICERS' INDEMNIFICATION AND CHARGE

25. **THIS COURT ORDERS** that the Applicant hereby indemnify its directors and officers from all claims, disputes, actions, causes of action, losses, costs, charges or expenses ("Claims") relating to the failure of the Applicant to at any time make payments of the nature referred to in paragraph 7(a), (b), (c), (d), (e) or (g) of this Order, to pay amounts in respect of employee entitlements to wages and vacation pay after the date hereof for continuing employees or any other Claims which they sustain or incur after the date hereof by reason of or in relation to their respective capacities as directors and/or officers of the Applicant, except to the extent that, with respect to any officer or director, such officer or director has been grossly negligent or guilty of wilful misconduct.

26. **THIS COURT ORDERS** that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the “Directors and Officers’ Charge”) on the Property, which charge shall not exceed an aggregate amount of \$3 million as security for the indemnity provided in paragraph 25, as applicable, of this Order. The Directors and Officers’ Charge shall have priority over all present and future charges, encumbrances and security in the Property, other than any charges, mortgages or security arising by operation of and given priority by any applicable statute, and provided that the Directors and Officers’ Charge shall rank *pari passu* with the Professional Advisors’ Charge (as hereinafter defined).

27. **THIS COURT ORDERS** that the directors and officers or any other Person on their behalf shall not be required to file, register, record or perfect the Directors and Officers’ Charge.

APPOINTMENT OF MONITOR

28. **THIS COURT ORDERS** that Ernst & Young Inc. be and is hereby appointed pursuant to the CCAA as the Monitor, an officer of the Court, to monitor the Property and the Applicant’s conduct of the Business and the affairs of the Applicant with the powers and obligations hereinafter set forth, and that the Applicant and its shareholders, officers, directors, advisors, employees, servants, agents and representatives shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations.

29. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) deliver to the Applicant and its counsel, and file with the Court, a report monthly or as this Court directs, in respect of the Plan, the Restructuring, ongoing operations, significant changes to management and the Applicant's conduct of the Business and the affairs of the

Applicant and in respect of such other matters as may be relevant to the proceedings herein;

- (b) assist the Applicant, to the extent required by the Applicant, in its dissemination of financial and other information which may be used in these proceedings, and assist the Applicant, to the extent required by the Applicant, in respect of any sale or disposition by the Applicant of any of its assets or property;
- (c) advise the Applicant in its preparation of the Applicant's cash flow statements and other financial reporting;
- (d) advise the Applicant in its development of the Plan including, without limitation, any liquidation plan and any amendments to the Plan;
- (e) advise the Applicant, to the extent required by the Applicant, concerning the holding and administering of creditors' meetings for voting on the Plan;
- (f) have full and complete access to the books, records, management, employees and advisors of the Applicant and to the Property to the extent required to perform its duties arising under this Order;
- (g) be at liberty to engage independent legal counsel in respect of the exercise of its powers and discharge of its obligations under this Order;
- (h) be at liberty to retain and utilize the services of related Ernst & Young LLP entities or their affiliates as may be necessary to perform its duties hereunder; and
- (i) perform such other duties as may be required by this Order or by this Court from time to time.

30. **THIS COURT ORDERS** that the Monitor is authorized, but not obligated, to prepare a report and assessment on the Plan.

31. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to any creditor unless otherwise directed by this Court.

32. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or the Property, or any part or parts thereof.

33. **THIS COURT ORDERS** that (i) the Monitor, (ii) counsel to the Monitor, and (iii) counsel to the Applicant, shall be paid their reasonable fees and disbursements (in the case of the Monitor, on the basis of a chartered accountant and his or her own client, in the case of such counsel, on a solicitor and his or her own client basis), by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant, on a weekly basis or more frequently as requested. The reasonable fees and disbursements of the Monitor, counsel to the Monitor and counsel to the Applicant shall be secured by a charge on the Property (the "Professional Advisors' Charge"), which shall not exceed an aggregate amount of \$1 million, and which shall have priority over all present and future charges, encumbrances and security in the Property, other than charges, mortgages or security arising by operation of and given priority by any applicable statute, and provided further that the Professional Advisors' Charge shall rank *pari passu* with the Directors and Officers' Charge.

34. **THIS COURT ORDERS** that the Monitor and such counsel shall not be required to file, register, record or perfect the Professional Advisors' Charge.

35. **THIS COURT ORDERS** that the fees and disbursements of the Monitor, and any other amounts paid pursuant to paragraphs 6(c), (e) and (f), shall be subject to the passing of accounts by this Court and shall be subject to any final assessment or taxation as may be ordered by this Court, in which case the remuneration of the Monitor shall be taxed on the basis of a chartered accountant and his or her own client and the legal costs of the Monitor's and/or the Applicant's counsel shall be taxed on the basis of a solicitor and his or her own client.

36. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of the Court, the Monitor shall incur no liability or obligation as a result of its appointment or the fulfilment of its duties in the carrying out of the provisions of this Order, save and except for gross negligence or wilful misconduct on its part, and no action or other proceeding shall be commenced against the Monitor as a result of or relating in any way to its appointment as Monitor, the fulfilment of its duties as Monitor or the carrying out of any of the orders of this Court, except with prior leave of this Court and upon further order securing, as security for costs, the solicitor and his or her own client costs of the Monitor in connection with any such action or proceeding, and provided further that the liability of the Monitor hereunder shall not in any event exceed the quantum of the fees and disbursements paid to or incurred by them in connection with this matter. The related Ernst & Young LLP entities referred to in paragraph 29 of this Order shall also be entitled to the protections, benefits and privileges of this paragraph 36, *mutatis mutandis*.

37. **THIS COURT ORDERS** that the Monitor is not and shall not be deemed or considered to be a successor employer, sponsor or payer with respect to the Applicant or any employees or former employees of the Applicant under the *Canada Labour Code*, the *Labour Relations Act* (Ontario), the *Employment Standards Act*

(Ontario), the *Pension Benefits Act* (Ontario) (collectively the “Labour Laws”), any collective agreement or other contract between the Applicant and any of its present or former employees, or under any other provincial or federal legislation, regulation or rule of law or equity applicable to employees or pensions, or otherwise.

38. **THIS COURT ORDERS** that nothing herein contained shall vest in the Monitor the care, ownership, control, charge, occupation, possession or management (separately and/or collectively “Possession”), or require or obligate the Monitor to occupy or to take Possession of any Property of the Applicant which may be environmentally contaminated, or a pollutant or a contaminant, or cause or contribute to a spill, discharge, release or deposit of a substance contrary to any legislation enacted for the protection or preservation of the environment including, without limitation, the *Canadian Environmental Protection Act*, the *Transportation of Dangerous Goods Act*, the *Environmental Protection Act* (Ontario), the *Emergency Plans Act*, (1983) (Ontario), the *Ontario Water Resources Act*, the *Occupational Health and Safety Act* (Ontario) or the regulations thereunder, or any federal or provincial legislation or rule of law or equity in any jurisdiction affecting the environment, public health or the transportation of goods or hazardous waste (collectively, “Environmental Laws”). The Monitor shall not be deemed as a result of this Order to be in Possession of any of the Property within the meaning of any Environmental Laws.

39. **THIS COURT ORDERS**, to the extent required by the Applicant, the Applicant may pay to the Monitor the funds necessary for payment of goods or services supplied to the Applicant after the date of this Order and the Monitor shall have the right and authority to make arrangements (including without limitation, trust arrangements) for payment to such persons in exchange for the delivery of goods or services supplied to the Applicant and for greater certainty, the Monitor shall not be liable for any obligations or liabilities for the supply of any goods or services to the Applicant.

SERVICE AND NOTICE

40. **THIS COURT ORDERS** that the Monitor shall, within ten (10) business days of the date of entry of this Order, send notice of these proceedings, including a copy of this Order to the Applicant's known creditors, other than employees and trade creditors to which the Applicant owes less than \$5,000.

41. **THIS COURT ORDERS** that the Applicant be and is at liberty to serve this Order, any other orders in these proceedings, the Plan, any notices of meetings and all other notices, and to deliver any letters to creditors, information circulars, proofs of claim, proxies and disallowances of claims, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicant's creditors at their respective addresses as last shown on the records of the Applicant, and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

MISCELLANEOUS

42. **THIS COURT ORDERS** that the Applicant or Monitor may, from time to time, apply to this Court for directions in the discharge of their powers and duties hereunder or in respect of the proper execution of this Order.

43. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, any interested person may apply to this Court to vary or rescind this order or seek other relief upon 7 days' notice to the Applicant, the Monitor, and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

44. **THIS COURT ORDERS** that, notwithstanding: (a) the pendency of these proceedings; (b) the pendency of any petition for receiving order hereafter issued pursuant to the provisions of the BIA, any receiving order issued in respect of any of

