


SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

SEP 13 2019

ENTERED


No. S1910194
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

AND

IN THE MATTER OF THE BUSINESS CORPORATIONS ACT, S.B.C. 2002, c.57

AND

IN THE MATTER OF ENERGOLD DRILLING CORP., CROS-MAN DIRECT
UNDERGROUND LTD., EGD SERVICES LTD., BERTRAM DRILLING CORP., AND
OMNITERRA INTERNATIONAL DRILLING INC.

PETITIONERS

ORDER MADE AFTER APPLICATION

(INITIAL ORDER)

BEFORE THE HONOURABLE MR. JUSTICE)
MILMAN)

September 13, 2019

ON THE APPLICATION of the Petitioners coming on for hearing at Vancouver, British Columbia, on the 13th day of September, 2019 (the "Order Date"); AND ON HEARING Lisa Hiebert, counsel for the Petitioners and those other counsel listed on Schedule "A" hereto; AND UPON READING the material filed, including the Affidavit #1 of Frederick W. Davidson sworn on August 22, 2019, Affidavit #1 of Mark Berger sworn on September 12, 2019, Affidavit #1 of Parvathi Shivakumar sworn on September 6, 2019, and the Pre-filing Report of FTI Consulting Canada Inc. ("FTI") as the proposed Monitor of the Petitioners, and the consent of FTI to act as Monitor (in such capacity, the "Monitor"); AND UPON BEING ADVISED that the secured creditors and others who are likely to be affected by the charges created herein were given notice; AND pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36 as amended (the "CCAA"), the British Columbia Supreme Court Civil Rules and the inherent jurisdiction of this Honourable Court;

THIS COURT ORDERS AND DECLARES THAT:

JURISDICTION

1. Each Petitioner is a company to which the CCAA applies.

SUBSEQUENT HEARING DATE

2. The hearing of the Petitioners' application for an extension of the Stay Period (as defined in paragraph 14 of this Order) and for any ancillary relief shall be held at the Courthouse at 800 Smithe Street, Vancouver, British Columbia on or before the 11th day of October, 2019 (the "**Return Date**") or such other date as this Court may order.

PLAN OF ARRANGEMENT

3. The Petitioners shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

4. Subject to this Order and any further Order of this Court, each Petitioner shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), and continue to carry on its business (the "**Business**") in the ordinary course and in a manner consistent with the preservation of the Business and the Property. The Petitioners shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively, "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for carrying out the terms of this Order.
5. The Petitioners shall be entitled, but not required, subject to the Term Sheet (as defined in paragraph 43) and the cash flow projections attached thereto, to pay the following expenses which may have been incurred prior to the Order Date:
 - (a) all outstanding wages, salaries, employee and pension benefits (including long and short term disability payments), vacation pay and expenses (but excluding severance pay) payable before or after the Order Date, in each case incurred in the ordinary course of business and consistent

with the relevant compensation policies and arrangements existing at the time incurred (collectively “Wages”) and

- (b) the fees and disbursements of any Assistants retained or employed by the Petitioners, including the Financial Advisor (defined below) which are related to any Petitioners and Affected Subsidiaries’ restructuring, at their standard rates and charges, including payment of the fees and disbursements of legal counsel retained by the Petitioners, whenever and wherever incurred, in respect of:
 - (i) these proceedings or any other similar proceedings in other jurisdictions in which the Petitioners or any subsidiaries or affiliated companies of any Petitioner are domiciled;
 - (ii) any litigation in which any Petitioner is named as a party or is otherwise involved, whether commenced before or after the Order Date; and
 - (iii) any related corporate matters.
6. Except as otherwise provided herein, each Petitioner shall be entitled, subject to the Term Sheet and the cash flow projections attached thereto, to pay all expenses reasonably incurred by such Petitioner in carrying on the Business in the ordinary course following the Order Date, and in carrying out the provisions of this Order, which expenses shall include, without limitation:
- (a) all expenses and capital expenditures reasonably incurred and which are necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors’ and officers’ insurance), maintenance and security services, provided that any capital expenditure exceeding \$50,000 shall be approved by the Monitor;
 - (b) all obligations incurred by the Petitioners after the Order Date, including without limitation, with respect to goods and services actually supplied to the Petitioners following the Order Date (including those under purchase orders outstanding at the Order Date but excluding any interest on any Petitioner’s obligations incurred prior to the Order Date); and
 - (c) fees and disbursements of the kind referred to in paragraph 5(b) which may be incurred after the Order Date.
7. The Petitioners are authorized to remit, in accordance with legal requirements, or pay:
- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from

Wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes or any such claims which are to be paid pursuant to Section 6(3) of the CCAA;

- (b) all goods and services or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by any Petitioner in connection with the sale of goods and services by any Petitioner, but only where such Sales Taxes accrue or are collected after the Order Date, or where such Sales Taxes accrued or were collected prior to the Order Date but not required to be remitted until on or after the Order Date; and
 - (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal property taxes, municipal business taxes or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors.
8. Until such time as a real property lease is disclaimed in accordance with the CCAA, the Petitioners shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated between any Petitioner and its landlord from time to time (“**Rent**”), for the period commencing from and including the Order Date, twice-monthly in equal payments on the first and fifteenth day of the month in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including Order Date shall also be paid.
9. Except as specifically permitted herein, the Petitioners are 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 Petitioners to any of its creditors as of the Order Date except as authorized by this Order;
 - (b) to make no payments in respect of any financing leases which create security interests;
 - (c) to grant no security interests, trust, mortgages, liens, charges or encumbrances upon or in respect of any of its Property, nor become a guarantor or surety, nor otherwise become liable in any manner with respect to any other person or entity except as authorized by this Order;

- (d) to not grant credit except in the ordinary course of the Business only to its customers for goods and services actually supplied to those customers, provided such customers agree that there is no right of set-off in respect of amounts owing for such goods and services against any debt owing by any Petitioner to such customers as of the Order Date; and
- (e) to not incur liabilities except in the ordinary course of Business.

FINANCIAL ARRANGEMENTS

10. Notwithstanding any other provision in this Order, the Petitioners are hereby authorized and empowered to repay Royal Bank of Canada ("**RBC**") amounts due to RBC pursuant to the loan agreement dated December 5, 2018 among Bertram Drilling Corp. (as Borrower) and Energold (as guarantor), provided such repayments are made from the accounts receivable collected by Bertram Drilling Corp. in the course of these proceedings.

RESTRUCTURING

11. Subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), the Petitioners through the CRO (as defined below) shall have the right to:
 - (a) permanently or temporarily cease, downsize or shut down all or any part of the Petitioners' Business or operations and commence marketing efforts in respect of any of its redundant or non-material assets;
 - (b) dispose of any redundant or non-material assets of the Petitioners as approved by the Monitor but without any further approval of this Court up to a maximum value of \$100,000 per transaction or \$500,000 in the aggregate;
 - (c) terminate the employment of such of the Petitioners' employees or temporarily lay off such of its employees as it deems appropriate;
 - (d) pursue all avenues of refinancing for its Business or Property, in whole or part; andall of the foregoing to permit the Petitioners to preserve asset value and/or proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. The Petitioners through the CRO shall provide each of the relevant landlords with notice of such Petitioner's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes any Petitioner'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 who claim a security interest in the fixtures, such landlord and Petitioner, or by further Order of this Court upon application by the Petitioners, CRO, the landlord or the applicable secured creditors on at least two (2) clear days' notice to the other parties. If any Petitioner or CRO disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any dispute concerning such fixtures (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to any Petitioner's claim to the fixtures in dispute.
13. If a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then: (a) during the period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours on giving the Petitioners and the Monitor 24 hours' prior written notice; and (b) at the effective time of the disclaimer, the landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims the landlord may have against the Petitioners, or any other rights the landlord might have, in respect of such lease or leased premises and the landlord shall be entitled to notify the Petitioners of the basis on which it is taking possession and gain possession of and re-lease such leased premises to any third party or parties on such terms as the landlord considers advisable, provided that nothing herein shall relieve the landlord of its obligation to mitigate any damages claimed in connection therewith.
14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronics Documents Act*, S.C. 2000, c. 5 and Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, and any regulations promulgated under authority of either Act, as applicable (the "**Relevant Enactment**"), each Petitioner, in the course of these proceedings, is permitted to, and hereby shall, disclose personal information of identifiable individuals in its possession or control to stakeholders, its advisors, prospective investors, financiers, buyers or strategic partners (collectively, "**Third Parties**"), but only to the extent desirable or required to negotiate and complete the Restructuring or to prepare and implement the Plan or transactions for that purpose; provided that the Third Parties to whom such personal information is disclosed enter into confidentiality agreements with the Petitioners binding them in the same manner and to the same extent with respect to the collection,

use and disclosure of that information as if they were an organization as defined under the Relevant Enactment, and limiting the use of such information to the extent desirable or required to negotiate or complete the Restructuring or to prepare and implement the Plan or transactions for that purpose, and attorning to the jurisdiction of this Court for the purposes of that agreement. Upon the completion of the use of personal information for the limited purposes set out herein, the Third Parties shall return the personal information to the Petitioners or destroy it. If the Third Parties acquire personal information as part of the Restructuring or the preparation and implementation of the Plan or transactions in furtherance thereof, such Third Parties may, subject to this paragraph and any Relevant Enactment, continue to use the personal information in a manner which is in all respects identical to the prior use thereof by the Petitioners.

STAY OF PROCEEDINGS, RIGHTS AND REMEDIES

15. Until and including the Return Date, or such later date as this Court may order (the “**Stay Period**”), no action, suit or proceeding in any court or tribunal (each, a “**Proceeding**”) against or in respect of any Petitioner, any of Energold de Mexico, S.A. de C.V., Bertram Drilling, Inc., E Global Drilling Corp., Energold Drilling (EMEA) Limited, Dando Drilling International Limited (collectively, the “**Affected Subsidiaries**”, and each an “**Affected Subsidiary**”), the Monitor, or affecting the Business or the Property, shall be commenced or continued except with the written consent of the Petitioners and the Monitor or with leave of this Court, and any and all Proceedings currently under way against or in respect of any Petitioner, Affected Subsidiary, or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.
16. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of any Petitioner, any Affected Subsidiary, or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Petitioners and the Monitor or leave of this Court.
17. Nothing in this Order, including paragraphs 15 and 16, shall: (i) empower any Petitioner or any Affected Subsidiary to carry on any business which such Petitioner or Affected Subsidiary is not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest (subject to the provisions of Section 39 of the CCAA relating to the priority of statutory Crown securities); or (iv) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien

or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the Petitioners.

NO INTERFERENCE WITH RIGHTS

18. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any Petitioner or Affected Subsidiary, except with the written consent of the Petitioners and the Monitor or leave of this Court.

CONTINUATION OF SERVICES

19. During the Stay Period, all Persons having oral or written agreements with any Petitioner or Affected Subsidiary, or mandates under an enactment for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or any Petitioner or Affected Subsidiary, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by any Petitioner or Affected Subsidiary, and that any Petitioner or Affected Subsidiary shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the Order Date are paid by the Petitioners or Affected Subsidiaries (as the case may be) in accordance with normal payment practices of the Petitioners or Affected Subsidiary, or such other practices as may be agreed upon by the supplier or service provider and the Petitioners or Affected Subsidiaries and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

20. Notwithstanding any provision in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the Order Date, nor shall any Person be under any obligation to advance or re-advance any monies or otherwise extend any credit to any Petitioner or Affected Subsidiary on or after the Order Date. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against the directors or officers of any Petitioner or Affected Subsidiary with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Petitioners or Affected Subsidiaries 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 Petitioners or Affected Subsidiaries, if one is filed, is sanctioned by this Court or is refused by the creditors of the Petitioners or Affected Subsidiaries or this Court. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a director or officer of any Petitioner or Affected Subsidiary that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.

DIRECTORS AND OFFICERS INDEMNIFICATION AND CHARGE

22. Each Petitioner shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of any Petitioner after the commencement of the within proceedings, except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
23. The directors and officers of each Petitioner shall be entitled to the benefit of and are hereby granted a charge (the "**D&O Charge**") on the Property (other than the serial numbered goods described in the financing statements listed in **Schedule "B"** attached hereto, such serial numbered goods referred to herein as the "**Unaffected Equipment**"), which charge shall not exceed an aggregate amount of \$200,000 as security for the indemnity provided in paragraph 22 of this Order, allocated *pari passu* among the directors and officers of the Petitioners. The D&O Charge shall have the priority set out in paragraph 48.
24. Notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the D&O Charge, and (b) each Petitioner's directors and officers shall only be entitled to the benefit of the D&O Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

25. The appointment of Mark Berger as Chief Restructuring Officer (in such capacity, the “CRO”) of the Petitioners and Affected Subsidiaries is hereby confirmed and shall continue pending further order of this Court. The agreement entered into between Portage Point Partners LLC (“Portage Point”) and Energold Drilling Corp. dated June 28, 2019 (the “CRO Agreement”) is hereby approved and the Petitioners are authorized and directed to comply with all of their obligations under the CRO Agreement, including the payment of fees and expenses contemplated by the CRO Agreement in accordance with the Term Sheet. In the event of any conflict between the CRO Agreement and this Order, the provisions of this Order shall govern.
26. Portage Point and the CRO shall not incur any liability or obligation as a result of his appointment or the carrying out of his duties as CRO, whether before or after the granting of this Order, save and except for any gross negligence or wilful misconduct, provided that any liability of Portage Point and the CRO with respect to the carrying out of his duties as CRO shall in no event exceed the quantum of the fees paid under the CRO Agreement.
27. No action or proceeding shall be commenced against or in respect of Portage Point and the CRO, except with the written consent of the CRO or with leave of this Court on notice to the CRO, the Monitor and the Petitioners.
28. The Petitioners shall indemnify Portage Point and the CRO against obligations and liabilities that he may incur as CRO of the Petitioners, except to the extent that such obligations or liabilities were incurred as a result of the CRO’s gross negligence or wilful misconduct. All such indemnity obligations of the Petitioners to Portage Point and the CRO shall be secured by the D&O Charge.
29. Neither Portage Point nor the CRO shall, as a result of the appointment as CRO, be deemed to be in Possession of any of the Property within the meaning of Environmental Legislation; provided however, if Portage Point or the CRO is nevertheless later found to be in Possession of any Property, then Portage Point or the CRO, as the case may be, shall be entitled to the benefits and protections in relation to the Energold Group and such Property as are provided to a monitor under section 11.8(3) of the CCAA; provided further however, that nothing in this subparagraph shall exempt Portage Point or the CRO from any duty to report or make disclosure imposed by a law and incorporated by reference in section 11.8(4) of the CCAA.

POWERS OF THE CRO

30. In addition to and in no way derogating from the powers and duties of the CRO as otherwise set out in the CRO Agreement and this Order, the CRO is hereby granted the following powers to be exercised in his discretion and when he considers it appropriate:

- (a) to exercise all powers necessary to operate the Business;
- (b) to exercise the restructuring powers set out in paragraph 10 of this Order, including filing a Plan;
- (c) to disclaim or resiliate agreements to which the Petitioners are parties, pursuant to section 32 of the CCAA without the agreement or consent of the Petitioners, including without limitation, taking all ancillary and necessary steps in relation to such disclaimers or resiliations;
- (d) to take all steps and execute such necessary documents, certificates and agreements, on behalf of the Petitioners, in respect of or reasonably incidental to the Term Sheet (as defined in paragraph 44), including preparation of budgets and cash flows, without the agreement or consent of the Petitioners;
- (e) to continue, implement, conduct and complete the SSP (as defined in the Affidavit #1 of Mark Berger) without the agreement or consent of the board of directors of the Petitioners, including without limitation taking all ancillary and necessary steps in relation to the SISF such as evaluating offers, negotiating and executing agreements on behalf of the Petitioners and causing the Petitioners to apply for court orders related to the SISF;
- (f) to exercise the powers and authority granted to the Petitioners under paragraph 4 of this Order, take all steps and execute such necessary documents, certificates and agreements, on behalf of the Petitioners, in respect of or reasonably incidental to the banking, financial or administrative activities of such Petitioner, without the agreement or consent of the board of the Petitioners; and

(g) to perform such other duties or take steps reasonably incidental to the exercise of any powers and obligations conferred upon the CRO by this Order or any further order of this Court.

31. No provision of this Order is intended, or shall be deemed, to appoint or otherwise obligate the CRO as a director or employee of any of the Petitioners. Additionally, nothing in this Order shall be deemed to constitute the CRO as a receiver, trustee, assignee, liquidator or receiver and manager of any of the Petitioners.

APPOINTMENT OF MONITOR

32. FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Petitioners with the powers and obligations set out in the CCAA or set forth herein, and that the Petitioners, its shareholders, officers, directors, Assistants, and the CRO shall advise the Monitor of all material steps taken by the Petitioners and the CRO pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

33. The Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Petitioners' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Petitioners and the CRO, to the extent required by the Petitioners, in its dissemination, to the Interim Lender (as hereinafter defined), its counsel and its advisors of financial and other information as agreed to between the Petitioners and the Interim Lender which may be used in these proceedings, including reporting on a basis to be agreed with the Interim Lender;
- (d) advise the Petitioners in their preparation of the Petitioners' cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and

delivered to the Interim Lender, its counsel and its advisors on such basis as may be agreed by the Petitioners and the Interim Lender;

- (e) advise the Petitioners and the CRO in their development of the Plan and any amendments to the Plan;
 - (f) assist the Petitioners, to the extent required by the Petitioners, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
 - (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Petitioners, to the extent that is necessary to adequately assess the Petitioners' business and financial affairs or to perform its duties arising under this Order;
 - (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
 - (i) apply to this Court for any orders necessary or advisable to carry out its powers and obligations under this Order or any other Order granted by this Court, including for advice and directions with respect to any matter; and
 - (j) perform such other duties as are required by this Order or by this Court from time to time.
34. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Monitor being an employer or a successor employer, within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.
35. Nothing herein contained shall require or allow the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of

the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Fisheries Act*, the *British Columbia Environmental Management Act*, the *British Columbia Fish Protection Act* and regulations thereunder, or any analogous legislation in the Provinces of Alberta or Manitoba (collectively, the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. For greater certainty, the Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

36. The Monitor shall provide any creditor of the Petitioners and the Interim Lender with information provided by the Petitioners 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 Petitioners is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Petitioners may agree.
37. In addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the rights and protections afforded the Monitor by the CCAA or any applicable legislation.

ADMINISTRATION CHARGE

38. The Monitor, the CRO, counsel to the Monitor, if any, and counsel to the Petitioners shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Petitioners as part of the cost of these proceedings. The Petitioners are hereby authorized and directed to pay the accounts of the Monitor, the CRO, counsel to the Monitor and counsel to the Petitioners on a periodic basis.
39. The Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed,

including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court.

40. The Monitor, counsel to the Monitor, the CRO and counsel to the Petitioners shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property (other than the Unaffected Equipment), which charge shall not exceed an aggregate amount of \$450,000 as security for their respective fees and disbursements incurred at the standard rates and charges of the Monitor, CRO and such counsel, both before and after the making of this Order which are related to the Petitioners' restructuring. The Administration Charge shall have the priority set out in paragraph 49 hereof, and the priority shall be divided among the Monitor, counsel to the Monitor, the CRO and counsel to the Petitioners as follows:

- (a) \$150,000 as security for the fees and disbursements of the Monitor and its counsel, incurred at the standard rates and charges of the Monitor and its counsel;
- (b) \$150,000 as security for the fees and disbursements of the CRO, incurred at the standard rates and charges of the CRO; and
- (c) \$150,000 as security for the fees and disbursements of the Petitioners' counsel, incurred at the standard rate and charges of the Petitioners' counsel.

FINANCIAL ADVISOR CHARGE

- 41. The engagement letter entered into between Ernst & Young Orenda Corporate Finance Inc. ("**EYO**") and Energold Drilling Corp. dated May 22, 2019 is hereby approved, and the Petitioners are authorized and directed to continue the engagement of the EYO and Ernst & Young Inc. (together, the "**Financial Advisor**") as Assistants.
- 42. The Financial Advisor is hereby granted a charge in the amount of \$200,000 (the "**Financial Advisor's Charge**") on the Property (other than the Unaffected Equipment) to secure all obligations under the Financial Advisor engagement letter. The Financial Advisor Charge shall have the priority set out in paragraph 49 of this Order.

INTERIM FINANCING

- 43. The Petitioners are hereby authorized and empowered to obtain and borrow under a credit facility from Energold DIP Lender, LLC (the "**Interim Lender**") in order to finance the continuation of the

Business and preservation of the Property, provided that borrowings under such credit facility shall not exceed \$3,750,000 unless permitted by further Order of this Court.

44. Such credit facility shall be on the terms and subject to the conditions set forth in the DIP Facility Term Sheet between the Petitioners and the Interim Lender dated as of September 12, 2019 (the "**Term Sheet**"), filed.
45. The Petitioners are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Term Sheet or as may be reasonably required by the Interim Lender pursuant to the terms thereof, and the Petitioners are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the Interim Lender under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
46. The Interim Lender shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property (other than the Unaffected Equipment). The Interim Lender's Charge shall not secure an obligation that exists before this Order is made. The Interim Lender's Charge shall have the priority set out in paragraph 49 hereof.
47. Notwithstanding any other provision of this Order:
 - (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under any of the Definitive Documents or the Interim Lender's Charge, the Interim Lender, upon three (3) business days' notice to the Petitioners and the Monitor, may exercise any and all of its rights and remedies against the Petitioners or the Property under or pursuant to the Term Sheet, Definitive Documents and the Interim Lender's Charge, including without limitation, to cease making advances to the Petitioners and set off and/or consolidate any amounts owing by the Interim Lender to the Petitioners against the obligations of the Petitioners to the Interim Lender under the Term Sheet, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Petitioners and

for the appointment of a trustee in bankruptcy of the Petitioners; and the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Petitioners or the Property.

48. The Interim Lender, in such capacity, shall be treated as unaffected in any plan of arrangement or compromise filed by the Petitioners under the CCAA, or any proposal filed by any Petitioner under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

49. The priorities of the Administration Charge, the D&O Charge and the Interim Lender's Charge, as among them, shall be as follows:

First - Administration Charge (to the maximum amount of
pari passu \$450,000)

First - Financial Advisor Charge (to the maximum amount of
pari passu \$200,000)

Third - Interim Lender's Charge (up to the maximum amount of
\$3,750,000, plus interest, costs fees and disbursements
payable under the Term Sheet)

Fourth - D&O Charge (to the maximum amount of \$200,000)

50. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge, the Financial Advisor Charge, the Interim Lender's Charge and the D&O Charge (collectively, the "Charges") shall not be required, and that the Charges shall be effective as against the Property (other than the Unaffected Equipment) and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.

51. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property (other than the Unaffected Equipment) and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of

secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person, save and except those claims contemplated by section 11.8(8) of the CCAA.

52. Except as otherwise expressly provided herein, or as may be approved by this Court, the Petitioners shall not grant or suffer to exist any Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Petitioners obtains the prior written consent of the Monitor, the Interim Lender and the beneficiaries of the Administration Charge, the Financial Advisor Charge, and the D&O Charge.
53. The Administration Charge, the Financial Advisor Charge, the D&O Charge, the Term Sheet, the Definitive Documents and the Interim Lender’s Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) and/or the Interim Lender shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Petitioners; and notwithstanding any provision to the contrary in any Agreement:
- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by any Petitioner of any Agreement to which it is a party;
 - (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Petitioners entering into the Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
 - (c) the payments made by any Petitioner pursuant to this Order, the Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

54. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Petitioner's interest in such real property leases.

SERVICE AND NOTICE

55. The Monitor shall (i) without delay, publish in one national Canadian newspaper a notice containing the information prescribed under the CCAA, (ii) within five days after Order Date, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against any Petitioner of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.
56. The Petitioners and the Monitor are at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Petitioners' creditors or other interested parties at their respective addresses as last shown on the records of the Petitioners 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.
57. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Monitor by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the "**Service List**") to be maintained by the Monitor. The Monitor shall post and maintain an up to date form of the Service List on its website at: <http://cfcanada.fticonsulting.com/energold/>.
58. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor shall post a copy of all prescribed materials on its website at: <http://cfcanada.fticonsulting.com/energold/>.
59. Notwithstanding paragraphs 56 and 57 of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia, Alberta and Manitoba Crowns in accordance with: (i) the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the Federal Crown; (ii) the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown, (iii) *The*

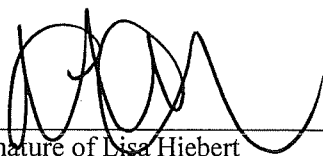
Proceedings Against the Crown Act, R.S.A. 2000, c P-25, in respect of the Alberta Crown; or (iv) *The Proceedings Against the Crown Act*, CCSM c P140, in respect of the Manitoba Crown.

GENERAL

60. The Petitioners, the Monitor, the CRO or the Financial Advisor may from time to time apply to this Court for directions in the discharge of its powers and duties hereunder.
61. Nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any Petitioner, the Business or the Property.
62. THIS COURT REQUESTS the aid and recognition of other Canadian and foreign Courts, tribunal, regulatory or administrative bodies, including any Court or administrative tribunal of any federal or State Court or administrative body in the United States of America, to act in aid of and to be complementary to this Court in carrying out the terms of this Order where required. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Petitioners and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Petitioners and the Monitor and their respective agents in carrying out the terms of this Order.
63. Each of the Petitioners and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as a foreign representative of any Petitioner to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1330, as amended.
64. Any Petitioner may (subject to the provisions of the CCAA and the BIA) at any time file a voluntary assignment in bankruptcy or a proposal pursuant to the commercial reorganization provisions of the BIA if and when the Petitioners determine that such a filing is appropriate.
65. The Petitioners are hereby at liberty to apply for such further interim or interlocutory relief as it deems advisable within the time limited for Persons to file and serve Responses to the Petition.

- 66. Leave is hereby granted to hear any application in these proceedings on two (2) clear days' notice after delivery to all parties on the Service List of such Notice of Application and all affidavits in support, subject to the Court in its discretion further abridging or extending the time for service.
- 67. Any interested party (including the Petitioners, the CRO, and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to all parties on the Service List and to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.
- 68. Endorsement of this Order by counsel appearing on this application, except for counsel to the Petitioners, is hereby dispensed with.
- 69. This Order and all of its provisions are effective as of 12:01 a.m. local Vancouver time on the Order Date.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT



Signature of Lisa Hiebert

Party Lawyer for the Petitioners

BY THE COURT



REGISTRAR



Schedule "A"

LIST OF COUNSEL

Name of Counsel	Party Represented
Lisa Hiebert Ryan Laity	The Petitioners, Energold Drilling Corp. et al
Mary Buttery, Q.C.	The proposed Monitor, FTI Consulting Canada Inc.
Chris Ramsay	Extract Advisors, LLC, as agent to the Noteholders Local agent to Stikeman Elliott LLP, counsel to the DIP Lender
Jonathan Ross	Export Development Canada

Schedule "B"

Registrations regarding Unaffected Equipment

- 1. A financing statement filed in the Personal Property Registry of Manitoba ("PPR") on December 5, 2018 under Registration No. 201821819100 in favour of Meridian OneCap Capital Corp. and Brandt Finance Ltd. with respect to the following Property of Cros-Man Direct Underground Ltd.:

VACUUM EXCAVATOR (S) TOGETHER WITH ALL ATTACHMENTS ACCESSORIES ACCESSIONS REPLACEMENTS SUBSTITUTIONS ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE AND OR DEALINGS WITH THE COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.

Serial Numbered Goods			
Serial Number	Category	Year	Description
DWPF65XHJ0000158	Motor Vehicle	2002	DITCH WITCH FX65

- 2. A financing statement filed in the PPR on November 8, 2018 under Registration No. 201820276308 in favour of Meridian OneCap Capital Corp. with respect to the following Property of Cros-Man Direct Underground Ltd.:

TRUCK(S), DUMP BOX(S), TOGETHER WITH ALL ATTACHMENTS ACCESSORIES ACCESSIONS REPLACEMENTS SUBSTITUTIONS ADDITIONS AND IMPROVEMENTS THERETO AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY SALE AND OR DEALINGS WITH THE COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR OTHER PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO THE COLLATERAL OR PROCEEDS OF THE COLLATERAL.

Serial Numbered Goods			
Serial Number	Category	Year	Description
3C7WRNFL9JG354484	Motor Vehicle	2018	RAM 5500HD

- 3. A financing statement filed in the PPR on May 14, 2018 under Registration No. 201808359508 in favour of Paccar Financial Services Ltd. respect to the following Property of Cros-Man Direct Underground Ltd.:

2018 REBEL 113 BBL HURRICANE HYDRO-VAC SYSTEM HUR-886-04-18 WITH ALL ATTACHMENTS, ACCESSORIES AND ALL PROCEEDS THEREOF. CUMMINS X15 525, DUAL X 2, 3 FUEL TANKS, 18 SPD, FR 20K, RR 69K, ALUM WHEELS, DBL FRAME, EXTENDED DAY CAB, DIAMOND INT. EKW ADDONS \$3,700.00; NEW REBEL HYDROVAC

Serial Numbered Goods			
Serial Number	Category	Year	Description
INKDX4EX1KR997517	Motor Vehicle	2019	KENWORTH T800
HUR-886-04-18	Motor Vehicle	2018	REBEL 113 BBL HURRICANE HYDRO-VAC SYSTEM

- 4. A financing statement filed in the PPR on March 26, 2018 under Registration No. 201805009000 in favour of De Lage Landen Financial Services Canada Inc. respect to the following Property of Cros-Man Direct Underground Ltd.:

All personal property of the debtor described herein by vehicle identification number or serial number, as applicable, wherever situated, together with all parts and accessories relating thereto, all attachments, accessories and accessions thereto or thereon, all replacements, substitutions, additions and improvements of all or any part of the foregoing and all proceeds in any form derived therefrom. Proceeds: all of the debtor's present and after acquired personal property which is derived, directly or indirectly, from any dealing with or disposition of the above-described collateral,

including without limitation, all insurance and other payments payable as indemnity or compensation for loss or damage thereto, accounts, rents or other payments arising from the lease of the above-described collateral, goods, chattel paper, investment property, documents of title, instruments, money, cheques, deposits, securities and intangibles.

Serial Numbered Goods			
Serial Number	Category	Year	Description
1VR4100C4H1000372	Motor Vehicle	2017	VERMEER / D6X6

5. A financing statement filed in the PPR on July 5, 2017 under Registration No. 201712015506 in favour of Caterpillar Financial Services Limited respect to the following Property of Cros-Man Direct Underground Ltd.:

ONE (1) CATERPILLAR 430F2IT BACKHOE LOADER TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS MEANS GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.

Serial Numbered Goods			
Serial Number	Category	Year	Description
CAT0430FTLYE00155	Motor Vehicle	2015	CATERPILLAR 430F2IT

6. A financing statement filed in the PPR on July 5, 2017 under Registration No. 201622774505 in favour of Caterpillar Financial Services Limited respect to the following Property of Cros-Man Direct Underground Ltd.:

ONE (1) CATERPILLAR 308E2CRSB HYDRAULIC EXCAVATOR TOGETHER WITH ALL ATTACHMENTS, ACCESSORIES, ACCESSIONS, REPLACEMENTS, SUBSTITUTIONS, ADDITIONS AND IMPROVEMENTS TO THE ABOVEMENTIONED COLLATERAL AND ALL PROCEEDS IN ANY FORM DERIVED DIRECTLY OR INDIRECTLY FROM ANY DEALING WITH SUCH COLLATERAL AND A RIGHT TO AN INSURANCE PAYMENT OR ANY PAYMENT THAT INDEMNIFIES OR COMPENSATES FOR LOSS OR DAMAGE TO SUCH COLLATERAL OR PROCEEDS OF SUCH COLLATERAL. PROCEEDS MEANS GOODS, SECURITIES, DOCUMENTS OF TITLE, CHATTEL PAPER, INSTRUMENTS, MONEY AND INTANGIBLES.

Serial Numbered Goods			
Serial Number	Category	Year	Description
CAT0308EHFJX06663	Motor Vehicle	2016	CATERPILLAR 308E2CRSB