

**Court File No. CV-10-8561-00CL**

**Signature Aluminum Canada Inc.**

**FIFTH REPORT OF THE MONITOR**

**June 9, 2010**

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC

**FIFTH REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC  
IN ITS CAPACITY AS MONITOR**

**INTRODUCTION**

1. On January 29, 2010, Signature Aluminum Canada Inc. (“**Signature**” or the “**Applicant**”) made an application under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”) was made by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the “**Court**”) granting, *inter alia*, a stay of proceedings against the Applicant until February 26, 2010 (the “**Stay Period**”), and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The proceedings commenced by the Applicant under the CCAA will be referred to herein as the “**CCAA Proceedings**”. A copy of the Initial Order is attached hereto as Appendix A for ease of reference.
2. The Stay Period has been extended a number of times and currently expires on June 11, 2010.
3. On February 25, 2010, the Honourable Madam Justice Karakatsanis granted orders approving a process for identifying and evaluating claims against the Applicant (the “**Claims Procedure**” and the “**Claims Procedure Order**”).

4. On May 5, 2010, the Applicant filed its proposed plan of compromise and arrangement dated May 4, 2010 (as subsequently amended, the “**Plan**”).
5. On May 11, 2010, the Monitor filed its Third Report which, *inter alia*, described the Plan, the estimated recoveries for Affected Creditors under the Plan and the alternatives available to the Plan. In its Third Report, the Monitor recommended that Affected Creditors vote in favour of the Plan as, in the Monitor’s view, the implementation of the Plan represents the only prospect of any distribution on account of Proven Claims of Affected Creditors, other than Employee Creditors that may be entitled to receive certain amounts under the *Wage Earner Protection Program Act* (“**WEPPA**”) in the event of a bankruptcy of the Applicant, or certain payments to the Ontario registered pension plans that may be made by the Ontario Pension Benefits Guarantee Fund and that distributions to Employee Creditors under the Plan would equal or exceed the amounts that the Employee Creditors may receive under WEPPA in the event of a bankruptcy of the Applicant. . A copy of the Monitor’s Third Report, without appendices, is attached hereto as Appendix B for ease of reference.
6. On May 11, 2010, the Honourable Madam Justice Hoy made an order (the “**Creditors' Meeting Order**”) directing the Applicant to hold a meeting of its Affected Creditors on June 1, 2010, or as adjourned to such places and times as the Chair may determine (the “**Creditors' Meeting**”). A copy of the Creditors’ Meeting Order is attached hereto as Appendix C for ease of reference.
7. In the afternoon of May 31, 2010, the Applicant requested that the Creditors’ Meeting be adjourned until 10:00 a.m. on June 8, 2010 at a place to be determined, and the Chair acquiesced to the request. A notice of the adjournment of the Creditors’ Meeting was served on the service list on May 31, 2010, and posted on the Monitor’s website on the same day.

8. The Creditors' Meeting was subsequently held on June 8, 2010 to consider and vote on the Plan.
9. The purpose of this, the Monitor's Fifth Report, is to inform the Court on:
  - (a) Minor amendments to the Plan that were made prior to the vote on the Plan;
  - (b) The approval of the Plan by the requisite majorities of Affected Creditors;
  - (c) The Applicant's request for an Order pursuant to section 6 of the CCAA for sanction of the Plan, and the Monitor's recommendation thereon; and
  - (d) The Applicant's request for an extension of the Stay Period to July 12, 2010, and the Monitor's recommendation thereon.
10. In preparing this report, the Monitor has relied upon unaudited financial information of the Applicant, the Applicant's books and records, certain financial information prepared by the Applicant and discussions with the Applicant's management. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
11. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in previous reports filed in the CCAA Proceedings, the Claims Procedure or the Plan.

## **AMENDMENTS TO THE PLAN**

12. The Applicant filed two amended Plans, each dated June 7, 2010. The amendments were as follows:
- (a) Administrative amendments relating to the rescheduling of the Creditors' Meeting (as discussed later in this report) including amending the Plan Termination Date to June 18, 2010; and
  - (b) Amending the amount of "CDN\$4,750" in the definition of Base Distribution to "CDN\$5,750" to ensure that the definition accords with the intent of the Plan and the calculations set out in the Monitor's Third Report.
13. In accordance with the provisions of the Creditors' Meeting Order, the amended Plans were each served on the service list on June 7, 2010 and were posted to the Monitor's website on that date. A "black-line" showing the combined changes as compared to the Plan filed May 4, 2010 is attached hereto as Appendix D.

## **THE APPROVAL OF THE PLAN BY AFFECTED CREDITORS**

### **NOTICE OF CREDITORS' MEETING**

14. Notice of the Creditors' Meeting was provided in accordance with the provisions of the Creditors' Meeting Order as follows:
- (a) A Notice to Creditors of the Creditors' Meeting and of the sanction hearing was published in the Globe & Mail (National Edition) and in La Presse on May 18, 2010; and
  - (b) The Notice of the Creditors' Meeting and of the sanction hearing, together with the Information Package were couriered to creditors on May 14, 2010 and were posted on the Monitor's website.

15. Notice of the adjournment of the original June 1, 2010 Creditors' Meeting was served on the service list on May 31, 2010 and posted on the Monitor's website.

#### **MEETING OF THE AFFECTED CREDITORS CLASS**

16. The Creditors' Meeting was held at 10:00 a.m. on June 8, 2010, for the purpose of allowing Affected Creditors to consider and vote on the Plan. The Creditors' Meeting was chaired by Nigel Meakin, a representative of the Monitor and was conducted in accordance with the provisions of the Creditors' Meeting Order. A quorum was present for the Creditors' Meeting. A significant number of proxies were delivered by hand prior to the meeting and the meeting was adjourned until 10:50 a.m. to enable the Scrutineers (as hereinafter defined) to log the proxies submitted.
17. Pursuant to the Creditors' Meeting Order, the Monitor appointed three scrutineers (the "Scrutineers") for the supervision and tabulation of the attendance, quorum, and votes cast at the Creditors' Meeting. One person from the Monitor's firm and two people from the Monitor's counsel's firm were appointed as Scrutineers. A request was made from the floor for the appointment of a union member to be appointed as an additional scrutineer. The Monitor was satisfied that the Scrutineers, as representatives of the Monitor and its counsel, were independent and sufficient in number and, accordingly, the request was declined.
18. Pursuant to the Creditors' Meeting Order, the Monitor was required to keep a separate record and tabulation of votes cast in respect of Proven Claims and Disputed Claims and determine whether the votes cast by Eligible Voting Creditors with Disputed Claims, if any, would affect the result of the vote. Pursuant to the provisions of the Creditors' Meeting Order, all valid proxies submitted prior to the vote on the Plan were counted in the vote.
19. A motion for a resolution to approve the Plan was made and seconded. Voting by written ballot, the Eligible Voting Creditors voted as follows:

	Number	Value	% Number	% Value
<b>Proven Claims:</b>				
Voting For	252	19,974,399.35	61.76%	74.38%
Voting Against	156	6,880,800.63	38.24%	25.62%
<b>Total Proven Claims<sup>1</sup></b>	<b>408</b>	<b>26,855,199.98</b>	<b>100.00%</b>	<b>100.00%</b>
<b>Proven Claims + Disputed Claims:</b>				
Voting For	252	20,051,576.22	61.46%	68.85%
Voting Against	158	9,071,049.46	38.54%	31.15%
<b>Total Proven + Disputed Claims<sup>2</sup></b>	<b>410</b>	<b>29,122,625.68</b>	<b>100.00%</b>	<b>100.00%</b>

<sup>1</sup>Votes cast represent 85.17% of total Proven Claims. Includes Proven portion of Claims which are partially disputed

<sup>2</sup>Votes cast represent 85.52% of total Proven + Disputed Claims

20. Pursuant to Section 6 of the CCAA, a majority in number representing two-thirds in value of creditors present and voting at a meeting of creditors is required for the approval of a plan of arrangement or compromise. As shown above, the requisite majorities were achieved and, accordingly the Plan was approved by the Creditors holding Affected Claims. Furthermore, the votes cast by Eligible Voting Creditors with Disputed Claims did not affect the results of the vote.
21. In addition to the votes tabulated above, on the day of the Creditors' Meeting, but after the vote had been tabulated, the Scrutineers received an additional 5 proxies representing a further \$87,477.34 in votes, all in favour of the Plan. The fact that these proxies were not included in the vote tabulation did not impact the result of the vote.
22. One proxy, representing a claim of \$20,260.58, was completed checking both the "vote for" and the "vote against" boxes, meaning that the voting instruction could not be determined. The Creditor was not present at the meeting and accordingly it was not possible to determine the Creditor's voting intent. In accordance with the provisions of the Creditors' Meeting, the Monitor determined that this vote should not be counted. A Scrutineer discussed the Monitor's determination with the proxy-holder, who did not object. The fact that this proxy was not included in the vote tabulation did not impact the result of the vote.

## **APPLICATION FOR SANCTION OF THE PLAN**

23. The leading case of *Re Northland Properties Ltd.* (1989), 73 C.B.R. (N.S.) 195, 34 B.C.L.R. (2d) 122, [1989] 3 W.W.R. 363 (C.A.) articulates that for a plan of arrangement or compromise to be sanctioned pursuant to the CCAA, the following three tests must be met:
- (a) There has been strict compliance with all statutory requirements and adherence to previous orders of the Court;
  - (b) Nothing has been done or purported to have been done that is not authorized by the CCAA; and
  - (c) The plan is fair and reasonable.

## **STATUTORY COMPLIANCE AND ADHERENCE TO PREVIOUS COURT ORDERS**

24. Section 5.1 of the CCAA contemplates the compromise of claims against directors but Section 5.2 mandates certain exceptions. Section 10.5(b) of the Plan includes the statutory exceptions in respect of the release for directors provided for therein.
25. Section 6 of the CCAA contains the restrictions in respect of the sanction of a plan of arrangement, which restrictions are summarized as follows:
- (a) A requirement that the plan provides for the payment in full of certain Crown claims within six months of sanction;
  - (b) A requirement that the plan provides for payment to employees and former employees, immediately after sanction, of amounts:
    - (i) That would have been payable under section 136(1)(d) if the company had become bankrupt on the date of filing;  
and



- (ii) For wages, salaries, commissions or compensation for services rendered during the CCAA proceedings;
  - (c) A requirement that the plan provides for payment of certain amounts in respect of registered pension plans immediately after Court sanction unless the Court is satisfied that the relevant parties have entered into an agreement, approved by the relevant pension regulator, respecting payment of those amounts.
26. Section 3.5 of the Plan provides that Crown claims are Unaffected Creditors and that the necessary payments will be made within six months of sanction.
27. The Monitor has been informed by the Applicant that there are no unpaid claims of employees of the nature referred to in section 6(5) of the CCAA and that there are no amounts outstanding of the kind referred to in section 6(6) of the CCAA in respect of registered pension plans. However, the proposed Sanction Order provides for the payment of such amounts in accordance with the provisions of the CCAA if for any reason any such amounts are determined to be outstanding.
28. Pursuant to section 6(8) of the CCAA, no compromise or arrangement that provides for a payment of an equity claim may be sanctioned by the Court unless all non-equity claims are paid in full. The Plan does not provide for any payment on account of equity claims.
29. The Monitor is not aware of any instances where the Applicant has not substantially complied with the Orders granted by this Honourable Court during the CCAA Proceedings.

#### **ACTIONS NOT AUTHORIZED BY THE CCAA**

30. The Monitor is not aware of any instances where the Applicant has taken or has purported to have taken any action that is not authorized by the CCAA.

## **FAIRNESS AND REASONABLENESS OF THE PLAN**

31. In *Re Canadian Airlines Corp.*, (2000), 20 C.B.R. (4th) 1, leave to appeal refused, 20 C.B.R. (4th) 46 (C.A.), the Honourable Madam Justice Paperny, then of the Alberta Court of Queen's Bench, stated that the following are relevant considerations in determining whether a plan is fair and reasonable:
- (a) The composition of the unsecured vote;
  - (b) What creditors would receive on liquidation or bankruptcy as compared to the Plan;
  - (c) Alternatives available to the Plan and bankruptcy;
  - (d) Oppression;
  - (e) Unfairness to shareholders; and
  - (f) Public interest.

### ***Composition of the Unsecured Vote***

32. The Plan was voted on by the Eligible Voting Creditors voting in one class of unsecured creditors. The Affected Creditors were grouped in a single class in accordance with the Creditors' Meeting Order, with no objections from the Creditors. The Monitor believes that such Creditors have a commonality of interest and that the classification is appropriate in the circumstances. As stated earlier in this report, the Plan was approved by the requisite majorities of Affected Creditors.

***Liquidation or Bankruptcy as Compared to the Plan***

33. As reported in the Monitor's Third Report, based on the opinions of the Monitor's Counsel, it appears that the Senior Secured Lenders hold valid and enforceable security on all assets of the Applicants. As described in the Monitor's Third Report, the Senior Secured Lenders face a significant shortfall on their claims in the event of a liquidation or bankruptcy.
34. As stated in the Monitor's Third Report, it is the Monitor's view that the implementation of the Plan is the only scenario under which Creditors with Affected Claims would receive any recovery on account of such Claims, other than Employee Creditors that may be entitled to receive WEPPA Payments in the event of a bankruptcy of the Applicant, or payments to the FSCO Plans that may be made by the Ontario Pension Benefits Guarantee Fund. Also as stated in the Third Report, the Monitor believes that under the Plan, Employee Creditors will receive distributions equal to or greater than any WEPPA Payments they may receive in the event of a bankruptcy of the Applicant.

***Alternatives available to the Plan and Bankruptcy***

35. As described in the Third Report, an extensive Court-approved Marketing Process was carried out with the assistance of an experienced investment banking firm and under the supervision of the Monitor but regrettably no binding offers were received to continue the business either as is or on a reduced scale. Accordingly, the Monitor believes that there are no viable alternatives to the Plan that could result in higher recoveries for Affected Creditors.

***Oppression***

36. As noted previously, there is currently no prospect of a recovery for Affected Creditors, other than potential payments under WEPPA to Employee Creditors, if the Plan is not implemented. In contrast, the Plan provides for Affected Creditors to recover some consideration on account of their Affected Claims and Employee Creditors will receive at least as much as they would have received under WEPPA in the event of a bankruptcy of the Applicant. The Senior Secured Lenders and the sole shareholder have consented to the Plan and one of the Senior Secured Lenders is sponsoring the Plan. Accordingly, there is no apparent oppression that would arise from the implementation of the Plan.

***Fairness to Shareholders***

37. The Applicant is insolvent and Affected Creditors face a significant shortfall on their indebtedness. Accordingly, the existing sole shareholder, in such capacity, has no apparent economic interest in the Applicant.
38. In addition, the sole shareholder has consented to the Plan and its equity rights are unaffected by the Plan. The Plan is, therefore, more favourable to the shareholder than any other current alternative.

***Public Interest***

39. The Monitor believes that there is nothing in respect of the implementation of the Plan that could be considered to be contrary to the public interest.

**THE MONITOR'S CONCLUSION AND RECOMMENDATION**

40. In the Monitor's view:

- (a) The Eligible Voting Creditors have approved the Plan;

- (b) There has been compliance with all requirements of the CCAA and the Applicant has adhered to previous orders of the Court made in the CCAA Proceedings;
- (c) Nothing has been done or purported to be done that is not authorized by the CCAA; and
- (d) The Plan is fair and reasonable.

41. Accordingly, the Monitor respectfully recommends that this Honourable Court grant the Applicant's request for sanction of the Plan.

**THE APPLICANT'S REQUEST FOR AN EXTENSION OF THE STAY PERIOD**

42. The Stay Period currently expires on June 11, 2010. Additional time is required for the conditions to Plan implementation to be satisfied or waived in the event that the Court sees fit to sanction the Plan or for the Credit Bid Option to be implemented if the Court declines to sanction the Plan and if Biscayne elects to proceed with the Credit Bid. In either event, a continuation of the stay of proceedings is necessary to provide the stability needed during that time. Accordingly, the Applicant now seeks an extension of the Stay Period to July 12, 2010.

43. The Applicant has advised the Monitor that it intends to implement the Plan in advance of the Plan Termination Date, being June 18, 2010, provided that the conditions to Plan implementation are satisfied or are waived with the consent of Biscayne. However, if that does not occur, the proposed extension of the Stay Period to July 12, 2010, would provide sufficient time for the Plan implementation conditions to be satisfied. The Monitor notes that the Plan Termination Date would need to be amended in the event that the Applicant does not implement the Plan by June 18, 2010.

44. The Applicant is of the view that there would be no material prejudice to stakeholders from an extension of the Stay Period to July 12, 2010. The Monitor concurs with this view.
45. Accordingly, based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to July 12, 2010.
46. The Monitor also believes that the Applicant has acted, and is acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.
47. The Monitor therefore respectfully recommends that this Honourable Court grant the Applicant's request for an extension of the Stay period to July 12, 2010.

The Monitor respectfully submits to the Court this, its Fifth Report.

Dated this 9<sup>th</sup> day of June, 2010.

FTI Consulting Canada Inc.  
In its capacity as Monitor of  
Signature Aluminum Canada Inc.



Nigel D. Meakin  
Senior Managing Director

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# Appendix A

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## The Initial Order

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

THE HONOURABLE ) FRIDAY, THE 29<sup>th</sup>  
 )  
JUSTICE MORAWETZ ) DAY OF JANUARY, 2010



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF SIGNATURE ALUMINUM CANADA  
INC.

**INITIAL ORDER**

THIS APPLICATION, made by Signature Aluminum Canada Inc. (the "Applicant") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Parminder Punia sworn January 28, 2010 and the Exhibits thereto (the "Punia Affidavit") and the Report (the "Monitor's Pre-Filing Report") of the Proposed Monitor, FTI Consulting Canada Inc. ("FTI Consulting"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicant, FTI Consulting, and Biscayne Metals Finance, L.L.C. ("Biscayne") and on reading the consent of FTI Consulting to act as the Monitor,



## **SERVICE**

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

## **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 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") between, *inter alia*, the Applicant and one or more classes of its secured and/or unsecured creditors as it deems appropriate.

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Applicant 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"). Subject to further Order of this Court, the Applicant shall continue to carry on business in a manner consistent with the preservation of its business (the "Business") and Property. The Applicant 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 the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicant shall be entitled to continue to utilize the cash management system currently in place as described in the Punia Affidavit or replace it with another substantially similar central cash management system (the "Cash Management System"), and that any present or future bank or banks providing the Cash Management System shall:

- (a) not be under any obligation whatsoever to inquire into the propriety, validity or legality or any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicant of funds transferred, paid, collected or otherwise dealt with in the Cash Management System;
- (b) be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicant, pursuant to the terms of the documentation applicable to the Cash Management System; and
- (c) be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regards to any claims or expenses it may suffer or incur in connection with the provisions of the Cash Management System.

6. THIS COURT ORDERS that the Applicant shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee benefits, normal cost contributions to registered pension plans (which for greater certainty shall not include “special” payments, or payments in connection with any going concern funding shortfall, solvency deficiency or wind-up deficiency), vacation pay, bonuses and expenses payable on or after the date of this Order, and similar amounts owed to independent contractors, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, subject to compliance with the Cash Flow Projections as defined in the DIP Term Sheet (as defined below), 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 after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order; and
- (c) with the consent of the Monitor, in consultation with the DIP Lender (as defined herein), costs and expenses incurred prior to the date of this Order, where in the opinion of the Applicant and the Monitor such payments (i) are necessary to preserve the Property, Business and/or ongoing operations of the Applicant and (ii) can be made on such terms and conditions as will provide a material benefit to the Applicant and its stakeholders as a whole.

8. THIS COURT ORDERS that the Applicant shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicant in connection with the sale of goods and services by the Applicant, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order,
- (c) normal cost contributions to registered pension plans payable subsequent to the date of this Order when due (which, for greater certainty, shall not include "special"

payments or payments in connection with any going-concern funding shortfall, solvency deficiency, or wind-up deficiency); and

- (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 to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicant.

9. THIS COURT ORDERS that, except as specifically permitted herein, 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; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

## **RESTRUCTURING**

10. THIS COURT ORDERS that the Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the DIP Credit Documentation (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as the Applicant deems appropriate on such terms as may be agreed upon between the Applicant and such employee, or failing such agreement, to deal with the consequences thereof in these proceedings; and
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

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

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

11. THIS COURT ORDERS that until and including February 26, 2010, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicant and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicant or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

12. THIS COURT ORDERS that 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 the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicant and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicant to carry on any business which the Applicant 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 security interest that existed prior to the date hereof, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH RIGHTS**

13. THIS COURT ORDERS that 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 the Applicant, except with the written consent of the Applicant and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

14. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicant or statutory or regulatory mandates 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, services provided in connection with the ERP System (as defined in the Punia Affidavit), transportation services, utility or other services to the Business or the Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant, and that the Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with normal payment practices of the Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Monitor, or as may be ordered by this Court.

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

15. THIS COURT ORDERS that, notwithstanding anything else contained herein, 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 date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicant. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

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

16. THIS COURT ORDERS that during the Stay Period, except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers (or their estates) of the Applicant with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be

liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

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

17. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

### **INVESTMENT BANKER**

18. THIS COURT ORDERS that the appointment of CIBC Mid-Market Investment Banking, a division of Canadian Imperial Bank of Commerce (the "Investment Banker") as investment banker pursuant to the terms of the engagement letter dated December 22, 2009 (the "Engagement Letter") entered into by the Applicant is hereby authorized and approved. The Applicant is authorized, *nunc pro tunc*, to enter into the Engagement Letter and to carry out and perform its rights and obligations thereunder (including payment of amounts due to be paid pursuant to the terms of the Engagement Letter) and the Engagement Letter shall be binding upon the Applicant.

19. THIS COURT ORDERS that all claims of the Investment Banker pursuant to the Engagement Letter are not claims that may be compromised pursuant to the Plan or any proposal under the *Bankruptcy and Insolvency Act* and no such plan or proposal shall be approved that does not provide for the payment of all amounts due to the Investment Banker pursuant to the terms of the Engagement Letter.

20. THIS COURT ORDERS that notwithstanding:

- (a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* in respect of the Applicant and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Applicant,

the terms of the Engagement Letter shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicant and shall not be void or voidable by creditors of the Applicant, nor shall it constitute nor be deemed to be a preference, fraudulent conveyance, transfer at undervalue, oppressive conduct or other challengeable or voidable transaction under any applicable law.

21. THIS COURT ORDERS that the Engagement Letter marked as Exhibit "I" to the Punia Affidavit, but not attached, contains confidential information and shall be treated as confidential and shall be protected and segregated from and not form part of the public record, pending further order of this Court.

#### **APPOINTMENT OF MONITOR**

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

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

- (a) monitor the Applicant's receipts and disbursements;



- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein, and with respect to any payments made pursuant to paragraph 7(c) herein;
- (c) assist the Applicant, to the extent required by the Applicant, in its dissemination to the DIP Lender and its counsel on a periodic basis of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicant in its preparation of the Applicant's Cash Flow Projections and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, or as otherwise agreed to by the DIP Lender;
- (e) advise the Applicant in its development and implementation of the Plan and any amendments to the Plan;
- (f) assist the Applicant, to the extent required by the Applicant, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form and other financial documents of the Applicant to the extent that is necessary to adequately assess the Applicant's 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) advise and assist the Applicant, as requested in its negotiations with suppliers, customers, creditors and other stakeholders;

- (j) fulfil any of the duties of the Monitor under the Plan Support Agreement entered into between the Applicant and Biscayne on January 28, 2010 and under the DIP Term Sheet;
- (k) hold and administer funds in connection with arrangements made among the Applicant, any counter-parties, and the Monitor, or by Order of this Court;
- (l) provide the consents contemplated to be provided pursuant to the terms of this Order; and
- (m) perform such other duties as are required by this Order or by this Court from time to time.

24. 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 management 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 Property, or any part thereof.

25. THIS COURT ORDERS that nothing herein contained shall require 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 *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, the *Ontario Occupational Health and Safety Act*, the *Quebec Environment Quality Act*, the *Quebec Act Respecting Occupational Health and Safety*, and regulations thereunder (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. 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.

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

27. THIS COURT ORDERS that, in addition to the rights and protections afforded to the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded to the Monitor by the CCAA or any applicable legislation.

28. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicant shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to or subsequent to the date of this Order to the extent that such fees and disbursements relate to services provided to the Applicant or the Monitor, as applicable, in connection with 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 and, in addition, the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the DIP Lender and counsel to the Applicant, retainers in the amounts of \$25,000, respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

29. THIS COURT ORDERS that at the request of the Applicant, the DIP Lender or any other party in interest, the Monitor and its legal counsel shall pass their accounts, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

30. THIS COURT ORDERS that the Monitor and its counsel, counsel to the Applicant and the Investment Banker shall be entitled to the benefit of and are hereby granted a charge on the Property, which charge shall not exceed an aggregate amount of \$1,500,000 (the "Administration Charge"). In the case of the Monitor, the Monitor's counsel and the Applicant's counsel, the Administration Charge shall be security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. In the case of the Investment Banker, the Administration Charge shall be security for the base completion fee and reimbursable costs described in and payable under the Engagement Letter, whether or not such base completion fees and costs were incurred before or after the date hereof. The Administration Charge shall have the priority set out in paragraphs 41 and 43 hereof.

### **MARKETING PROCESS**

31. THIS COURT ORDERS that the marketing process described in the Punia Affidavit (the "Marketing Process") is hereby approved, and the Applicant and the Monitor are authorized to take such steps as they consider necessary or desirable in carrying out the Marketing Process.

32. THIS COURT ORDERS that the Credit Bid is deemed to be a Phase One Qualifying Bid (as such capitalized terms are defined in the Punia Affidavit). For greater certainty, nothing herein approves the Credit Bid and the transactions contemplated in connection therewith, and the approval of any agreement entered into at the conclusion of the Marketing Process will be determined on a subsequent motion made to this Court.

33. THIS COURT ORDERS that subject to paragraph 32 hereof, only those letters of intent submitted by a prospective purchaser (a "Prospective Purchaser") to the Investment Banker (with a copy to the Monitor) on or before 5:00 p.m. (Eastern Standard Time) on February 26, 2010 which provides for a minimum cash consideration equal to or greater than CDN\$25,000,000 (individually or in the aggregate on a non overlapping basis) and otherwise complies with all other requirements contained in the Marketing Process may be accepted as a Phase One Qualifying Bid.

34. THIS COURT ORDERS that in connection with the Marketing Process and pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and pursuant to section 18 of the *Act Respecting the Protection of Personal Information in the Private Sector*, R.S.Q. c P-39.1, the Applicant may disclose personal information of identifiable individuals to Prospective Purchasers for the assets of the Applicant and to its advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the assets of the Applicant (each, a "Sale"). Each Prospective Purchaser to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Applicant, or in the alternative destroy all such information.

#### **DIP FINANCING**

35. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain, borrow and repay under a credit facility from Biscayne (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of \$US1,500,000 unless permitted by further Order of this Court.

36. THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the term sheet entered into between the Applicant and the DIP Lender dated as of January 28, 2010, subject only to such non-material amendments as may be agreed to by the parties and consented to in writing by the Monitor (the "DIP Term Sheet"), filed.

37. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively and together with the DIP Term Sheet, the "DIP Credit Documentation"), as are contemplated by the DIP Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the DIP Term Sheet and the DIP Credit Documentation as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

38. THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property securing all obligations owed to the DIP Lender by the Applicant under the DIP Term Sheet, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs 41 and 43 hereof.

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

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the DIP Credit Documentation;
- (b) upon the occurrence of an event of default under the DIP Credit Documentation or the DIP Lender's Charge, the DIP Lender may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the DIP Term Sheet, DIP Credit Documentation and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the DIP Term Sheet, the DIP Credit Documentation or the DIP 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 Applicant and for the appointment of a trustee in bankruptcy of the Applicant, and upon the occurrence of an event of default under the terms of the DIP Credit Documentation, the DIP Lender on three business days notice shall be entitled to seize and retain proceeds from the sale of the Property and the cash flow of the Applicant to repay amounts owing to the DIP Lender in accordance with the DIP Credit Documentation and the DIP Lender's Charge, but subject to the priorities as set out in paragraphs 41 and 43 of this Order; and
- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of any of the Applicant or the Property.

40. THIS COURT ORDERS AND DECLARES that the DIP Lender, in its capacity as DIP Lender, shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA, or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the DIP Credit Documentation.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

41. THIS COURT ORDERS that the priorities of the Administration Charge and the DIP Lender's Charge, as between them, shall be as follows:

First – Administration Charge; and

Second – DIP Lender's Charge.

42. THIS COURT ORDERS that the filing, registration or perfection of the Administration Charge or the DIP Lender's Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

43. THIS COURT ORDERS that each of the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors as defined in the CCAA, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, notwithstanding the order of perfection or attachment, except for (a) a validly perfected security interest of those Persons listed in Schedule "A" hereto in respect of a subsisting personal property security registration or real property registration as of the date hereof or (b) to the extent such Person is a "secured creditor" as defined in the CCAA in respect of any source deductions from wages, GST/QST, and vacation pay.

44. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any

Property that rank in priority to, or *pari passu* with, any of the Administration Charge or the DIP Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Administration Charge, or further Order of this Court.

45. THIS COURT ORDERS that the Administration Charge, the DIP Term Sheet or other DIP Credit Documentation and the DIP 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 DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicant and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or other DIP Credit Documentation shall create or be deemed to constitute a breach by the Applicant 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 Applicant entering into the DIP Term Sheet, the creation of the Charges, or the execution, delivery or performance of the DIP Credit Documentation; and
- (c) the payments made by the Applicant pursuant to this Order, the DIP Term Sheet or other DIP Credit Documentation, 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.



## **SERVICE AND NOTICE**

46. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe & Mail, National Edition, a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$5,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations promulgated thereunder except as otherwise ordered hereunder, provided that for the purposes of this list, the Monitor shall not make the names or addresses of individuals who are creditors publicly available.

47. THIS COURT ORDERS that the Applicant and the Monitor be 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 Applicant's creditors or other interested parties at their respective addresses as last shown on the records of the Applicant, and that any such service or notice by courier, personal delivery or electronic transmission after 5:00 p.m. (Eastern Standard Time) shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by same day courier, personal delivery or electronic transmission prior to 5:00 p.m. (Eastern Standard Time), on the date of delivery or transmission, as applicable or if sent by ordinary mail, on the third business day after mailing.

48. THIS COURT ORDERS that the Applicant, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, in accordance with the E-filing protocol of the Commercial List to the extent practicable, and the Monitor may post a copy of any or all such materials on its website at <http://cfcanada.fticonsulting.com/signature>.

## **GENERAL**

49. THIS COURT ORDERS that the Applicant or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

50. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicant, the Business or the Property.

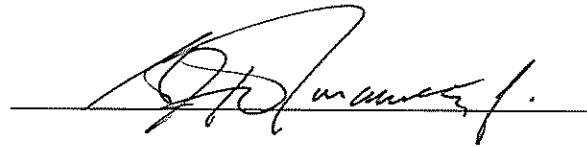
51. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order.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

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

53. THIS COURT ORDERS that any interested party (including the Applicant and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided however, the DIP Lender shall be entitled to rely on this Order as issued for all advances made under the DIP Term Sheet up to and including the date this Order may be varied or amended.

54. THIS COURT ORDERS that notwithstanding the immediately preceding paragraph, no order shall be made on motion by any party varying, rescinding or otherwise affecting the provisions of this Order (an "Amending Motion") with respect to the Administration Charge, the DIP Lender's Charge or the DIP Term Sheet or other DIP Credit Documentation, or paragraphs 6(a) and 8(c) hereof unless notice of a motion for such order is served on the Monitor, the Applicant and the DIP Lender, returnable no later than February 1~~8~~<sup>16</sup>, 2010 (the "Comeback Date") and upon no less than four days' notice. Notwithstanding the foregoing, an Amending Motion may be brought after the Comeback Date by (i) the DIP Lender in respect of the DIP Lender's Charge, the DIP Term Sheet or other DIP Credit Documentation, and (ii) by the Applicant or Monitor in respect of the DIP Term Sheet or other DIP Credit Documentation (with consent of the DIP Lender) and the Charges (with consent of the applicable beneficiary thereto).

55. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard Time on the date of this Order.



ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

JAN 29 2010

PER / PAR: JSN Joanne Nicoara  
Registrar, Superior Court of Justice

**SCHEDULE "A"**

- (a) Roynat Inc.
- (b) Jim Pattison Industries Ltd.
- (c) Lift Capital Corporation
- (d) Xerox Canada Ltd.
- (e) Noble Americas Corp.
- (f) Irwin Commercial Finance Canada Corporation, now known as Roynat Lease  
Finance Inc.
- (g) Hydro Quebec

Court File No. CV-10-8561-000L

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.

Applicant

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**INITIAL ORDER**

**BLAKE, CASSELS & GRAYDON LLP**  
Box 25, Commerce Court West  
Toronto, Ontario M5L 1A9

**Katherine McEachern** LSUC#: 38345M  
Tel: (416) 863-2566  
Fax: (416) 863-2653

**Linc Rogers** LSUC# 43562N  
Tel: (416) 863-4168  
Fax: (416) 863-2653

Lawyers for the Applicant,  
Signature Aluminum Canada Inc.

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# Appendix B

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**The Monitor's Third Report (without Appendices)**

**Court File No. CV-10-8561-00CL**

**Signature Aluminum Canada Inc.**

**THIRD REPORT OF THE MONITOR**  
**May 5, 2010**

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC

**THIRD REPORT TO THE COURT  
SUBMITTED BY FTI CONSULTING CANADA INC  
IN ITS CAPACITY AS MONITOR**

**EXECUTIVE SUMMARY OF PLAN RECOMMENDATION**

1. This report and its appendices contain important information that should be read and considered carefully by Affected Creditors. Definitions used in the Executive Summary are as defined in the report.
2. In the Monitor's view, the implementation of the Plan represents the only prospect of any distribution on account of Proven Claims of Affected Creditors, other than Employee Creditors that may be entitled to receive under the *Wage Earner Protection Program Act* in the event of a bankruptcy of the Applicant, or payments to the FSCO Plans that may be made by the Pension Benefits Guarantee Fund. For the Plan to be implemented, it must be approved by two-thirds in value and a majority in number of Eligible Voting Creditors present and voting, in person or by proxy, at the meeting of creditors.



3. The Monitor has estimated the distributions on account of Proven Claims of Affected Creditors in the event that the Plan is implemented assuming that all unresolved claims are resolved in favour of the claimant. Estimated recoveries are as follows:

<b>Proven Claim \$000</b>	<b>Number of Creditors</b>	<b>Approximate Estimated Recovery</b>
>250	16	<2%
100-250	15	2%-4%
50-100	79	4%-7%
25-50	124	7%-14%
10-25	153	14%-33%
5-10	52	33%-60%
1-5	147	60%-99%
<1	146	100%

4. The Monitor has calculated the estimated distributions to Creditors that have been identified as former employees of the Applicant based on the information currently available. These calculations show that distributions to Employee Creditors under the Plan would equal or exceed the amounts that the Employee Creditors may receive under the *Wage Earner Protection Program Act* in the event of a bankruptcy of the Applicant.
5. For the reasons set out in this report, it is the Monitor's view that the approval of the Plan is in the best interests of Affected Creditors with Proven Claims and the Monitor respectfully recommends that such Creditors vote in favour of the Plan.

## INTRODUCTION

6. On January 29, 2010, Signature Aluminum Canada Inc. (“**Signature**” or the “**Applicant**”) made an application under the *Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36*, as amended (the “**CCAA**”) and an initial order (the “**Initial Order**”) was made by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the “**Court**”) granting, *inter alia*, a stay of proceedings against the Applicant until February 26, 2010, (the “**Stay Period**”) and appointing FTI Consulting Canada Inc. as monitor (the “**Monitor**”). The proceedings commenced by the Applicant under the CCAA will be referred to herein as the “**CCAA Proceedings**”.
7. As part of the application for the Initial Order, the Applicant submitted to the Court for approval a Marketing Process (as defined in the Initial Order) for the sale of the business and assets of the Applicant. Paragraph 31 of the Initial Order approved the Marketing Process and authorized the Applicant and the Monitor to take such steps as they consider necessary or desirable to carry out the Marketing Process.
8. On February 25, 2010, the Honourable Madam Justice Karakatsanis granted orders approving a process for identifying and evaluating claims against the Applicant (the “**Claims Procedure**” and the “**Claims Procedure Order**”) and extending the Stay Period to May 14, 2010.
9. On March 18, 2010, the Honourable Madam Justice Karakatsanis granted an order approving phase II (“**Phase II**”) of the Marketing Process (the “**Phase II Order**”) and a final bid deadline of 5:00 pm Toronto time on April 6, 2010 (the “**Final Bid Deadline**”).

10. Paragraph 16 to 22 of the Pre-Filing Report of FTI Consulting Canada Inc., in its capacity as proposed monitor, dated January 28, 2010 (the “**Pre-Filing Report**”), described the Plan Support Agreement (the “**PSA**”) through which Biscayne, one of the Applicant’s secured creditors (the “**Plan Sponsor**”), has provided a commitment to support the restructuring of the Applicant’s business and operations through either the sponsorship of a plan of compromise and arrangement or, at its option and together with 324, the acquisition of the Applicant’s assets in accordance with the form of asset purchase agreement (the “**Credit Bid**”) attached to the PSA. A copy of the Pre-Filing Report is attached hereto as Appendix A for ease of reference.
  
11. The purpose of this, the Monitor’s Third Report, is to inform the Court on the following:
  - (a) The receipts and disbursements of the Applicant for the period from February 22, 2010 to May 2, 2010;
  - (b) The Applicant’s revised cash flow forecast for the period May 3, 2010 to June 13, 2010 (the “**May 3 Forecast**”)
  - (c) The independent opinions on the validity and enforceability of the various security held by each of 324, Biscayne and HIG (collectively the “**Senior Secured Lenders**”) prepared by Ogilvy Renault LLP, independent counsel to the Monitor (“**Monitor’s Counsel**”);
  - (d) The results of Phase II of the Marketing Process;
  - (e) The steps taken by the Applicant with respect to the wind-up or partial wind-up of the following registered pension plans:
    - (i) The Pension Plan for the Salaried Employees of Signature Aluminum Inc. Financial Services Commission of Ontario

(“**FSCO**”), registration number 0311035 (the “**Salaried Plan**”);

- (ii) The Pension Plan for the Hourly Paid Employees of Signature Aluminum Inc., Richmond Hill, FSCO registration number 0931642 (the “**Richmond Hill Plan**” and together with the Salaried Plan, the “**FSCO Plans**”); and
- (iii) The Régime de Retraite Des Employés D’Usine de St. Thérèse, Régie des rentes du Québec, registration number 27145 (the “**St. Thérèse Plan**”);
- (f) The status of the Claims Procedure;
- (g) The Applicant’s proposed Plan of Compromise and Arrangement dated May 4, 2010 (the “**Plan**”);
- (h) The Monitor’s assessment of the Plan and its recommendation thereon;
- (i) The Applicant’s request for an Order convening a meeting of creditors to consider and vote on the Plan (the “**Meeting Order**”) and the Monitor’s recommendation thereon; and
- (j) The Applicant’s request for an extension of the Stay Period to June 11, 2010, and the Monitor’s recommendation thereon.

12. In preparing this report, the Monitor has relied upon unaudited financial information of the Applicant, the Applicant's books and records, certain financial information prepared by the Applicant and discussions with the Applicant's management. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information. Accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this report or relied on in its preparation. Future oriented financial information reported or relied on in preparing this report is based on management's assumptions regarding future events; actual results may vary from forecast and such variations may be material.
13. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meanings defined in the PSA, previous reports filed in the CCAA Proceedings or the Plan.

## **BACKGROUND**

14. Background information on the Applicant, its ownership structure, its business and financial results, its material assets and liabilities and the causes of its financial difficulties are provided in the affidavit of Parminder Punia sworn January 28, 2010 filed in connection with the initial application under the CCAA and in the Pre-Filing Report, each of which are available on the Monitor's Website, <http://cfcanada/fticonsulting.com/signature>.
15. Copies of the Monitor's previous reports filed in the CCAA Proceedings which provide details of significant developments since the commencement of the CCAA Proceedings and results of operations are also available on the Monitor's Website.

**RECEIPTS AND DISBURSEMENTS FOR THE PERIOD TO MAY 2, 2010**

16. The Applicant's actual cash flow for the period February 22, 2010 to May 2, 2010 was approximately US\$0.5 million below the February 21 Forecast, filed as Appendix B to the First Report. The receipts and disbursements are presented in United States dollars and are summarized below:

	<b>Forecast</b>	<b>Actual</b>	<b>Variance</b>
	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
<b>Receipts</b>			
Sales and Accounts Receivable	14,047.0	13,652.9	(394.1)
Intercompany Receipts	0.0	0.0	0.0
Taxes	286.8	278.6	(8.2)
Other	0.0	435.9	435.9
<b>Total Receipts</b>	<b>14,333.8</b>	<b>14,367.4</b>	<b>33.6</b>
<b>Disbursements</b>			
Raw Materials - Metal	7,234.5	8,042.6	(808.1)
Raw Materials - Other	616.5	470.8	145.7
Intercompany Payments	2,930.5	1,079.7	1,850.8
Payroll and Benefits	1,872.1	2,280.5	(408.4)
Operating Expenses	1,313.7	1,550.1	(236.4)
SG&A Expenses	932.5	554.7	377.8
Other Non-recurring	137.0	866.8	(729.8)
Taxes	350.8	445.2	(94.4)
Legal and Professional Fees	958.5	1,291.1	(332.6)
Bank Fees & Interest	0.0	0.0	0.0
Capex	129.5	60.4	69.1
<b>Total Disbursements</b>	<b>16,475.6</b>	<b>16,641.9</b>	<b>(166.3)</b>
<b>Net Cash Flow before DIP Financi</b>	<b>(2,141.8)</b>	<b>(2,274.5)</b>	<b>(132.7)</b>
DIP Advances	0.0	0.0	0.0
DIP Repayments	0.0	0.0	0.0
<b>Net Cash Flow</b>	<b>(2,141.8)</b>	<b>(2,274.5)</b>	<b>(132.7)</b>
<b>Opening Cash</b>	<b>3,276.1</b>	<b>3,276.1</b>	<b>0.0</b>
Net Cash Flow	(2,141.8)	(2,274.5)	(132.7)
<b>Closing Cash</b>	<b>1,134.3</b>	<b>1,001.6</b>	<b>(132.7)</b>

17. Explanations for the key variances in actual receipts and disbursements as compared to the February 21 Forecast are as follows:

- (a) The negative variance in sales and accounts receivable of US\$0.4 million primarily results from higher than forecast collection of receivables from third parties offset by the non collection of the Shapes accounts of US\$1.3 which is currently being offset against the fabrication charges owing to Shapes and included in the cash flow as Intercompany Payments (Fabrication);
- (b) The positive variance in other of US\$0.4 million is due to the receipt of GST refunds which were not included in the original cash flow as the timing and certainty of receipt was not known;
- (c) The negative variance in raw materials – metals of US\$0.8 million is primarily the result of higher than forecast metal prices;
- (d) As noted above, the positive variance in intercompany payments – fabrication of US\$1.9 million is in respect of the fabrication work being conducted by Shapes on behalf of the Applicant. The Applicant continues to manage this payable and it is being offset against the receivable owing from Shapes to the Applicant;
- (e) The negative variance in payroll and benefits of US\$0.4 million relates to delays in reducing headcount and benefits and is a permanent variance;
- (f) The positive variance in SG&A expenses of US\$0.4 million relates primarily to the timing of payments; and
- (g) The negative variance in other non-recurring of US\$0.7 million relates to the payment of higher than budgeted vacation payments made to terminated employees and is a permanent variance.

**REVISED CASH FLOW TO JUNE 13, 2010**

18. The May 3 Forecast attached hereto as Appendix B shows a positive net cash flow of US\$0.4 million in the period May 3, 2010 to June 13, 2010, and a minimum cash balance of approximately US\$0.7 million in that period. The May 3 Forecast is presented in United States Dollars and is summarized below:

		<b>Total</b>
		<b>\$000</b>
<b>Receipts</b>		
Sales and Accounts Receivable		9,827.9
Intercompany Receipts		0.0
Taxes		200.6
Other		0.0
<b>Total Receipts</b>		<b>10,028.5</b>
<b>Disbursements</b>		
Raw Materials - Metal		4,501.4
Raw Materials - Other		317.1
Intercompany Payments		1,126.8
Payroll and Benefits		1,176.9
Operating Expenses		573.9
SG&A Expenses		557.6
Other Non-recurring		7.5
Taxes		416.6
Legal and Professional Fees		807.5
Bank Fees & Interest		0.0
Capex		102.0
<b>Total Disbursements</b>		<b>9,587.3</b>
<b>Net Cash Flow before DIP Financing</b>		<b>441.2</b>
DIP Advances		0.0
DIP Repayments		0.0
<b>Net Cash Flow</b>		<b>441.2</b>
<b>Opening Cash</b>		<b>1,001.6</b>
Net Cash Flow		441.2
<b>Closing Cash</b>		<b>1,442.8</b>



**INDEPENDENT OPINION ON SECURITY OF SENIOR SECURED LENDERS**

19. As previously reported, the Monitor’s Counsel was asked to conduct a security review of the security held by the Senior Secured Lenders. The Monitor has now received independent security opinions from the Monitor’s Counsel in respect of the security held by each of the Senior Secured Lenders, which opinions are subject to the qualifications and assumptions set out therein. A description of each of the opinions (collectively, the “Security Opinions”) is set out in Appendix C hereto.
20. The following table summarizes the valid and enforceable security held by the Senior Secured Lenders:

Secured Party	Ontario		Quebec	
	Real Property	Personal Property	Real Property	Personal Property
H.I.G. Bayside Debt & LBO Fund II, L.P.	Yes	Yes	Yes	Yes
Biscayne Metals Finance, LLC	Yes	Yes	N/A (no registration was made)	Yes
3241715 Nova Scotia Limited	Yes <sup>1</sup>	Yes	No opinion <sup>2</sup>	No opinion <sup>2</sup>

<sup>1</sup>The notice registered against the real property of Signature in Ontario are not in the form of charges/mortgages of land as prescribed by the Land Registration Reform Act (Ontario) but do constitute equitable charges enforceable against a trustee in bankruptcy.

<sup>2</sup>In light of the opinion of Justice Alary of the Superior Court of Quebec in Re Position Technologies Inc., Ogilvy cannot opine as to whether the hypothec in issue is valid and enforceable under the laws of the Province of Quebec.

21. Accordingly, based on the opinions of the Monitor's Counsel, it appears that the Senior Secured Lenders hold valid and enforceable security on all assets of the Applicants.

## **RESULTS OF PHASE II OF THE MARKETING PROCESS**

22. The Monitor reported on the results of Phase I of the Marketing Process at paragraphs 8 to 19 of its Second Report, a copy of which is attached hereto as Appendix D for ease of reference.
23. As noted earlier in this Report, 5:00 pm Toronto time on April 6, 2010 was set as the Final Bid Deadline pursuant to the Phase II Order. Phase II of the Marketing Process was carried out in accordance with the Phase II Order. A number of parties carried out due diligence during Phase II but regrettably no offers were received.
24. During the Marketing Process, the Monitor also sought and obtained independent valuations of the Applicant's real estate assets and liquidation offers in respect of the Applicant's plant and equipment. As described later in this report, the liquidation value of the Applicant's assets is less than the value of the claims of the Senior Secured Lenders.
25. Accordingly, the Applicant, with the approval of the Plan Sponsor and the Senior Secured Lenders, intends to proceed with the submission of the Plan in accordance with the terms of the PSA.

## WIND-UP OF REGISTERED PENSION PLANS

### THE FSCO PLANS

26. Since the date of the Initial Order, the Applicant and the Monitor have engaged in discussions with FSCO about the possibility of the winding-up of the Richmond Hill Plan and the partial winding-up of the defined benefit and defined contribution components of the Salaried Plan relating to the employees that have been terminated.
27. The parties also discussed the appointment of a replacement administrator in respect of each of the FSCO Plans. The parties were of the view that the appointment of a replacement administrator would facilitate the participation and representation of the pension beneficiaries in connection with the Plan and the vote thereon.
28. Accordingly, on March 18, 2010, with the consent of the Applicant and the Monitor to lift the CCAA stay of proceedings, FSCO served notices pursuant to Subsection 89(5) of the *Pension Benefits Act* (the “**PBA**”) of proposals to order the (i) wind-up of the Richmond Hill Plan, and (ii) the partial wind-up of the defined benefit and defined contribution components of the Salaried Plan. The Monitor was advised by FSCO that such orders were to be made on April 26 or 27, 2010.

29. Following the expiry of the Final Bid Deadline, the Applicant informed FSCO that no going concern purchaser had come forward during the Marketing Process for either the Richmond Hill or the St. Thérèse plants. At the same time, the Applicant confirmed its intention to centralize its operations at its Pickering plant only and move forward with the filing of a Plan. FSCO advised that it intended to appoint Morneau Sobeco (“**Morneau**”) to act as replacement administrator under Section 71 of the PBA in respect of the FSCO Plans. On April 26, 2010, FSCO confirmed the appointment of Morneau. The Applicant has advised the Monitor that it anticipates that the remainder of the Salaried Plan will commence wind-up prior to the meeting of creditors.
30. The Monitor has briefed Morneau on the events of the CCAA Proceedings, the Marketing Process and the Plan. “Placeholder” claims in respect of the amounts owing in respect of the FSCO Plans were filed by the Applicant in its capacity as plan administrator prior to the Claims Bar Date. The Monitor will work with Morneau and the Applicant to agree the amounts of the claims relating to the FSCO Plans for voting and distribution purposes.

#### **THE ST. THÉRÈSE PLAN**

31. The Applicant has notified the union representing most of the employees of the St. Thérèse facility and the Régie des Rentes (the Quebec equivalent of FSCO) (the “**Régie**”) of its intent to wind up the St. Thérèse Plan effective December 11, 2009. The Applicant’s Board has also adopted a Resolution confirming the plan windup.
32. The Applicant has retained the services of a consultant to draft and send the notices required by applicable Quebec pension law in order to begin the wind-up process in respect of the St. Thérèse Plan. It is expected that these notices will be sent shortly.

33. The Applicant intends to continue communicate with the Regie throughout the wind-up process.

### **THE CLAIMS PROCEDURE**

34. The Monitor, in cooperation with the Applicant, commenced the implementation of the Claims Procedure. In accordance with paragraphs 2 and 8 of the Claims Procedure Order:

- (a) On February 26, 2010, the Claims Procedure Order was posted on the Monitor's website;
  - (b) On March 2, 2010, the Monitor sent a Notice to Creditors and Notice of Claim to every Known Creditor;
  - (c) The Monitor published the Notice to Creditors in the national edition of the Globe and Mail on March 3, 2010 and in La Presse on March 4, 2010;
  - (d) On March 17, 2010, a Notice to Creditors and Notice of Claim were mailed to each employee placed on permanent lay off on March 8, 2010;
  - (e) On April 6, 2010 a Notice to Creditors and Notice of Claim were mailed to each employee placed on permanent lay off between March 24 and 31, 2010; and
  - (f) In addition, the Monitor provided Notices to Creditors and Notices of Claim or Proof of Claim forms to additional creditors identified by the Applicant from time to time.
35. Since the Claims Bar Date, the Monitor, in consultation with the Applicant, has been actively engaged in reviewing, Proofs of Claims and Notices of Dispute received.

36. At the date of this report, the Claims are summarized as follows:

Category	Noticed/Filed		Unresolved		Allowed	
	No.	Value	No.	Value	No.	Value
Senior Secured Lenders	3	\$102,190,814.94	0	\$0.00	3	\$102,190,814.94
Other Secured	2	\$197,446.11	2	\$197,446.11	0	\$0.00
Other Related Parties	2	\$13,678,136.61	1	\$13,575,504.37	1	\$102,632.24
Unsecured	732	\$32,779,231.91	148	\$17,494,382.19	584	\$15,269,109.39

## THE PLAN

37. Paragraph 3 of the Initial Order states:

“THIS COURT ORDERS THAT the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “Plan”) between, inter alia, the Applicant and one or more classes of its secured and/or unsecured creditors as it deems appropriate.”

38. A copy of the Plan is attached hereto as Appendix E. The key terms of the Plan are summarized as follows:

- (a) The compromise of all claims against Signature, with the exception of Excluded Claims;
- (b) For the purposes of considering and voting on the Plan and receiving a distribution thereunder, the Affected Claims of the Creditors are grouped into a single class. An Affected Claim is any Claim that is not an Excluded Claim;
- (c) The Plan does not compromise, release or otherwise affect the Excluded Claims. Excluded Claims are:

- (i) Claims for goods and/or services provided to the Applicant on or after the Filing Date;
  - (ii) Claims of the nature secured by the Administration Charge or the DIP Lender's Charge;
  - (iii) Crown Claims;
  - (iv) Secured Claims, to the extent they are Proven Claims;
  - (v) Related Party Claims; and
  - (vi) Claims relating to or in respect of the Unaffected Pickering Pension Plan.
- (d) The Plan provides for the payment of the Plan Support Fund of \$1.95 million by the Plan Sponsor (which the Plan Sponsor has stated will be paid to the Monitor prior to the Applicant's motion returnable May 11, 2010), which shall be distributed to Creditors with a Proven Claim in full and final satisfaction of such Proven Claims. Each Creditor with a Proven Claim shall receive a cash distribution equal to:
- (i) The Base Distribution, being 100 % of the amount of its Proven Claim that is less than or equal to Cdn\$1,000.00 plus 50 % of the amount of the Proven Claim that is greater than Cdn\$1,000 and less than or equal to Cdn\$4,750; and
  - (ii) The Pro Rata Distribution, being such Creditor's pro rata share, based on the balance of unpaid Proven Claims after the Base Distribution, of the remaining Plan Support Fund after deduction of the amounts paid in respect of the Base Distribution;

- (e) Distributions under the Plan will be made by the Monitor from the Plan Support Fund. The Plan provides for the possibility of an Interim Distribution and a Final Distribution, once all Disputed Claims have been finally determined.
- (f) The Plan provides for the payment of certain Crown Claims, as required by Section 6(3) of the CCAA;
- (g) As the Applicant is current on wages and current service pension contributions, there are no amounts outstanding of the type required to be paid pursuant to Sections 6(5) or 6(6) of the CCAA and it was not necessary for the Plan to provide for these payments;
- (h) The Plan does not provide for any payment on account of equity claims;



- (i) The Plan provides for releases to be given by each holder of a Claim (whether or not a Proven Claim) against, or equity interest in, the Applicant, and each such holder of a Claim releases the Applicant, the Related Parties<sup>1</sup>, the Monitor, and subject to Section 5.1(2) of the CCAA, any of their respective directors, officers, employees, agents, professional advisors (including legal counsel), affiliates and their respective property, and any person who may claim contribution or indemnification from the Applicant, the Related Parties or the Monitor, of any and all demands, claims, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, charges and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereinafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or before the Plan Implementation Date relating to, arising out of or in connection with the Applicant, the Applicant's property, business or affairs, this Plan, the CCAA Proceedings or the DIP Term Sheet, provided, however, that nothing will release:
- (i) any person from fraud, gross negligence, wilful misconduct, or criminal conduct;
  - (ii) any Excluded Claim; or
  - (iii) any person's right to enforce the Applicant's obligations under the Plan;

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<sup>1</sup> The Monitor has been informed by the Applicant the releases in favour of the Related Parties, including Biscayne, are a condition of, and in consideration for, support of the Plan, including Biscayne's funding of the Plan Support Fund.

- (j) If the Plan is approved by the requisite majorities of creditors, the Applicant shall bring a motion before the Court for a Sanction Order as soon as reasonably practicable;
- (k) The implementation of the Plan is conditional upon the fulfillment or waiver, where applicable, of the following conditions on or before the Plan Implementation Date:
  - (i) the Plan shall have been approved by the Required Majorities of Creditors entitled to vote at the Creditors' Meeting;
  - (ii) the Sanction Order shall have been granted by the CCAA Court in a form acceptable to the Applicant and Biscayne, and shall be in full force and effect and not reversed, stayed, varied, modified or amended;
  - (iii) all applicable appeal periods in respect of the Sanction Order shall have expired and in the event of an appeal or application for leave to appeal, final determination shall have been made by the applicable appellate court;
  - (iv) all approvals, orders, determinations or consents required pursuant to Applicable Law (including approvals under the *Investment Canada Act* and/or the *Competition Act*), if applicable, shall have been obtained on terms and conditions satisfactory to the Applicant, Biscayne and the Monitor, acting reasonably, and shall remain in full force and effect on the Plan Implementation Date;
  - (v) all necessary corporate action and proceedings of the Applicant shall have been taken to approve the Plan and to enable the Applicant to execute, deliver and perform its

obligations under the agreements, documents and other instructions to be executed and delivered by it pursuant to the Plan;

- (vi) the delivery, completion and execution of any documentation required in connection with the exit financing facility;
- (vii) all agreements, resolutions, documents and other instruments, which are necessary to be executed and delivered by Biscayne (whether in its capacity as DIP Lender or Plan Sponsor) or any director or officer of the Applicant in order to implement the Plan and perform their obligations under the Plan shall have been executed and delivered; and
- (viii) the filing of the Monitor's Certificate with the Court and the delivery of a copy thereof to the Applicant and Biscayne.

## **THE MONITOR'S ASSESSMENT OF THE PLAN**

### **ESTIMATED RECOVERIES FOR AFFECTED CREDITORS UNDER THE PLAN**

39. The Monitor has estimated the recoveries for Affected Creditors in the event that the Plan is implemented assuming that all unresolved claims are resolved in favour of the claimant. Estimated recoveries are as follows:

Proven Claim \$000	Number of Creditors	Approximate Estimated Recovery
>250	16	<2%
100-250	15	2% -4%
50-100	79	4% -7%
25-50	124	7% -14%
10-25	153	14% -33%
5-10	52	33% -60%
1-5	147	60% -99%
<1	146	100%

40. In the event that any of the Claims that are currently unresolved are determined not to be Proven Claims, estimated recoveries for Proven Claims greater than \$1,000 would increase marginally.
41. The Monitor has calculated the estimated distributions to Creditors that have been identified as former employees of the Applicant (the “**Employee Creditors**”) based on the information currently available. These calculations show that distributions to Employee Creditors under the Plan would equal or exceed the amounts that the Employee Creditors may receive under the *Wage Earner Protection Program Act* (“**WEPPA Payments**”) in the event of a bankruptcy of the Applicant.

**ALTERNATIVES TO THE PLAN AND ESTIMATED RECOVERIES**

42. The Marketing Process has clearly demonstrated that there is no alternative going concern transaction available. Accordingly, there are only two alternatives available in the event that the Plan is not approved or implemented:
- (a) The exercise of the Credit Bid Option under the PSA by the Plan Sponsor which would result in the sale of all of the Applicant’s assets on the terms of the asset purchase agreement attached as Schedule A to the PSA (the “**APA**”); or
  - (b) A liquidation of the assets.

43. As reported in the Pre-Filing Report, the APA provides for the acquisition of all of the assets of the Applicant by 324 and Biscayne, the consideration for which would be a reduction of \$25 million in the pre-filing indebtedness owing to 324 and Biscayne plus the payment or discharge of the Assumed Liabilities, as defined in the APA, which includes post-filing trade claims. If the Credit Bid Option is elected and the transactions contemplated by the APA are completed, there would be no recoveries for unsecured creditors.
44. The Monitor has obtained independent valuations of the Applicant's real property and liquidation offers for the Applicant's plant and equipment. The Monitor has also performed an assessment of the Applicant's inventory and accounts receivable in order to estimate their liquidation value. As noted earlier in this Report, the claims of the Senior Secured Lenders total approximately \$102 million. In the event of a liquidation of the assets, the Senior Secured Lenders will suffer a significant shortfall on their claims. Accordingly, there would be no recoveries for unsecured creditors in the event of a liquidation of the Applicant's assets.
45. The Plan Sponsor has informed the Monitor that if the Plan is implemented or the assets are acquired pursuant to the APA, it would only continue operations at the Pickering facility and that it intends to cause the Applicant to sell the other assets in an orderly manner. In order to ensure that such efforts are not adversely impacted, the Monitor has not included details of the liquidation values of the assets in this report.

46. Nothing has come to the attention of the Monitor during the course of the CCAA Proceedings that suggest that there were preferences or transfers at undervalue in the statutory periods prior to the commencement of the CCAA Proceedings. Given the magnitude of the shortfall to the Senior Secured Lenders, the Monitor does not intend to carry out further investigation in respect of preferences or transfers at undervalue as there would appear to be no prospect that further investigation would result in any benefit to creditors subordinate to the Senior Secured Lenders.

#### **CONCLUSION AND RECOMMENDATION**

47. Based on the foregoing, it is the Monitor's view that the implementation of the Plan is the only scenario under which Creditors with Affected Claims would receive any recovery on account of such Claims, other than Employee Creditors that may be entitled to receive WEPPA Payments in the event of a bankruptcy of the Applicant, or payments to the FSCO Plans that may be made by the Pension Benefits Guarantee Fund. As stated earlier in this report, the Monitor believes that Employee Creditors will receive distributions equal to or greater than any WEPPA Payments they may receive in the event of a bankruptcy of the Applicant.
48. Furthermore, the implementation of the Plan is beneficial as it should result in the preservation of going concern operations at the Pickering facility, thereby providing additional benefit to employees, suppliers and customers.
49. For the purposes of considering and voting on the Plan and receiving distributions thereunder, the Affected Claims of the Creditors are grouped into a single class. The Monitor believes that such Creditors have a commonality of interest and that the classification is appropriate in the circumstances.

50. Accordingly, it is the Monitor's view that the approval of the Plan is in the best interests of Creditors with Affected Claims and the Monitor respectfully recommends that such Creditors vote in favour of the Plan.

#### **THE APPLICANT'S REQUEST FOR THE CREDITORS' MEETINGS ORDER**

51. The Applicant has requested that the Court grant the Creditors' Meeting Order in the form attached at Tab 3 of the Applicant's Notice of Motion dated May 4, 2010, returnable May 11, 2010.
52. Pursuant to the Creditors' Meeting Order, a meeting of creditors will be held at 10:00am (Toronto time) on June 1, 2010 at the offices of the Monitor's Counsel.
53. The Creditors' Meeting Order directs the Monitor to send an information package (the "**Information Package**") to all Creditors holding a Proven Claim or a Disputed Claim (each an "**Eligible Voting Creditor**"). The Information Package is to include:
- (a) the Creditors' Meeting Order;
  - (b) the Plan;
  - (c) a copy of the Monitor's Third Report;
  - (d) the Notice of Creditors' Meeting, substantially in the form attached as Schedule "B" to the Creditors' Meeting Order;
  - (e) a copy of the form of proxy to be used by Creditors, substantially in the form attached as Schedule "C" to the Creditors' Meeting Order.
54. The Creditors' Meeting Order directs the Monitor to post the Information Package on its website as soon as practicable after the granting of the Creditors' Meeting Order.

55. The Creditors' Meeting Order directs the Monitor to publish a newspaper notice of the Creditors' Meeting substantially in the form attached as Schedule "D" to the Creditors' Meeting Order once in English in the Globe and Mail (National Edition) and once in French in La Presse.
56. The Creditors' Meeting Order directs that a representative of the Monitor will preside as the chair of the Creditors' Meeting and will decide all matters relating to the rules and procedures at, and the conduct of, the Creditors' Meeting in accordance with the terms of the Plan, the Creditors' Meeting Order and further Order of the Court. The Chair may also adjourn the Creditors' Meeting at its discretion.
57. Only those creditors with Proven Claims or Disputed Claims will be eligible to attend the Creditors' Meetings and vote on the resolution to approve the Plan. The votes of creditors holding Disputed Claims will be separately tabulated, and Disputed Claims will be resolved in accordance with the Claims Procedure Order and the Creditors' Meetings Order prior to any distribution on account of such Disputed Claims. Creditors who hold Excluded Claims, as defined in the Plan, will not be entitled to attend and vote at the Creditors' Meetings in respect of their Excluded Claims.
58. The Monitor will file a report with the Court prior to the Sanction Hearing with respect to the results of the votes cast including whether:
  - (a) the Plan has been accepted by the required majorities of creditors as prescribed for in the CCAA; and
  - (b) the votes cast by Eligible Voting Creditors with Disputed Claims, if any, would affect the result of the vote.



59. If the vote on the approval or rejection of the Plan by Eligible Voting Creditors is decided by the votes in respect of the Disputed Claims, the Applicant will seek an order for an expedited determination of any material Disputed Claims and an appropriate deferral of the application for the Sanction Order and any other applicable dates in the Creditors' Meeting Order or the Plan.
60. If the Plan is approved by Eligible Voting Creditors at the Creditors' Meeting, the Applicant will seek Court sanctioning of the Plan. The Creditors' Meeting Order sets the date for the Sanction Hearing as June 4, 2010.
61. In the view of the Monitor:
  - (a) The Creditors' Meeting Order provides for reasonable and sufficient notice of the Meeting of Creditors to be provided to Affected Creditors;
  - (b) Pursuant to the Creditors' Meeting Order, Affected Creditors would be provided adequate information with which to assess the Plan and determine whether to cast their vote for or against the Plan; and
  - (c) The provisions of the Creditors' Meeting Order governing the conduct of the Meeting of Creditors are reasonable and appropriate in the circumstances.
62. Accordingly, the Monitor respectfully recommends that the Applicant's request for the Creditors' Meeting Order be granted.

## **THE APPLICANT'S REQUEST FOR AN EXTENSION OF THE STAY PERIOD**

63. The Stay Period currently expires on May 14, 2010. Additional time is required for the Applicant to convene and hold the meeting of creditors to consider and vote on the Plan and for the Applicant to seek a Sanction Order if the Plan is approved by the requisite majorities of creditors. The continuation of the stay of proceedings is necessary to provide the stability needed during that time. Accordingly, the Applicant now seeks an extension of the Stay Period to June 11, 2010.
64. The May 3 Forecast demonstrates that the Applicant has sufficient liquidity to maintain operations during the period to June 11, 2010.
65. The Applicant is of the view that given the cash flow forecast and the filing of the Plan, there would be no material prejudice to stakeholders from an extension of the Stay Period to June 11, 2010. The Monitor concurs with this view.
66. Accordingly, based on the information currently available, the Monitor believes that creditors would not be materially prejudiced by an extension of the Stay Period to June 11, 2010.
67. The Monitor also believes that the Applicant has acted, and is acting, in good faith and with due diligence and that circumstances exist that make an extension of the Stay Period appropriate.
68. The Monitor therefore respectfully recommends that this Honourable Court grant the Applicant's request for an extension of the Stay period to June 11, 2010.

The Monitor respectfully submits to the Court this, its Third Report.

Dated this 5<sup>th</sup> day of May, 2010.

FTI Consulting Canada Inc.  
In its capacity as Monitor of  
Signature Aluminum Canada Inc.

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Nigel D. Meakin  
Senior Managing Director

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# Appendix C

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## The Creditors' Meeting Order

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE ) TUESDAY, THE 11th  
 )  
JUSTICE HOY ) DAY OF MAY, 2010



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF SIGNATURE ALUMINUM CANADA INC.

Applicant

**CREDITORS' MEETING ORDER**

**THIS MOTION** made by Signature Aluminum Canada Inc. (the "Applicant") for  
an Order:

- (a) abridging the time for service of the Notice of Motion, Motion Record and Monitor's Third Report (as defined below), if necessary, and declaring that the motion is properly returnable on Tuesday May 11, 2010;
- (b) authorizing and directing the filing of the Plan (as defined below);
- (c) approving the form of materials to be distributed to Eligible Voting Creditors (as defined below) affected by the Plan;
- (d) authorizing and establishing the procedure for the Applicant to call, hold and conduct a meeting of its creditors to consider and vote on the Plan;

- (e) establishing a procedure for the purpose of voting on the Plan; and
- (f) setting the date for the return of the Applicant's motion for an order sanctioning the Plan if the Plan is approved by the Required Majorities (as defined below),

was heard this day at 330 University Avenue, Toronto, Ontario.

**UPON READING** the Notice of Motion, the third report of the Monitor, FTI Consulting Canada Inc. (the "Monitor") dated May 5, 2010 (the "Monitor's Third Report"), and on hearing the submissions of counsel for the Applicant, counsel for Biscayne Metals Finance, LLC ("Biscayne") and counsel for the Monitor, and on being advised that the parties listed on the service list as of May 4, 2010 attached to the Motion Record (the "Service List") were served with the Motion Record and the Monitor's Third Report herein;

#### **SERVICE**

1. **THIS COURT ORDERS AND DECLARES** that the time for service of the Notice of Motion, the Motion Record and the Monitor's Third Report herein be and is hereby abridged and that the Motion is properly returnable today, and service thereof upon any person other than those on the Service List be and is hereby dispensed with.

#### **DEFINITIONS**

2. **THIS COURT ORDERS** that any capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Plan of Compromise and Arrangement of the Applicant dated May 4, 2010, attached as Schedule "A" to this Order (as it may be amended, restated or supplemented from time to time, the "Plan").

#### **FILING OF THE PLAN**

3. **THIS COURT ORDERS** that the Applicant is hereby authorized and directed to file the Plan, to present the Plan to the Creditors for their consideration in accordance with the terms of this Order and to seek approval of the Plan in the manner set forth herein.

4. **THIS COURT ORDERS** that the Applicant be and is hereby authorized to vary, amend, modify or supplement the Plan by way of a supplementary or amended and restated plan or plans of compromise or arrangement (an "Amended Plan") at any time prior to the Creditors' Meeting, provided that the Plan is amended in accordance with its terms, and the Applicant or the Monitor, as applicable, (i) files the Amended Plan with the CCAA Court, (ii) obtains the prior consent from the Monitor and Biscayne, (iii) post the Amended Plan on the Monitor's Website, and (iv) serves the Amended Plan on the Service List.

5. **THIS COURT ORDERS** that the Applicant is hereby authorized to vary, amend, modify or supplement the Plan, in accordance with its terms, at any time during the Creditors' Meeting, with the prior consent of the Monitor and Biscayne, provided that notice of any such variation, amendment, modification or supplement is given to all Creditors holding a Proven Claim or a Disputed Claim (each an "Eligible Voting Creditor") present in person or by proxy (and in such case, notice given to the Eligible Voting Creditor's proxyholder shall be sufficient) at the Creditors' Meeting prior to the vote being taken at the Creditors' Meeting, in which case any such variation, amendment, modification or supplement shall be deemed to be part of and incorporated into the Plan, and such Amended Plan shall be promptly posted on the Monitor's Website and filed with the CCAA Court as soon as practicable following the Creditors' Meeting.

6. **THIS COURT ORDERS** that the Applicant is hereby authorized to vary, amend, modify or supplement the Plan, in accordance with its terms, at any time and from time to time after the Creditors' Meeting (both prior to and subsequent to the Sanction Order, if granted), without obtaining a further Order of this Court and without notice to any Creditors, if the Applicant, Biscayne and the Monitor, acting reasonably and in good faith, determine that such variation, amendment, modification or supplement is of a technical or administrative nature that would not be materially prejudicial to the interests of any of the Creditors under the Plan and is necessary in order to give effect to the substance of the Plan or the Sanction Order.

**CLASSIFICATION OF CREDITORS**

7. **THIS COURT ORDERS** that for the purposes of considering and voting on the Plan and receiving distributions thereunder, the Affected Claims of the Creditors shall be grouped into a single class.

**NOTICE OF CREDITORS' MEETING AND INFORMATION PACKAGE**

8. **THIS COURT ORDERS** that the form of notice to Creditors of the Creditors' Meeting (the "Notice of Creditors' Meeting"), and the form of proxy, in substantially the forms attached to this Creditors' Meeting Order as Schedules "B" and "C", respectively, are hereby approved.

9. **THIS COURT ORDERS** that the Monitor shall send the following documents (collectively hereinafter referred to as the "Information Package") by no later than May 14, 2010 to all Eligible Voting Creditors by registered mail, facsimile, courier or e-mail at the last known address (including fax number or email address) for such Eligible Voting Creditor set out in the list of known creditors provided by the Applicant to the Monitor pursuant to the Claims Procedure Order dated February 25, 2010 or, if an Eligible Voting Creditor filed a Proof of Claim or Notice of Dispute, the address specified in the Proof of Claim or Notice of Dispute filed by such Eligible Voting Creditor:

- (a) this Creditors' Meeting Order;
- (b) the Plan;
- (c) a copy of the Monitor's Third Report;
- (d) the Notice of Creditors' Meeting, substantially in the form attached hereto as Schedule "B";
- (e) a copy of the form of proxy to be used by Creditors, substantially in the form attached hereto as Schedule "C".



10. **THIS COURT ORDERS THAT** notwithstanding paragraph 9 above, the Monitor may from time to time, make minor changes to such Information Package as the Monitor, in consultation with the Applicant, considers necessary or desirable to conform the content thereof to the terms of the Plan or this Order, or to describe the Plan.

11. **THIS COURT ORDERS** that the Monitor shall cause a copy of the Information Package (and any amendments made thereto in accordance with paragraph 10 hereof), to be posted on the Monitor's Website (<http://cfcanada.fticonsulting.com/signature/>) as soon as practicable after the granting of this Creditors' Meeting Order.

12. **THIS COURT ORDERS** that the Monitor shall send by registered mail, facsimile, courier or e-mail as soon as practicable following a request therefor, a copy of the Information Package to each Creditor who, no later than five (5) Business Days prior to the Creditors' Meeting (or any adjournment thereof), makes a written request for it.

#### **PUBLICATION OF NEWSPAPER NOTICE**

13. **THIS COURT ORDERS** that, as soon as practicable and by no later than May 18, 2010, a newspaper notice of the Creditors' Meeting, in substantially the form attached as Schedule "D" to this Order (the "Newspaper Notice"), shall be published once by the Monitor (i) in English in the Globe and Mail (National Edition) and (ii) in French in La Presse.

#### **NOTICE SUFFICIENT**

14. **THIS COURT ORDERS** that the publication of the Newspaper Notice, the sending of a copy of the Information Package to all Eligible Voting Creditors and the posting of the Information Package on the Monitor's Website, in the manner set out in paragraphs 9, 11 and 13 above, shall constitute good and sufficient service of this Creditors' Meeting Order, the Plan and the Notice of Creditors' Meeting on all Persons who may be entitled to receive notice thereof in these proceedings, or who may wish to be present in person or by proxy at the Creditors' Meeting or in these proceedings, and no other form of notice or service need be made on such Persons and no other document or material need be served on such Persons in respect of these proceedings. Service shall be effective, in the case of registered mailing, three Business Days

after the date of mailing, in the case of service by courier, on the day after the courier was sent, and in the case of service by fax or e-mail, on the day after the fax or e-mail was transmitted, unless such day is not a Business Day, or the fax or e-mail transmission was made after 5:00 p.m. (Toronto time), in which case, on the next Business Day.

### **CREDITORS' MEETING**

15. **THIS COURT ORDERS** that a representative of the Monitor shall preside as the chair of the Creditors' Meeting (the "Chair") and shall decide all matters relating to the rules and procedures at, and the conduct of, the Creditors' Meeting in accordance with the terms of the Plan, this Creditors' Meeting Order and further Order of this Court. The Chair may adjourn the Creditors' Meeting at his/her discretion.

16. **THIS COURT ORDERS** that the Applicant shall call, hold and conduct a meeting of Creditors on June 1, 2010 at the offices of Ogilvy Renault LLP, Suite 3800, Royal Bank Plaza, South Tower, 200 Bay Street, Toronto, Ontario, M5J2Z4 at 10 a.m. (Toronto time) (the "Meeting Date") for the Creditors, or as adjourned to such places and times as the Chair may determine, for the purposes of considering and voting on the Plan and transacting such other business as may be properly brought before the Creditors' Meeting.

### **ATTENDANCE AT CREDITORS' MEETING**

17. **THIS COURT ORDERS** that the only Persons entitled to notice of, attend or speak at the Creditors' Meeting are the Eligible Voting Creditors (or their respective proxy holders), representatives of the Applicant, the Monitor and Biscayne, the legal counsel of any of the foregoing, the Chair, Scrutineers and the Secretary (as defined below). Any other Person may be admitted to the Creditors' Meeting only by invitation of the Applicant or the Chair.

18. **THIS COURT ORDERS** that an Eligible Voting Creditor that is not an individual may only attend and vote at the Creditors' Meeting if it has appointed a proxyholder to attend and act on its behalf at the Creditors' Meeting.

**DISPUTED CLAIMS**

19. **THIS COURT ORDERS** that if the amount of a Disputed Claim has not been resolved prior to the Meeting Date, the holder thereof shall be entitled to vote the full amount of the Disputed Claim in accordance with the provisions of this Creditors' Meeting Order, without prejudice to the rights of the Applicant, the Monitor or the Creditor with respect to the final determination of the Disputed Claim for distribution purposes, and such vote shall be separately tabulated by the Monitor in accordance with paragraph 31 hereof.

20. **THIS COURT ORDERS** that allowing an Eligible Voting Creditor to vote at the Creditors' Meeting in respect of a Disputed Claim shall not be construed as an admission that such Eligible Voting Creditor's Claim is a Proven Claim for distribution purposes.

**VOTING AT THE CREDITORS' MEETING**

21. **THIS COURT ORDERS** that any Creditor holding a Claim that has not
- (a) been deemed by the Claims Procedure Order to have been accepted in the amount as set out in a Notice of Claim sent to such Creditor;
  - (b) submitted a Proof of Claim in respect of its Claim in accordance with the procedure set out in the Claims Procedure Order prior to the relevant bar date contained therein; or
  - (c) submitted a Notice of Dispute in respect of all or a part of its Claim in accordance with the procedure set out in the Claims Procedure Order,

will not be entitled to vote on the Plan at the Creditors' Meeting in respect of its Claim.

22. **THIS COURT ORDERS** that the only Persons entitled to vote at the Creditors' Meeting in person or by proxy, are the Eligible Voting Creditors.

23. **THIS COURT ORDERS** that, subject to paragraph 31 hereof, each Eligible Voting Creditor shall have one vote, which vote shall have the aggregate value of its Disputed

Claim(s) (in accordance with paragraph 19 hereof), and/or Proven Claim(s) (as determined in accordance with the Claims Procedure Order, any other order of the CCAA Court), as applicable.

24. **THIS COURT ORDERS** that subject to paragraph 38(h) hereof, the Chair be and is hereby authorized to accept and rely upon proxies substantially in the form attached as Schedule "C" hereto.

25. **THIS COURT ORDERS** that no Person shall be entitled to vote on the Plan in respect of a Claim that is an Excluded Claim.

26. **THIS COURT ORDERS** that the quorum required at the Creditors' Meeting shall be any three (3) Eligible Voting Creditors present in person or by proxy at the Creditors' Meeting.

27. **THIS COURT ORDERS** that if:

- (a) the requisite quorum is not present at the Creditors' Meeting;
- (b) the Creditors' Meeting is postponed by a vote of the majority in value of the Claims of the Eligible Voting Creditors present in person or by proxy; or
- (c) the Chair otherwise decides to adjourn the Creditors' Meeting,

then the Creditors' Meeting shall be adjourned to such date, time and place as may be designated by the Chair. The announcement of the adjournment by the Chair, the posting of notice at the Creditors' Meeting of such adjournment on the Monitor's Website and written notice to the Service List shall constitute sufficient notice of the adjournment and the Applicant and the Monitor shall have no obligation to give further notice to any Person of the adjourned Creditors' Meeting.

28. **THIS COURT ORDERS** that every question submitted to the Creditors' Meeting, except to approve the Plan resolution or an adjournment of the Creditors' Meeting, will be decided by a majority of votes given on a show of hands or if by confidential written ballot, at the discretion of the Chair, by a simple majority in number of the Eligible Voting Creditors.

29. **THIS COURT ORDERS** that the Chair shall direct a vote by the Eligible Voting Creditors on the resolution substantially in the form attached hereto as Schedule “E” to approve the Plan (i) by way of written ballot, or (ii) if the Chair deems it appropriate, by a show of hands.

30. **THIS COURT ORDERS** that the Monitor may appoint scrutineers (the “Scrutineers”) for the supervision and tabulation of the attendance, quorum, and votes cast at the Creditors’ Meeting. A Person or Persons designated by the Monitor shall act as secretary (the “Secretary”) at the Creditors’ Meeting and shall tabulate all Proven Claims (and, if applicable, Disputed Claims) voted at the Creditors’ Meeting.

31. **THIS COURT ORDERS** that for voting purposes, the Monitor shall keep a separate record and tabulation of any votes cast in respect of Proven Claims and Disputed Claims.

32. **THIS COURT ORDERS** that the result of any vote conducted at the Creditors’ Meeting shall be binding upon all Creditors, whether or not any such Creditor was present or voted at the Creditors’ Meeting, without prejudice to such Creditor’s ability to oppose the Plan at the Sanction Hearing.

33. **THIS COURT ORDERS** that following the vote at the Creditors’ Meeting, the Monitor shall tally the votes cast and determine whether the Plan has been approved by the majorities of Eligible Voting Creditors required pursuant to section 6 of the CCAA (the “Required Majorities”).

34. **THIS COURT ORDERS** that the Monitor shall file its report to this Court by no later than three (3) Business Days after the Meeting Date with respect to the results of the votes cast, including whether:

- (a) the Plan has been accepted by the Required Majorities of Creditors; and
- (b) the votes cast by Eligible Voting Creditors with Disputed Claims, if any, would affect the result of the vote.

35. **THIS COURT ORDERS** that if the vote on the approval or rejection of the Plan by Eligible Voting Creditors is decided by the votes in respect of the Disputed Claims, the Applicant shall seek an order for an expedited determination of any material Disputed Claims and an appropriate deferral of the application for the Sanction Order and any other applicable dates in this Order and the Plan.

**VOTING BY PROXIES**

36. **THIS COURT ORDERS** that all proxies submitted in respect of the Creditors' Meeting (or any adjournment thereof) must be in substantially the form attached to this Order as Schedule "C", or in such other form acceptable to the Monitor or the Chair.

37. **THIS COURT ORDERS** that an Eligible Voting Creditor wishing to appoint a proxy to represent such Eligible Voting Creditor at the Creditors' Meeting (or any adjournment thereof) may do so by inserting such Person's name in the blank space provided on the form of proxy, and sending the completed proxy to the Monitor by email to [signature@fticonsulting.com](mailto:signature@fticonsulting.com), or if the completed proxy cannot be sent by email, it shall be sent by registered mail or courier to:

FTI Consulting Canada Inc.  
Monitor of Signature Aluminum Canada Inc.  
TD Waterhouse Tower, 79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, Canada M5K 1G8  
Tel: 416-649-8100  
Fax: 416-649-8101

A proxy must be received by the Monitor by 1:00 p.m. (Toronto time) on the last Business Day preceding the date set for the Creditors' Meeting or any adjournment thereof, or delivered by hand to the Chair prior to the commencement of the Creditors' Meeting. After commencement of the Creditors' Meeting, no proxies can be accepted by the Monitor.

38. **THIS COURT ORDERS** that the following shall govern the submission of proxies and any deficiencies in respect of the form or substance of proxies filed with the Monitor:

- (a) an Eligible Voting Creditor who has given a proxy may revoke it, unless it has agreed otherwise (as to any matter on which a vote has not already been cast pursuant to its authority), by an instrument in writing executed by such Eligible Voting Creditor or by its attorney, duly authorized in writing or, if an Eligible Voting Creditor is not an individual, by an officer or attorney thereof duly authorized, and deposited with the Monitor as provided in paragraph 37 above;
- (b) if no name has been inserted in the space provided to designate the proxyholder on the proxy, the Eligible Voting Creditor shall be deemed to have appointed Nigel Meakin of the Monitor (or such Person as he, in his sole discretion, may designate) as the Eligible Voting Creditor's proxyholder;
- (c) if the proxy is not dated in the space provided, it shall be deemed to be dated on the date it is received by the Monitor;
- (d) a proxy submitted by an Eligible Voting Creditor that bears or is deemed to bear a later date than an earlier proxy submitted by such Eligible Voting Creditor shall be deemed to revoke the earlier proxy;
- (e) if more than one valid proxy for the same Eligible Voting Creditor and bearing or deemed to bear the same date are received by the Monitor with conflicting instructions, such proxies shall not be counted for the purposes of the vote;
- (f) the Person named in the proxy shall vote the Proven Claim or Disputed Claim, as applicable, of the Eligible Voting Creditor in accordance with the direction of the Eligible Voting Creditor appointing them on any ballot that may be called for. In the absence of any such direction, such Proven Claim or Disputed Claim, as applicable, shall be voted in favour of the Plan resolution;
- (g) a proxy confers a discretionary authority upon the Person named therein with respect to amendments or variations to the matters identified in the notices of the Creditors' Meeting and in this Plan, and with respect to other matters that may properly come before the Creditors' Meeting; and

- (h) the Monitor in consultation with the Applicant is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any proxy is completed and executed, and may waive strict compliance with the requirements in connection with the deadlines imposed in connection therewith.

#### **TRANSFERS OR ASSIGNMENTS OF CLAIMS**

39. **THIS COURT ORDERS** that if a Creditor transfers or assigns an Affected Claim to another Person, such transferee or assignee shall not be entitled to attend and vote the transferred or assigned Affected Claim at the Creditors' Meeting unless (i) the assigned Affected Claim is a Proven Claim or Disputed Claim, or a combination thereof, and (ii) a Proof of Assignment has been delivered in accordance with paragraph 11 of the Claims Procedure Order no later than five (5) calendar days prior to the Meeting Date.

40. **THIS COURT ORDERS** that if a Creditor transfers or assigns (i) the whole of an Affected Claim to more than one Person, or (ii) part of such Affected Claim to another Person or Persons, such transfers or assignments shall not create separate Affected Claims for voting purposes. Only the last Creditor holding the whole of the Affected Claim may attend and vote the transferred or assigned Affected Claim at the Creditors' Meeting, unless such Creditor delivers notice in writing to the Applicant and the Monitor no later than five (5) calendar days prior to the Meeting Date directing that a specified transferee or assignee may vote the transferred or assigned Affected Claim, but only as a whole, at the Creditors' Meeting if and to the extent such Affected Claim may otherwise be voted at such Creditors' Meeting.

#### **HEARING FOR SANCTION OF THE PLAN**

41. **THIS COURT ORDERS** that if the Plan is approved by the Required Majorities and the Applicant is not required to seek an Order pursuant to paragraph 37 hereof, the Applicant shall seek Court approval of the Plan at a motion for the Sanction Order, which motion shall be returnable before this Court at 10:00 a.m. (Toronto time) on June 4, 2010, or as soon after that date as the matter can be heard (the "Sanction Hearing").



42. **THIS COURT ORDERS** that service of the Monitor's Third Report in accordance with paragraph 9 hereof, the posting of this Creditors' Meeting Order and Information Package in accordance with paragraph 11 hereof and the publication of the Newspaper Notice in accordance with paragraph 13 hereof, shall constitute good and sufficient service of the notice of the Sanction Hearing on all Persons who may be entitled to receive notice of the Sanction Hearing, and no other form of notice or service need be made on such Persons, and no such other document or materials need be served on such Persons in respect of the Sanction Hearing unless they have filed and served a Notice of Appearance.

43. **THIS COURT ORDERS** that any Person (other than the Applicant, the Monitor and other Persons already on the Service List) wishing to receive materials and appear at the Sanction Hearing shall serve upon the lawyers for the Applicant and the Monitor, and file with this Court, a Notice of Appearance by not later than 5:00 p.m. (Toronto time) on June 3, 2010.

44. **THIS COURT ORDERS** that any party who wishes to oppose the motion for final sanctioning of the Plan shall serve upon the lawyers for both the Applicant and the Monitor, and upon all other parties on the Service List, by not later than 5:00 p.m. (Toronto time) on June 3, 2010, a copy of the materials to be used to oppose the motion for approval of the Plan, setting out the basis for such opposition.

45. **THIS COURT ORDERS** that, if the Sanction Hearing is adjourned, only those Persons who are listed on the Service List (which shall include those Persons who have complied with paragraph 43 of this Order) shall be served with notice of the adjourned date.

#### **GENERAL**

46. **THIS COURT ORDERS** that the Monitor in consultation with the Applicant may, in its discretion, generally or in individual circumstances, waive in writing the time limits imposed on any Creditor under this Creditors' Meeting Order if the Monitor, in consultation with the Applicant, deems it advisable to do so, without prejudice to the requirement that all other Creditors must comply with this Creditors' Meeting Order.

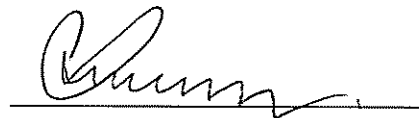
47. **THIS COURT ORDERS** that if any deadline set out in this Creditors' Meeting Order falls on a day other than a Business Day, the deadline shall be extended to the next Business Day.

48. **THIS COURT ORDERS** that, notwithstanding the terms of this Order, the Applicant or the Monitor may apply to this Court from time to time for such further order or orders as it considers necessary or desirable to amend, supplement or replace this Creditors' Meeting Order. In addition, the Superintendent of Financial Services may apply to this Court for such order as it considers necessary to amend this order only in relation to the scheduling of the Creditors' Meeting and the Sanction Hearing.

**EFFECT, RECOGNITION AND ASSISTANCE OF OTHER COURTS**

49. **THIS COURT ORDERS** that this Order and any other Order in this proceeding shall have full force and effect in all provinces and territories in Canada and abroad and as against all Persons against whom they may otherwise be enforceable.


50. **THIS COURT HEREBY REQUESTS** the aid and recognition (including assistance pursuant to section 17 of the CCAA, as applicable) of any court or any judicial, regulatory or administrative body in any province or territory of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province or any court or any judicial, regulatory or administrative body of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Creditors' Meeting Order.



**Christina Irwin**  
Registrar, Superior Court of Justice

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

MAY 11 2010

PER / PAR: 

**SCHEDULE "A" TO CREDITORS' MEETING ORDER  
PLAN OF COMPROMISE AND ARRANGEMENT  
(Attached)**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF SIGNATURE ALUMINUM CANADA INC.**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36, AS AMENDED**

**PLAN OF COMPROMISE AND ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.**

**MAY 4, 2010**

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**PLAN OF COMPROMISE AND ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.**

**PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT* (CANADA)**

**MAY 4, 2010**

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Plan (including the Schedules hereto), unless otherwise stated or the context should otherwise require, the capitalized terms and phrases used but not defined herein have the following meanings:

“**324**” means 3241715 Nova Scotia Limited (previously 6919464 Canada Inc.);

“**Administration Charge**” means the Administration Charge granted under the Initial Order;

“**Administration Charge Reserve**” has the meaning set out in Section 5.2(a) of this Plan;

“**Affected Claim**” means a Claim that is not an Excluded Claim. For greater certainty, all Pre-Filing Claims and Subsequent Claims are “**Affected Claims**”;

“**Affected Pension Plans**” means, collectively, (i) the Pension Plan for Salaried Employees of Signature Aluminum Canada Inc., Financial Services Commission of Ontario Reg. No. 0311035, (ii) the Pension Plan for the Hourly Paid Employees of Signature Aluminum Canada Inc., Richmond Hill, Financial Services Commission of Ontario Reg. No. 0931642, and (iii) Regime De Retraite Des Employés D’Usine de Signature Aluminum Canada Inc., Régie des rentes du Québec Reg. No. 27145;

“**Applicable Law**” means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all laws, rules, statutes, regulations, treaties, orders, judgments and decrees, and all official requests, directives, rules, guidelines, orders, policies, practices and other requirements of any Authorized Authority;

“**Applicant**” means Signature Aluminum Canada Inc.

“**Authorized Authority**” means, in relation to any Person, transaction or event, any:

- (a) federal, provincial, territorial, state, municipal or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign;
- (b) agency, authority, commission, instrumentality, regulatory body, court, or other entity exercising executive, legislative, judicial, taxing, regulatory or



administrative powers or functions of or pertaining to government, including any Taxing Authority;

- (c) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions; or
- (d) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, in each case having jurisdiction over such Person, transaction or event;

“**Base Distribution**” means, for each Proven Claim, (i) 100% of the amount of the Proven Claim that is less than or equal to CDN\$1000, plus (ii) 50% of the amount of the Proven Claim that is greater than CDN\$1,000 and less than or equal to CDN\$4,750;

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

“**Biscayne**” means Biscayne Metals Finance, LLC, including, without limitation, in its capacity as DIP Lender and Plan Sponsor;

“**Business Day**” means, with respect to any action to be taken, any day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario, Canada;

“**Canadian Dollars**”, “**CDN\$**” or “**\$**” means dollars denominated in lawful currency of Canada;

“**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c.C-36, as amended;

“**CCAA Court**” means the Ontario Superior Court of Justice;

“**CCAA Proceedings**” means the proceedings commenced by the Applicant under the CCAA on January 29, 2010 in the CCAA Court, Court File No. CV-10-8561-00CL;

“**Charges**” has the meaning given to it in paragraph 42 of the Initial Order;

“**Claim**” means any right or claim of any Person that may be asserted or made in whole or in part against the Applicant, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, legal or equitable, secured or unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including, without limitation, any right or ability of any Person to advance a claim for contribution or

indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future together with any other rights or claims of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the BIA if the Applicant were bankrupt, and for greater certainty, includes, without limitation (i) any Tax Claim, (ii) any claims by any Person for obligations or indebtedness owing by the Applicant under the Affected Pension Plans, and (iii) any Subsequent Claim;

“**Claims Bar Date**” means 5:00 p.m. (Toronto Time) on March 26, 2010, or such other date as may be ordered by the CCAA Court;

“**Claims Officer**” means any individual appointed by the Applicant, under such terms as are approved by the Monitor or further order of the CCAA Court, to act as a claims officer for purposes of, and in accordance with, the Claims Procedure Order;

“**Claims Procedure Order**” means the Order of the Honourable Madam Justice Karakatsanis dated February 25, 2010, as may be amended, restated or varied by subsequent Orders of the CCAA Court;

“**Creditor**” means, subject to the Claims Procedure Order and Section 6.5 of this Plan, any holder of an Affected Claim, in that capacity;

“**Creditors’ Meeting**” means the meeting of Creditors called for the purposes of considering and voting in respect of this Plan, which has been set by the Creditors’ Meeting Order to take place at 9:30 a.m. (Toronto Time) on June 1, 2010 and any postponements, adjournments or amendments thereof;

“**Creditors’ Meeting Order**” means the Order of the CCAA Court made May 11, 2010 ordering and declaring, among other things, the procedures to be followed in connection with the Creditors’ Meeting, as amended, restated or varied from time to time by subsequent Order of the CCAA Court;

“**Crown**” means Her Majesty in right of Canada or a province of Canada;

“**Crown Claim**” means any Claim of the Crown, for all amounts that were outstanding at the Filing Date and are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the ITA;
- (b) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, or an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides

for the collection of a sum, and of any related interest, penalties or other amounts, where the sum

- (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the ITA; or
- (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

“**DIP Lender’s Charge**” means the DIP Lender’s Charge granted under the Initial Order;

“**DIP Lender**” means Biscayne in its capacity as lender under the DIP Term Sheet, and any other lenders becoming party as lenders to the DIP Term Sheet;

“**DIP Term Sheet**” means the DIP Term Sheet dated as of January 28, 2010 between the Applicant, as borrower, and Biscayne, as lender;

“**Disallowed Claim**” means a Disputed Claim (or any portion thereof) which has been finally disallowed in accordance with the Claims Procedure Order;

“**Disputed Claim**” means all or that portion of an Affected Claim that has not been allowed or accepted as proven by the Monitor, which is the subject of a Notice of Dispute or Notice of Revision or Disallowance, and which has not been resolved by the Claims Officer, by agreement or by further Order of the CCAA Court, as applicable. For greater certainty, once a Disputed Claim is finally determined, it shall become either a Proven Claim or a Disallowed Claim, as the case may be;

“**Disputed Claims Reserve**” shall have the meaning set out in Section 6.2;

“**Eligible Voting Creditor**” means a Creditor having a Proven Claim or a Disputed Claim;

“**Excluded Claim**” has the meaning set forth in Section 3.3 of this Plan;

“**Filing Date**” means January 29, 2010, being the date of the Initial Order;

“**Final Distribution Date**” means a Business Day to be chosen by the Monitor, in consultation with the Applicant, on which final distributions are to be made on account of Proven Claims and which shall be a date that occurs after all Disputed Claims have been finally determined in accordance with the Claims Procedure Order;

“**GST**” means goods and services tax under the *Excise Tax Act* (Canada), R.S.C., 1985, c. E-15, as amended to the date of this Plan;

“**H.I.G.**” means, collectively, H.I.G. Bayside Debt & LBO Fund II L.P., H.I.G. Bayside Advisors II, LLC and H.I.G.-GPII, Inc.;

“**Initial Distribution Date**” means a Business Day to be chosen by the Monitor, in consultation with the Applicant, on which initial distributions are to be made on account of Proven Claims;

“**Initial Order**” means the Order granted by the CCAA Court in the CCAA Proceedings on January 29, 2010, as amended, restated, varied or extended from time to time by subsequent Orders of the CCAA Court;

“**ITA**” means the *Income Tax Act* (Canada), R.S.C. 1985, c.1 (5<sup>th</sup> Supp.), as amended to the date of this Plan;

“**Lien**” means any mortgage, charge, pledge, assignment by way of security, lien, hypothec, security interest, deemed trust or other encumbrance granted or arising pursuant to a written agreement or statute or otherwise created by law;

“**Monitor**” means FTI Consulting Canada Inc., solely in its capacity as Court-appointed monitor of the Applicant in the CCAA Proceedings, and not in its corporate or personal capacity;

“**Monitor’s Certificate**” has the meaning given to it in Section 8.3 of this Plan;

“**Monitor’s Website**” means the website maintained by the Monitor located at the following address: <http://cfcanada.fticonsulting.com/signature>;

“**Notice of Claim**” means the notice of claim which may be provided by the Monitor to Known Creditors or Subsequent Claimants (each as defined in the Claims Procedure Order), as the case may be, substantially in the form attached as Schedule “2” to the Claims Procedure Order;

“**Notice of Dispute**” means a written notice, substantially in the form attached as Schedule “4” to the Claims Procedure Order, delivered to the Monitor by a Creditor disputing either a Notice of Claim or Notice of Revision or Disallowance issued by the Monitor, with reasons for its dispute;

“**Notice of Revision or Disallowance**” means a written notice, substantially in the form attached as Schedule “5” to the Claims Procedure Order, delivered to a Creditor advising that the Monitor has revised or disallowed all or part of such Creditor’s Filed Claim (as defined in the Claims Procedure Order) for the purposes of voting and/or distribution and providing the reasons for the revision or disallowance;

“**Order**” means any order of the CCAA Court in the CCAA Proceedings;

“**Person**” shall be broadly interpreted and includes, without limitation, any individual, corporation, limited or unlimited liability company, general or limited partnership, association, firm, trust, unincorporated organization, joint venture, venture capital fund, administrator or committee in respect of a registered pension plan, unincorporated association or organization, syndicate, committee, the government of a country, province or political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality or department of such

government or political subdivision, or any other entity, howsoever constituted, and the trustees, executors, administrators, or other legal representatives of an individual;

“**Plan**” means this Plan of Compromise and Arrangement, as it may be amended, restated, or supplemented from time to time in accordance with the provisions hereof;

“**Plan Implementation Date**” means a Business Day, as determined by the Applicant, once all conditions precedent to the implementation of this Plan set out in Section 8.2 have been satisfied or waived;

“**Plan Sponsor**” means Biscayne in its capacity as “Sponsor” under the Plan Support Agreement;

“**Plan Support Agreement**” means the plan support agreement, dated January 28, 2010, between the Applicant and Biscayne, as amended, attached as Appendix “A” to the Pre-filing Report of the Proposed Monitor, dated January 28, 2010;

“**Plan Support Deposit**” means the amount held by the Monitor pursuant to Section 3.01 of the Plan Support Agreement;

“**Plan Support Fund**” means the amount of CDN\$1,925,000;

“**Plan Support Fund Residual**” means the Plan Support Fund less the aggregate total of Base Distributions;

“**Plan Termination Date**” means June 7, 2010;

“**Pre-Filing Claim**” means any Claim other than (i) an Excluded Claim, and (ii) a Subsequent Claim;

“**Proof of Assignment**” means a notice of transfer or assignment of an Affected Claim executed by a Creditor and the transferee or assignee, together with satisfactory evidence of such transfer or assignment as may be reasonably required by the Monitor and the Applicant, in accordance with Paragraph 11 of the Claims Procedure Order;

“**Proof of Claim**” means a proof of claim, in substantially the form attached as Schedule 3 to the Claims Procedure Order, as submitted to the Monitor by a Creditor in accordance with the Claims Procedure Order;

“**Pro Rata Distribution**” means, for each Proven Claim, an amount calculated by multiplying the Plan Support Fund Residual by the Proven Claim Residual, divided by the aggregate total of all Proven Claim Residuals;

“**Proven Claim**” means the amount, status and/or validity of the Claim of a Creditor, as finally determined in accordance with the Claims Procedure Order, any other order of the CCAA Court and/or this Plan;

**“Proven Claim Residual”** means a Proven Claim less the Base Distribution on account of such Proven Claim;

**“Proven Creditor”** means a Creditor holding a Proven Claim;

**“Related Parties”** means 324, Biscayne, Shapes and H.I.G.;

**“Related Party Claims”** means Claims held by the Related Parties;

**“Sanction Date”** means the date that the Sanction Order is granted;

**“Sanction Order”** means an Order sanctioning this Plan and giving all necessary directions regarding its implementation, which shall include the provisions set forth in Section 9.1 of this Plan;

**“Secured Claim”** means any Claim or portion thereof that is secured by a validly attached and existing Lien on the property of the Applicant that was duly and properly registered or perfected in accordance with Applicable Law at the Filing Date or in accordance with the Initial Order, but only to the extent of the realizable value of the property of the Applicant subject to such security, still in the possession of the Applicant, having regard to, among other things, the priority of such security;

**“Shapes”** means Shapes L.L.C.;

**“Subsequent Claim”** means any right or claim of any Person, that may be asserted in whole or in part against the Applicant, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, present or future, arising after the Filing Date (but before the Plan is sanctioned by the Court) by reason of any obligation incurred by the Applicant before the Filing Date, including any indebtedness, liability, or obligation resulting from the termination of employment, or the disclaimer or resiliation by the Applicant in the CCAA Proceedings of an agreement that existed before the Filing Date, and any interest that may accrue thereon for which there is an obligation to pay, and costs payable at law or in equity in respect thereof, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature and that is provable under the BIA, but a “Subsequent Claim” shall not include an “Excluded Claim”;

**“Tax” or “Taxes”** means any and all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, penalties, fines, fees, other charges and additions with respect thereto;

**“Tax Claim”** means any Claim against the Applicant for any Taxes in respect of any taxation year or period ending on or prior to the Filing Date, and in any case where a taxation year or period commences on or prior to the Filing Date, for any Taxes in respect of or attributable to the portion of the taxation period commencing prior to the Filing Date and up to and including the Filing Date. For greater certainty, a “Tax Claim” shall include, without limitation, any and all Claims of any Taxing Authority in respect of transfer pricing adjustments and any Canadian or non-resident Tax related thereto;

**“Taxing Authorities”** means Her Majesty the Queen, Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of each and every province or territory of Canada and any political subdivision thereof, and any Canadian or foreign governmental authority exercising taxing powers in administering and/or collecting Taxes;

**“Unaffected Pickering Pension Plan”** means the defined contribution Pension Plan for the employees of the Applicant, Financial Services Commission of Ontario Reg. No. 1012053 relating to the Applicant’s operating facility in Pickering, Ontario.

## **1.2 Article and Section Reference**

The terms **“this Plan”**, **“hereof”**, **“hereunder”**, **“herein”**, and similar expressions refer to this Plan, and not to any particular article, section, subsection, paragraph or clause of this Plan and include any variations, amendments, modifications or supplements hereto. In this Plan, a reference to an article, section, subsection, clause or paragraph shall, unless otherwise stated, refer to an article, section, subsection, paragraph or clause of this Plan.

## **1.3 Extended Meanings**

In this Plan, where the context so requires, any word importing the singular number shall include the plural and vice versa, and any word or words importing gender shall include all genders.

## **1.4 Interpretation Not Affected by Headings**

The division of this Plan into articles, sections, subsections, paragraphs and clauses and the insertion of a table of contents and headings are for convenience of reference and shall not affect the construction or interpretation of this Plan.

## **1.5 Inclusive Meaning**

As used in this Plan, the words **“include”**, **“includes”**, **“including”** or similar words of inclusion means, in any case, those words as modified by the words **“without limitation”** and **“including without limitation”**; so that references to included matters shall be regarded as illustrative rather than exhaustive.

## **1.6 Currency**

Unless otherwise stated herein, all references to currency in this Plan are to Canadian Dollars. For the purposes of voting or distribution, Affected Claims shall be denominated in Canadian Dollars and all cash distributions under this Plan shall be paid in Canadian Dollars. Any Affected Claim in a currency other than Canadian Dollars will be deemed to have been converted to Canadian Dollars at the spot rate of exchange quoted by the Bank of Canada for exchanging such currency to Canadian Dollars as at noon on the Filing Date, which rate for greater certainty for the conversion of United States Dollars to Canadian Dollars was 1.0650.

## **1.7 Statutory References**

Any reference in this Plan to a statute includes all regulations made thereunder, all amendments to such statute or regulations in force from time to time to the date of this Plan and any statute or regulation that supplements or supersedes such statute or regulation to the date of this Plan.

## **1.8 Successors and Assigns**

The rights, benefits and obligations of any Person named or referenced in this Plan shall be binding on and shall inure to the benefit of any heir, administrator, executor, legal personal representative, successor or assign, as the case may be, or a trustee, receiver, interim receiver, receiver and manager, liquidator or other Person acting on behalf of such Person, as permitted hereunder.

## **1.9 Governing Law**

This Plan, shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law provision that would require the application of the law of any other jurisdiction. Any dispute or issue in connection with, or related to the interpretation, application or effect of this Plan and all proceedings taken in connection with this Plan and its revisions shall be subject to the exclusive jurisdiction of the CCAA Court.

## **1.10 Severability of Plan Provisions**

If any provision of this Plan is illegal, invalid or unenforceable, or becomes illegal, invalid or unenforceable on or following the Plan Implementation Date in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of this Plan, or the legality, validity or enforceability of that provision in any other jurisdiction.

## **1.11 Timing Generally**

Unless otherwise specified, all references to time herein, and in any document issued pursuant hereto, shall mean local time in Toronto, Ontario, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day.



### **1.12 Time of Payments and Other Actions**

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the payment to the next succeeding Business Day if the last day of the period is not a Business Day. Wherever any payment to be made or action to be taken under this Plan is required to be made or to be taken on a day other than a Business Day, such payment shall be made or action taken on the next succeeding Business Day.

### **1.13 Schedules**

The following are the Schedules to this Plan, which are incorporated by reference into this Plan and form an integral part hereof:

Schedule "A" - Form of Monitor's Certificate

## **ARTICLE 2 PURPOSE AND EFFECT OF PLAN**

### **2.1 Purpose**

The purpose of this Plan is:

- (a) to facilitate the rationalization of the Applicant's business of aluminum extrusion at its operating facility located in Pickering, Ontario; and
- (b) to provide for a compromise and arrangement of all Affected Claims against the Applicant;

in order to enable the business of the Applicant to continue as a going concern, in the expectation that a greater benefit will be derived by the Applicant and its stakeholders, including suppliers, customers, shareholders, secured creditors and employees, from the continued operation of the business of the Applicant and the distributions under the Plan than would result from the sale or forced liquidation of its assets.

## **ARTICLE 3 CLASSIFICATION OF CLAIMS**

### **3.1 Classification of Claims**

For the purposes of considering and voting on this Plan and receiving a distribution hereunder, the Affected Claims of the Creditors shall be grouped into a single class.

### **3.2 Affected Persons**

On the Plan Implementation Date, this Plan shall be binding upon the Applicant and the Creditors and their respective heirs, executors, administrators, legal representatives, successors and assigns in accordance with its terms, but shall not affect Excluded Claims.

### **3.3 Claims Excluded by the Plan**

This Plan does not compromise, release or otherwise affect the following Claims (collectively, “**Excluded Claims**”), and, subject to Section 3.4 hereof, such Excluded Claims shall be addressed by the Applicant in the ordinary course:

- (a) Claims for goods and/or services provided to the Applicant on or after the Filing Date;
- (b) Claims of the nature secured by the Administration Charge or the DIP Lender’s Charge;
- (c) Crown Claims;
- (d) Secured Claims, to the extent they are Proven Claims;
- (e) Related Party Claims; and
- (f) Claims relating to or in respect of the Unaffected Pickering Pension Plan.

### **3.4 Defences to Excluded Claims**

Nothing in this Plan shall affect the Applicant’s rights and defences, both legal and equitable, with respect to any Excluded Claims or any rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Excluded Claims. Nothing herein shall constitute a waiver of any right of either the Monitor or the Applicant to dispute the entitlement to or quantum of an Excluded Claim.

### **3.5 Crown Claims**

All Crown Claims in respect of all amounts that were outstanding at the Filing Date or related to the period ending on the Filing Date shall be paid in full to the Crown within six months of the Sanction Order, as required by section 6(3) of the CCAA.

## ARTICLE 4 TREATMENT OF CREDITORS

### 4.1 Voting by Creditors

Each Eligible Voting Creditor shall have one vote, which vote shall have the aggregate value of its Dispute Claim(s) and/or Proven Claim(s), as applicable. The Monitor shall keep a separate record and tabulation of any votes cast in respect of Disputed Claims. The Monitor shall report the result of the vote and the tabulation of votes of Proven Claims and Disputed Claims to the CCAA Court, and if the vote on the approval or rejection of the Plan by Eligible Voting Creditors is decided by the votes in respect of the Disputed Claims, the Applicant shall seek an order for an expedited determination of any material Disputed Claims and an appropriate deferral of the application for the Sanction Order and any other applicable dates in the Plan. The fact that a Disputed Claim is allowed for voting purposes shall not preclude the Applicant and the Monitor from disputing the Disputed Claim for distribution purposes.

### 4.2 Treatment of Proven Claims

The Monitor shall distribute to each Proven Creditor, in full satisfaction of its Proven Claim, a cash distribution equal to:

- (a) the Base Distribution; plus
- (b) the Pro Rata Distribution.

## ARTICLE 5 IMPLEMENTATION OF THE PLAN

### 5.1 Funding of Creditor Distributions

Prior to the issuance of the Creditors' Meeting Order, Biscayne shall have paid to the Monitor, or fund the Applicant's payment to the Monitor, the difference between the Plan Support Fund and the Plan Support Deposit, in satisfaction of Biscayne's obligation under the Plan Support Agreement.

### 5.2 Exit Financing and Charges

- (a) **Administration Charge.** On the Plan Implementation Date, (i) all outstanding, invoiced obligations, liabilities, fees and disbursements of the type secured by the Administration Charge shall be fully paid by the Applicant, and (ii) a reserve for any uninvoiced amounts of the type secured by the Administration Charge as of the Plan Implementation Date (together with an estimated amount for future accruals) shall be fully funded by the Applicant or Biscayne ("**Administration Charge Reserve**"). The amount of the Administration Charge Reserve shall be agreed to by the Monitor, the Applicant and Biscayne, acting reasonably, and the Administration Charge Reserve shall be administered by the Monitor. Subject to Section 8.1(g), upon payment of the amounts secured by the Administration

Charge, or the funding of the Administration Charge Reserve, the Administration Charge shall be and be deemed to be discharged from the assets of the Applicant and attach to the Administration Charge Reserve, if applicable. On the date of the discharge of the Monitor, to the extent that the Administration Charge Reserve exceeds the actual costs paid or payable from the Administration Charge Reserve, the excess amount shall be returned to the Applicant.

- (b) **DIP Lender's Charge.** On the Plan Implementation Date, all amounts owing by the Applicant to Biscayne pursuant to the DIP Term Sheet shall be (i) fully paid by the Applicant with cash on hand, or (ii) converted to liabilities of the Applicant under an exit financing facility between the Applicant (as borrower) and Biscayne or its designee (as lender), and shall be secured by such contractual security as may be agreed to by the parties, the terms and conditions of such exit facility to be settled by the Applicant and Biscayne, acting reasonably, not less than five Business Days prior to the Plan Implementation Date.

### 5.3 Effectuating Documents

Any Director or the Controller and Treasurer of the Applicant shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures and other agreements or documents, and take such other actions, as may be necessary or appropriate, to effectuate and further evidence the terms and conditions of this Plan. The secretary or assistant secretary of the Applicant shall be authorized to certify or attest to any of the foregoing actions.

## ARTICLE 6 PROVISIONS GOVERNING DISTRIBUTIONS

### 6.1 Distributions on Proven Claims

On the Initial Distribution Date, all Proven Creditors will receive distributions in accordance with Section 4.2 hereof, provided, however, that with respect to a Creditor that is the holder of both a Proven Claim and a Disputed Claim, the Monitor may elect, in its sole discretion, to withhold distribution on such Creditor's Proven Claim on the Initial Distribution Date and make a single distribution to such Proven Creditor on the Final Distribution Date.

### 6.2 Distribution when Disputed Claims Outstanding

In the event that the Monitor elects to designate an Initial Distribution Date while Disputed Claims are still outstanding, then for the purposes of the calculation of the Pro Rata Distribution only, Disputed Claims shall be treated as though they are Proven Claims. For greater certainty, no distribution will be made on account of Disputed Claims unless and until such Disputed Claims become Proven Claims, but the aggregate amount of the Pro Rata Distribution attributable to such Disputed Claims shall be held in reserve by the Monitor in a separate, interest bearing trust account (the "**Disputed Claims Reserve**").

### **6.3 Final Distribution on Account of Proven Claims**

On the Final Distribution Date, the Disputed Claims Reserve shall be distributed to Proven Creditors, such that the total of distributions made to each Proven Creditor shall be the Base Distribution plus the Pro Rata Distribution.

### **6.4 Distributions by the Monitor**

All cash distributions to be made under this Plan to a Proven Creditor shall be made by the Monitor by cheque and will be sent, via regular mail, to such Proven Creditor to the last known address for such Proven Creditor in the list of Known Creditors provided to the Monitor by the Applicant pursuant to the Claims Procedure Order or, if a Proven Creditor filed a Proof of Claim or Notice of Dispute, the address specified in the Proof of Claim or Notice of Dispute filed by such Proven Creditor or such other address as the Proven Creditor may from time to time notify the Monitor in accordance with Section 11.8 of this Plan.

### **6.5 Interest on Affected Claims**

No interest or penalties shall accrue or be paid on an Affected Claim from and after or in respect of the period following the Filing Date and no holder of an Affected Claim will be entitled to any interest in respect of such Affected Claim accruing on or after or in respect of the period following the Filing Date. All interest accruing on any Affected Claim after or in respect of the period following the Filing Date shall be forever extinguished and released under this Plan.

### **6.6 Distributions in respect of Transferred or Assigned Claims**

The Applicant and the Monitor shall not be obligated to deliver any distributions under this Plan to any transferee or assignee of an Affected Claim unless a Proof of Assignment has been delivered to the Monitor and the Applicant no later than five Business Days prior to the Initial Distribution Date or Final Distribution Date, as applicable to such assigned Affected Claim.

### **6.7 Undeliverable and Unclaimed Distributions**

If any delivery or distribution to be made pursuant to Article 6 of this Plan is returned as undeliverable, or in the case of any distribution made by cheque, the cheque remains uncashed, for a period of more than seven months after the Final Distribution Date, or the date of delivery or mailing of the cheque, whichever is later, the Claim of any Proven Creditor with respect to such undelivered or unclaimed distribution shall be discharged and forever barred, notwithstanding any federal or provincial laws to the contrary and any such cash allocable to the undeliverable or unclaimed distribution, shall be released by the Monitor to the Applicant, free and clear of any claims of said Proven Creditor or any other Creditors and their respective successors and assigns. Nothing contained in this Plan shall require the Applicant or the Monitor to attempt to locate any holder of any undeliverable or unclaimed distributions.

## 6.8 Tax Matters

- (a) **Allocation of Distributions.** All distributions made pursuant to this Plan in respect of a Proven Claim shall be applied first in consideration of the outstanding principal amount of such Proven Claim, and secondly in consideration of the accrued and unpaid interest and penalties, if any, which form part of such Proven Claim. Notwithstanding any other provision of this Plan, including subsection (b) below, each Proven Creditor that is to receive a distribution or payment pursuant to this Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed by any Authorized Authority on account of such distribution.
- (b) **Withholding Rights.** All distributions hereunder shall be subject to any withholding and reporting requirements imposed by any Applicable Law or any Taxing Authority and the Applicant shall direct the Monitor, on behalf of the Applicant, to deduct, withhold and remit from any distributions hereunder payable to a Proven Creditor or to any Person on behalf of any Proven Creditor, such amounts as the Applicant determines that it or the Monitor, on behalf of the Applicant, are required to deduct and withhold with respect to such payment under the ITA or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or succeeded. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes as having been paid to the Proven Creditor in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate Taxing Authority. The Monitor shall have no responsibility to undertake any investigation regarding the Applicant's directions (or lack thereof) with respect to withholding and reporting requirements. Unless directed to withhold from a distribution on account of a Proven Claim by the Applicant, the Monitor shall have no liability with respect to any claim arising from any failure to make withholdings from any distribution on account of a Proven Claim.

## ARTICLE 7 CREDITORS' MEETING

### 7.1 Creditors' Meeting and Conduct

The Creditors' Meeting to consider and vote on this Plan shall be held and conducted by the Monitor in accordance with the terms of the Creditors' Meeting Order.

### 7.2 Acceptance of Plan

If the Plan is approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting, being a majority in number of Creditors present and voting either in person or by proxy, representing two thirds in value of the aggregate Affected Claims, then this Plan shall be approved and shall be deemed to have been agreed to, accepted and approved by the Creditors and shall be binding upon all Creditors, if the Sanction Order is granted.

**ARTICLE 8**  
**CONDITIONS OF PLAN IMPLEMENTATION**

**8.1 Sanction Order**

If this Plan is approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting, the Applicant shall bring a motion before the CCAA Court for the Sanction Order as soon as reasonably practicable, which Sanction Order shall provide, among other things, that:

- (a) (i) this Plan has been approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting in conformity with the CCAA; (ii) the Applicant acted in good faith and has complied with the provisions of the CCAA and the Orders made in the CCAA Proceedings in all respects; (iii) the CCAA Court is satisfied that the Applicant has not done nor purported to do anything that is not authorized by the CCAA; and (iv) this Plan and the transactions contemplated by it are fair and reasonable;
- (b) this Plan (including the compromises, arrangements and releases set out herein) shall be sanctioned and approved pursuant to Section 6 of the CCAA and will be binding and effective as herein set out on the Applicant, all Creditors and all other Persons as provided for in this Plan or in the Sanction Order;
- (c) subject to the performance by the Applicant and Biscayne of their respective obligations under this Plan, and except to the extent expressly contemplated by this Plan or the Sanction Order, all obligations or agreements to which the Applicant is a party, other than agreements which were terminated or repudiated by the Applicant prior to the deadline specified in the Creditors' Meeting Order in accordance with the Initial Order, will be and shall remain in full force and effect as at the Plan Implementation Date, unamended except as they may have been amended by agreement of the parties subsequent to the Filing Date in accordance with the Plan, and no Person who is a party to any such obligations or agreements shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, option, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason of:
  - (i) any defaults or events of default arising as a result of the insolvency of the Applicant prior to the Plan Implementation Date;
  - (ii) any change of control of the Applicant arising from implementation of the Plan;
  - (iii) the fact that the Applicant has sought or obtained relief under the CCAA or that this Plan has been implemented by the Applicant;

- (iv) the effect on the Applicant of the completion of any of the transactions contemplated by this Plan;
  - (v) any compromises or arrangements effected pursuant to this Plan; or
  - (vi) any other event(s) which occurred on or prior to the Plan Implementation Date which would have entitled any Person to enforce rights and remedies, subject to any express provisions to the contrary in any agreements entered into with the Applicant after the Filing Date. For greater certainty, nothing in this paragraph shall waive any obligations of the Applicant in respect of any Excluded Claim;
- (d) the appointment of one or more Claims Officer(s), if applicable, shall cease on the Plan Implementation Date, except with respect to matters to be completed pursuant to the Claims Procedure Order and this Plan after the Plan Implementation Date (including, without limitation, the resolution of the Disputed Claims), unless otherwise agreed with the Applicant;
  - (e) the commencement or prosecution, whether directly, indirectly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgment, or other remedy or recovery with respect to any Claim released, discharged or terminated pursuant to this Plan shall be permanently enjoined;
  - (f) the releases effected by this Plan shall be approved, and declared to be binding and effective as of the Plan Implementation Date upon all Creditors, the Monitor and all other Persons affected by this Plan and shall enure to the benefit of all such Persons; and
  - (g) all Charges established by the Initial Order (other than the Administrative Charge) or any other Order of the CCAA Court, shall be terminated, released and discharged effective on the Plan Implementation Date, save and except insofar as the Administration Charge has attached to the Administration Charge Reserve established by the Monitor pursuant to Section 5.2 herein.

## **8.2 Conditions of Plan Implementation**

The implementation of this Plan shall be conditional upon the fulfillment or waiver, where applicable, of the following conditions on or before the Plan Implementation Date:

- (a) this Plan shall have been approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting;
- (b) the Sanction Order shall have been granted by the CCAA Court in a form acceptable to the Applicant and Biscayne, and shall be in full force and effect and not reversed, stayed, varied, modified or amended;



- (c) all applicable appeal periods in respect of the Sanction Order shall have expired and in the event of an appeal or application for leave to appeal, final determination shall have been made by the applicable appellate court;
- (d) all approvals, orders, determinations or consents required pursuant to Applicable Law (including approvals under the *Investment Canada Act* and/or the *Competition Act*), if applicable, shall have been obtained on terms and conditions satisfactory to the Applicant, Biscayne and the Monitor, acting reasonably, and shall remain in full force and effect on the Plan Implementation Date;
- (e) all necessary corporate action and proceedings of the Applicant shall have been taken to approve this Plan and to enable the Applicant to execute, deliver and perform its obligations under the agreements, documents and other instructions to be executed and delivered by it pursuant to this Plan;
- (f) the delivery, completion and execution of any documentation required in connection with the exit financing facility as contemplated in Section 5.2 shall have occurred;
- (g) all agreements, resolutions, documents and other instruments, which are necessary to be executed and delivered by Biscayne (whether in its capacity as DIP Lender or Plan Sponsor) or any director or officer of the Applicant in order to implement this Plan and perform their obligations under this Plan shall have been executed and delivered; and
- (h) the Monitor shall file the Monitor's Certificate with the CCAA Court and deliver a copy thereof to the Applicant and Biscayne.

Except for the conditions set out in 8.2(a), (b) and (h), each of the conditions set out in this Section 8.2 may be waived in whole or in part by the Applicant with the consent of Biscayne by written notice to the Monitor. If a condition set out above has not been satisfied or waived in accordance with this Section 8.2 on or before the date of the Plan Termination Date, this Plan shall automatically terminate, in which case the Applicant shall not be under any further obligation to implement this Plan.

### **8.3 Monitor's Certificate**

Upon written notice from the Applicant and Biscayne (or respective counsel on their behalf) to the Monitor that the conditions set out in Section 8.2, other than condition 8.2(h), have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Applicant and Biscayne, and file with the CCAA Court, a certificate which states that all conditions precedent set out in Section 8.2 have been satisfied or waived, in substantially the form as the certificate attached as Schedule "A" to this Plan (the "**Monitor's Certificate**").

**ARTICLE 9  
AMENDMENTS TO THE PLAN**

**9.1 Amendments to Plan Prior to Approval**

The Applicant reserves the right to file any variation or modification of, or amendment or supplement to, this Plan by way of a supplementary or amended and restated plan or plans of compromise or arrangement or both filed with the CCAA Court at any time or from time to time prior to the commencement of the Creditors' Meeting, provided that the Applicant obtains the prior consent of the Monitor and Biscayne to any such variation, modification, amendment or supplement. Any such supplementary or amended and restated plan or plans of compromise or arrangement or both shall, for all purposes, be deemed to be a part of and incorporated into this Plan. Any such variation, modification, amendment or supplement shall be posted on the Monitor's Website on the day on which it is filed with the CCAA Court and notice will be provided to the CCAA Proceedings service list. Creditors are advised to check the Monitor's Website regularly. Creditors who wish to receive written notice of any variation, modification, amendment or supplement to the Plan should contact the Monitor in the manner set out in Section 11.8 of this Plan. Creditors in attendance at the Creditors' Meeting will also be advised of any amendment made to the Plan.

In addition, the Applicant may propose a variation, modification of, or amendment or supplement to this Plan during the Creditors' Meeting, provided that (a) the Applicant obtains the prior consent of the Monitor and Biscayne to any such variation, modification, amendment or supplement, and (b) notice of such variation, modification, amendment or supplement is given to all Eligible Voting Creditors present in person or by proxy at the Creditors' Meeting prior to the vote being taken, in which case any such variation, modification, amendment or supplement shall, for all purposes, be deemed to be part of the Plan. Any variation, amendment, modification or supplement at the Creditors' Meeting will be promptly posted on the Monitor's Website and filed with the CCAA Court as soon as practicable following the Creditors' Meeting.

**9.2 Amendments to Plan Following Approval**

After the Creditors' Meeting (and both prior to and subsequent to the obtaining of the Sanction Order), the Applicant may at any time and from time to time vary, amend, modify or supplement this Plan without the need for obtaining an Order of the CCAA Court or providing notice to the Creditors, if the Applicant, Biscayne and the Monitor, acting reasonably and in good faith, determine that such variation, amendment, modification or supplement is of a technical or administrative nature that would not be materially prejudicial to the interests of any of the Creditors under this Plan and is necessary in order to give effect to the substance of this Plan or the Sanction Order. The Monitor shall post a notice of such variance, amendment, modification or supplement to the Plan on the Monitor's Website, together with the varied, amended, modified or supplemented language.

**ARTICLE 10**  
**PLAN IMPLEMENTATION AND EFFECT OF THE PLAN**

**10.1 Implementation**

On the Plan Implementation Date, subject to the satisfaction or waiver of the conditions contained in Section 8.2 of this Plan, this Plan shall be implemented by the Applicant and shall be binding upon all Creditors in accordance with the terms of this Plan and the Sanction Order.

**10.2 Effect of the Plan Generally**

The payment, compromise or satisfaction of any Affected Claims under this Plan, if sanctioned and approved by the CCAA Court, shall be binding upon each Creditor, his, her or its heirs, executors, administrators, legal personal representatives, successors and assigns, as the case may be, for all purposes and this Plan will constitute: (a) full, final and absolute settlement of all rights of any Creditor against the Applicant in respect of the Affected Claims; and (b) an absolute release and discharge of all indebtedness, liabilities and obligations of or in respect of the Affected Claims against the Applicant, including any interest or costs accruing thereon whether before or after the Filing Date.

**10.3 Compromise Effective for All Purposes**

No Person who has a Claim as a guarantor, surety, indemnitor or similar covenant in respect of any Claim which is compromised under this Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim which is compromised under this Plan shall be entitled to any greater rights than the Creditor whose Claim was compromised under this Plan. Accordingly, the payment, compromise or other satisfaction of any Claim under this Plan, if sanctioned and approved by the CCAA Court, shall be binding upon such Creditor, its heirs, executors, administrators, successors and assigns for all purposes and, to such extent, shall also be effective to relieve any third party directly or indirectly liable for such indebtedness, whether as guarantor, surety, indemnitor, director, joint covenantor, principal or otherwise.

**10.4 Contracts**

As of the Plan Implementation Date, each contract to which the Applicant is a party as at the Filing Date, as it may have been modified, amended or varied after the Filing Date remains in full force and effect as at the Plan Implementation Date (other than in respect of Claims that are affected by this Plan) unless such contract: (a) is the subject of a notice of repudiation or disclaimer delivered prior to the deadline specified in the Creditors' Meeting Order, or (b) has expired or terminated pursuant to its terms.

**10.5 Plan Releases**

On the Plan Implementation Date:

- (a) The Applicant shall be forever released from all Affected Claims;

- (b) In consideration for the obligations of the Applicant and Biscayne under the Plan and the distributions to be delivered in connection with the Plan, each holder of a Claim (whether or not a Proven Claim) against, or equity interests in, the Applicant, and each Person or entity participating in distributions under or pursuant to the Plan, for itself and its respective successors and assigns, transferees, current and former officers, directors, agents and employees, in each case in their capacity as such, shall be deemed to have released (i) the Applicant; (ii) the Related Parties; (iii) the Monitor; (iv) subject to section 5.1(2) of the CCAA, any of their respective directors, officers, employees, agents, professional advisors (including legal counsel) affiliates and their respective property, and (v) any person who may claim contribution or indemnification against for from the Applicants, the Related Parties or the Monitor, of any and all demands, claims, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, charges and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereinafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or before the Plan Implementation Date relating to, arising out of or in connection with the Applicant, the Applicant's property, business or affairs, this Plan, the CCAA Proceedings or the DIP Term Sheet;
  
- (c) The Applicant shall release and be permanently enjoined from any prosecution or attempted prosecution against (i) the Monitor, (ii) the Related Parties, and (iii) any of the Related Parties' and the Monitor's respective directors, officers, employees, agents, professional advisors (including legal counsel), affiliates and their respective property, of any and all demands, claims, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, charges and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereinafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or before the Plan Implementation Date relating to, arising out of or in connection with the Applicant, the Applicant's property, business or affairs, this Plan, the CCAA Proceedings or the DIP Term Sheet;

provided, however, that nothing in this Section 10.5 shall release (i) any Person from fraud, gross negligence, wilful misconduct, or criminal conduct, (ii) any Excluded Claim, or (iii) any Person's right to enforce the Applicant's obligations under this Plan.

## **10.6 Stay of Proceedings**

Any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings, enforcement processes or other remedies commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any Person having a Claim, and by any employees,

shareholders, customers, suppliers, contractors, lenders, equipment lessors, licensors, licensees, sub-licensors, sub-licensees, governments of 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 and 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 or entity wherever situate or domiciled, against or in respect of the Applicant or in respect of any property, assets, rights, concessions and undertaking wherever located, whether held by the Applicant, in whole or in part, directly or indirectly, as principal, agent or nominee, beneficially or otherwise, whether pursuant to the BIA or otherwise, shall be permanently stayed as reflected in the Sanction Order.

### **10.7 Knowledge of Claims**

Each Person to which Section 10.5 applies shall be deemed to have granted the releases set forth in Section 10.5 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those Claims or causes of action known or suspected to exist at the time of the granting of the release.

### **10.8 Exculpation**

None of (i) the Applicant; (ii) the Related Parties; (iii) the Monitor; and (iv) any of their respective directors, officers, employees, agents, professional advisors (including legal counsel) or successors and assigns, shall have or incur any liability to any holder of a Claim or equity interest in the Applicant, or other party in interest, or any of their respective members, officers, directors, employees, professional advisors (including legal counsel) or agents or any of their successors and assigns, for any act or omission in connection with, related to, or arising out of the CCAA Proceedings, the pursuit of the sanction of the Plan, the consummation of the Plan or the administration of the Plan, or the property to be distributed under the Plan, including the negotiation and solicitation of the Plan, except for wilful misconduct or gross negligence, and, in all respects, the Applicant and each other their respective members, officers, directors, employees, professional advisors (including legal counsel) or agents shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

### **10.9 Waiver of Defaults**

From and after the Plan Implementation Date, and subject to any express provisions to the contrary in any amending agreement entered into with the Applicant after the Filing Date, all Persons shall be deemed to have waived any and all defaults of the Applicant then existing or previously committed by the Applicant or caused by the Applicant or any of the provisions hereof or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, express or implied, in every contract, agreement, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease, personal property lease or other agreement, written or oral, any amendments or

supplements thereto, existing between such Person and the Applicant. Any and all notices of default, acceleration of payments and demands for payments under any instrument, or other notices, including without limitation, any notices of intention to proceed to enforce security, arising from any of such aforesaid defaults shall be deemed to have been rescinded and withdrawn. For greater certainty, nothing in this paragraph shall waive any obligations of the Applicant in respect of any Excluded Claim.

#### **10.10 Consents and Releases**

From and after the Plan Implementation Date, all Persons with a Claim shall be deemed to have consented and to have agreed to all of the provisions of this Plan as an entirety. In particular, each Creditor shall be deemed to have granted, and executed and delivered to the Applicant all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out this Plan in its entirety.

#### **10.11 Deeming Provisions**

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

### **ARTICLE 11 GENERAL PROVISIONS**

#### **11.1 Different Capacities**

Creditors whose Claims are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, each such Creditor shall be entitled to participate hereunder in each such capacity. Any action taken by a Creditor in any one capacity shall not affect the Creditor in any other capacity, unless expressly agreed by the Creditor in writing or unless the Claims overlap or are otherwise duplicative.

#### **11.2 Further Assurances**

Notwithstanding that the transactions and events set out in this Plan may be deemed to occur without any additional act or formality other than as may be expressly set out herein, each of the Persons affected hereto shall make, do, and execute or cause to be made, done or executed all such further acts, deeds, agreements, assignments, transfers, conveyances, discharges, assurances, instruments, documents, elections, consents or filings as may be reasonably required by the Applicant in order to implement this Plan.

#### **11.3 Set-Off**

The law of set-off applies to all Claims made against the Applicant and to all actions instituted by it for the recovery of debts due to the Applicant in the same manner and to the same extent as if the Applicant was plaintiff or defendant, as the case may be.

#### **11.4 Paramountcy**

Without limiting any other provision hereof, from and after the Plan Implementation Date, in the event of any conflict between this Plan and the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed, or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease, personal property lease or other agreement, written or oral and any and all amendments or supplements thereto existing between the Applicant and any other Persons affected by this Plan, the terms, conditions and provisions of this Plan shall govern and shall take precedence and priority.

To the extent the Plan is inconsistent with the report of the Monitor filed in connection with the Plan, the provisions of the Plan shall govern and shall take precedence and priority.

#### **11.5 Revocation, Withdrawal, or Non-Consummation**

The Applicant reserves the right to revoke or withdraw this Plan at any time prior to the Plan Implementation Date and to file subsequent plans of compromises or arrangement (or to file no subsequent plan), in each case with the consent of the Monitor and Biscayne. If the Applicant revokes or withdraws this Plan, or if the Sanction Order is not issued, (a) this Plan shall be null and void in all respects, (b) any Affected Claim, any settlement or compromise embodied in this Plan (including the fixing or limiting of any Affected Claim to an amount certain), assumption or termination, repudiation of contracts or leases effected by this Plan, any document or agreement executed pursuant to this Plan shall be deemed null and void, and (c) nothing contained in this Plan, and no action taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Affected Claims by or against the Applicant or any Person; (ii) prejudice in any manner the rights of the Applicant or any Person in any further proceedings involving the Applicant, or (iii) constitute an admission of any sort by the Applicant or any Person.

#### **11.6 Preservation of Rights of Action**

Except as otherwise provided in this Plan or in the Sanction Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, following the Plan Implementation Date, the Applicant will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Applicant may hold against any Person or entity without further approval of the CCAA Court.

#### **11.7 Responsibilities of the Monitor**

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings with respect to the Applicant and is not responsible or liable for any obligations of the Applicant. The Monitor will have the powers granted to it by this Plan, by the CCAA and by any Order, including the Initial Order.

## 11.8 Notices

Any notice or communication to be delivered hereunder will be in writing and will reference this Plan and may, subject to as hereinafter provided, be made or given by personal delivery or by facsimile or email transmission addressed to the respective parties as follows:

(a) if to the Applicant:

Signature Aluminum Canada Inc.  
500 Edward Avenue  
Richmond Hill, Ontario L4C 4Y9

Attention: Parminder Punia  
Fax: 905-884-2453  
E-mail: [parminder.punia@signaturealuminumcanada.com](mailto:parminder.punia@signaturealuminumcanada.com)

with a copy to:

Blake, Cassels & Graydon LLP  
199 Bay Street, Suite 2800  
Commerce Court West  
Toronto, ON M5L 1A9

Attention: Linc Rogers  
Fax: 416-863-2653  
E-mail: [linc.rogers@blakes.com](mailto:linc.rogers@blakes.com)

and a copy to:

FTI Consulting Canada Inc.  
TD Waterhouse Tower, Suite 2010  
79 Wellington Street  
Toronto, Ontario M5K 1G8

Attention: Nigel Meakin  
Fax: 416-649-8101  
E-mail: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

and a copy to:

Ogilvy Renault LLP  
Royal Bank Plaza, South Tower  
200 bay Street, Suite 3800  
P.O. Box 84  
Toronto, Ontario M5J 2Z4

Attention: Virginie Gauthier



Fax: 416-216-3930  
email: [vgauthier@ogilvyrenault.com](mailto:vgauthier@ogilvyrenault.com)

(b) if to a Creditor:

To the last known address (including fax number or email address) for such Creditor set out in the books and records of the Applicant or, if a Creditor filed a Proof of Claim, the address specified in the Proof of Claim filed by such Creditor or such other address as the Creditor may from time to time notify the Monitor in accordance with this Section.

(c) if to the Monitor:

FTI Consulting Canada Inc.  
TD Waterhouse Tower, Suite 2010  
79 Wellington Street  
Toronto, Ontario M5K 1G8

Attention: Nigel Meakin  
Fax: 416-649-8101  
E-mail: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

with a copy to:

Ogilvy Renault LLP  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 3800  
P.O. Box 84  
Toronto, Ontario M5J 2Z4

Attention: Virginie Gauthier  
Fax: 416-216-3930  
email: [vgauthier@ogilvyrenault.com](mailto:vgauthier@ogilvyrenault.com)

(d) if to Biscayne:

Biscayne Metals Finance, LLC  
c/o H.I.G. Bayside Capital  
1001 Brickell Bay Drive, 26<sup>th</sup> Floor  
Miami, Florida 33131

Attention: Sean Ozbolt  
Fax: 305-379-3655  
E-mail: [sozbolt@higcapital.com](mailto:sozbolt@higcapital.com)

with a copy to:

Gowling Lafleur Henderson LLP  
100 King Street West, Suite 1600  
Toronto, ON M5X 1G5

Attention: Clifton Prophet  
Fax: 416-863-3509  
E-mail: [clifton.prophet@gowlings.com](mailto:clifton.prophet@gowlings.com)

and a copy to:

FTI Consulting Canada Inc.  
TD Waterhouse Tower, Suite 2010  
79 Wellington Street  
Toronto, Ontario M5K 1G8

Attention: Nigel Meakin  
Fax: 416-649-8101  
E-mail: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

and a copy to:

Ogilvy Renault LLP  
Royal Bank Plaza, South Tower  
200 bay Street, Suite 3800  
P.O. Box 84  
Toronto, Ontario M5J 2Z4

Attention: Virginie Gauthier  
Fax: 416-216-3930  
email: [vgauthier@ogilvyrenault.com](mailto:vgauthier@ogilvyrenault.com)

or to such other address as any party may from time to time notify the others in accordance with this Section. All such notices and communications which are delivered will be deemed to have been received on the date of delivery. All such notices and communications which are faxed or emailed will be deemed to be received on the date faxed or emailed if sent before 5:00 p.m. (Toronto Time) on a Business Day and otherwise will be deemed to be received on the Business Day next following the day upon which such fax or email was sent.

**SCHEDULE "A"**

**FORM OF MONITOR'S CERTIFICATE**

Court File No. CV-10-8561-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF SIGNATURE ALUMINUM CANADA INC.**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36, AS AMENDED**

**MONITOR'S CERTIFICATE**

**RECITALS**

- A. Pursuant to the order of this Honourable Court dated January 29, 2010 (the "Initial Order") Signature Aluminum Canada Inc. ("the Applicant") filed for and obtained protection from its creditors under the *Companies' Creditors Arrangement Act* R.S.C. 1985, c. C-36, as amended.
- B. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed the Monitor of the Applicant (the "Monitor") with the powers, duties and obligations set out in the Initial Order;
- C. The Applicant has filed a Plan of Compromise and Arrangement under the CCAA dated May 3, 2010 (the "Plan"), which Plan has been approved by the Creditors and the Court; and
- D. Unless otherwise indicated herein, initially capitalized terms used herein have the meaning set out in the Plan.

\* \* \* \* \*

**THE MONITOR HEREBY CERTIFIES** that it has been advised by the Applicant and Biscayne in accordance with Section 8.3 of the Plan that the conditions precedent set out in Section 8.2 of the Plan, other than the delivery of this certificate, have been satisfied or waived in accordance with the Plan on \_\_\_\_\_, 2010 and that accordingly, the Plan Implementation Date is \_\_\_\_\_, 2010.

**DATED** at Toronto, Ontario, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**FTI CONSULTING CANADA INC.**, in its capacity as Monitor of Signature Aluminum Canada Inc. and not in its personal or corporate capacity

By: \_\_\_\_\_  
Name:  
Title:

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

Court File No: CV-10-8561-00CL

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

Proceeding commenced at Toronto

**PLAN OF COMPROMISE AND  
ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.  
(May 4, 2010)**

**BLAKE, CASSELS & GRAYDON LLP**  
Barristers & Solicitors  
Box 25, Commerce Court West  
199 Bay Street, Suite 2800  
Toronto, Ontario M5L 1A9

**Linc Rogers** LSUC #43562N  
Tel: (416) 863-4168

**Katherine McEachern** LSUC#38345M  
Tel: (416) 863-2566

**Jackie Moher** LSUC #53166V  
Tel: (416) 863-3174  
Fax: (416) 863-2653

Lawyers for the Applicant

**SCHEDULE "B" TO CREDITORS' MEETING ORDER**  
**FORM OF NOTICE OF CREDITORS' MEETING**  
**(Attached)**

**NOTICE OF THE CREDITORS' MEETING  
OF SIGNATURE ALUMINUM CANADA INC.**  
(hereinafter referred to as the "Applicant")

Capitalized terms used and not otherwise defined in this Notice are as defined in the Creditors' Meeting Order.

NOTICE IS HEREBY GIVEN that the Plan of Compromise and Arrangement of the Applicant dated May 4, 2010 (as may be amended from time to time, the "Plan") was filed pursuant to the Companies' Creditors Arrangement Act (the "CCAA") with the Ontario Superior Court of Justice, Commercial List (the "CCAA Court") on May 11, 2010. The Plan contemplates the compromise of the rights and claims of certain creditors of the Applicant. A copy of the Plan is enclosed in the Information Package. Details of the Plan and the distributions to be made thereunder to creditors are more fully described in the Monitor's Third Report enclosed in the Information Package.

NOTICE IS ALSO HEREBY GIVEN that the Applicant may vary, modify amend, or supplement the Plan:

- (i) By way of supplementary or amended and restated plan or plans of compromise or arrangement or both filed with the CCAA Court (an "Amended Plan") at any time or from time to time prior to the commencement of the Creditors' Meeting (as defined hereafter), provided that the Applicant obtains the prior consent of FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor of the Applicant (the "Monitor") and Biscayne Metals Finance, L.L.C. (the "Plan Sponsor") to any such variation, modification, amendment or supplement. Any such Amended Plan will, for all purposes, be deemed to be part of and incorporated into this Plan. Any such variation, modification, amendment or supplement shall be posted on the Monitor's website <http://cfcanada.fticonsulting.com/signature> (the "Monitor's Website") on the day on which it is filed with the CCAA Court and notice will be provided to the CCAA Proceedings service list. Creditors are advised to check the Monitor's Website regularly. Creditors who wish to receive written notice of any variation, modification, amendment or supplement to the Plan should contact the Monitor by email at [signature@fticonsulting.com](mailto:signature@fticonsulting.com), by telephone at 1 (800) 323-0140, or at the address of the Monitor listed in the Plan.
- (ii) By proposing any such variation, modification of, or amendment or supplement to the Plan during the Creditors' Meeting, provided that (a) the Applicant obtains the prior consent of the Monitor and the Plan Sponsor to any such variation, modification, amendment or supplement, and (b) notice of such variation, modification, amendment or supplement is given to all Creditors entitled to vote present in person or by proxy at the Creditors' Meeting prior to the vote being taken, in which case any such variation, modification, amendment or supplement shall, for all purposes, be deemed to be part of the Plan. Any variation, amendment, modification or supplement at the Creditors' Meeting will be promptly posted on the Monitor's Website and filed with the CCAA Court as soon as practicable following the Creditors' Meeting.

- (iii) After the Creditors' Meeting (and both prior to and subsequent to the obtaining of an Order sanctioning the Plan (the "Sanction Order"), the Applicant may at any time and from time to time vary, amend, modify or supplement this Plan without the need for obtaining an Order of the CCAA Court or providing notice to the Creditors, if the Applicant, the Plan Sponsor and the Monitor, acting reasonably and in good faith, determine that such variation, amendment, modification or supplement is of a technical or administrative nature that would not be materially prejudicial to the interests of any of the Creditors under this Plan and is necessary in order to give effect to the substance of this Plan or the Sanction Order. The Monitor shall post a notice of such variance, amendment, modification or supplement to the Plan on the Monitor's Website, together with the varied, amended, modified or supplemented language.

NOTICE IS ALSO HEREBY GIVEN that the order of the CCAA Court dated May 11, 2010 (the "Creditors' Meeting Order") established the procedures for the Applicant to call, hold and conduct a meeting of its Creditors (the "Creditors' Meeting") to consider and vote on the Plan. For the purpose of considering and voting on the Plan, and receiving distributions thereunder, the Affected Claims of the Creditors shall be grouped into a single class.

NOTICE IS ALSO HEREBY GIVEN that the Creditors' Meeting will be held at the following date, time and location:

Date: June 1, 2010  
Time: 10:00 a.m. (Toronto time)  
Location: Ogilvy Renault LLP  
Boardrooms A & B  
Suite 3800, Royal Bank Plaza, South Tower  
200 Bay Street  
Toronto, ON M5J 2Z4

Only those Creditors with a Proven Claim or a Disputed Claim (each such creditor, an "Eligible Voting Creditor") (or their respective proxyholders) will be eligible to attend the Creditors' Meeting and vote on the Plan. The votes of Creditors holding Disputed Claims will be separately tabulated by the Monitor, and Disputed Claims will be resolved in accordance with the Claims Procedure Order and the Creditors' Meeting Order prior to any distribution on account of such Disputed Claims. Holders of an Excluded Claim will not be entitled to attend and vote at the Creditors' Meeting.

Any Eligible Voting Creditor who is unable to attend the applicable Creditors' Meeting may vote by proxy. Further, any Eligible Voting Creditor who is not an individual may only attend and vote at the Creditors' Meeting if a proxyholder has been appointed to act on its behalf at such Creditors' Meeting.

Proxies, once duly completed, dated and signed, must be sent by email to the Monitor, or if cannot be sent by email, delivered to the Monitor at the address of the Monitor as set out on the Proxy form. Proxies must be received by the Monitor by no later than 1:00 p.m. (Toronto time) on the last Business Day preceding the date set for the Creditors' Meeting or any adjournment thereof. Proxies may also be delivered by hand to the Chair prior to the commencement of the



Creditors' Meeting. After commencement of the Creditors' Meeting, no Proxies can be accepted by the Monitor.

NOTICE IS ALSO HEREBY GIVEN that if the Plan is approved by the Required Majorities (as defined below) at the Creditors' Meeting, the Applicant shall seek approval of the Plan by the CCAA Court at a motion for the Sanction Order, which motion shall be returnable before the CCAA Court at 10:00 a.m. (Toronto time) on June 4, 2010, or as soon after that date as the matter can be heard (the "Sanction Hearing"). Any person wishing to oppose the motion for the Sanction Order must serve upon the lawyers for both the Applicant and the Monitor as well as those parties listed on the Service List as posted on the Monitor's Website, prior to the Sanction Hearing, a copy of the materials to be used to oppose the motion for approval of the Plan, setting out the basis for such opposition.

NOTICE IS ALSO HEREBY GIVEN that in order for the Plan to become effective:

- (i) the Plan must be approved at the Creditors' Meeting by the affirmative vote of a majority in number, representing not less than two-thirds in value of the voting claims, of Eligible Voting Creditors, in person or by proxy (the "Required Majorities");
- (ii) the Plan must be sanctioned by the CCAA Court; and
- (iii) the conditions to the implementation of the Plan as set out in the Plan must be satisfied or waived.

Additional copies of the Information Package, including the Plan, may be obtained from the Monitor's Website (<http://cfcanada.fticonsulting.com/signature/>), or by requesting one from the Monitor by email at [signature@fticonsulting.com](mailto:signature@fticonsulting.com) or by telephone at 1 (800) 323-0140.

**SCHEDULE "C" TO CREDITORS' MEETING ORDER  
FORM OF PROXY**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF SIGNATURE ALUMINUM CANADA INC.

PROXY

Before completing this Proxy, please read carefully the accompanying instructions for the proper completion and return of the form.

Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the Plan of Compromise and Arrangement of the Applicant dated May 4, 2010 (as may be amended from time to time, the "Plan") filed pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA") with the Ontario Superior Court of Justice (Commercial List) (the "CCAA Court") on May 11, 2010.

In accordance with the Plan, Proxies may only be filed by Creditors having a Proven Claim or a Disputed Claim ("Eligible Voting Creditors").

PROXIES, ONCE DULY COMPLETED, DATED AND SIGNED, MUST BE SENT BY EMAIL TO THE MONITOR, OR IF CANNOT BE SENT BY EMAIL, DELIVERED TO THE MONITOR BY NO LATER THAN 1:00 P.M. (TORONTO TIME) ON THE LAST BUSINESS DAY PRECEDING THE DATE SET FOR THE CREDITORS' MEETING OR ANY ADJOURNMENT THEREOF, OR DELIVERED BY HAND TO THE CHAIR PRIOR TO THE COMMENCEMENT OF THE CREDITORS' MEETING. AFTER COMMENCEMENT OF THE CREDITORS' MEETING, NO PROXIES CAN BE ACCEPTED BY THE MONITOR.

THE UNDERSIGNED ELIGIBLE VOTING CREDITOR hereby revokes all Proxies previously given, if any, and nominates, constitutes, and appoints **Mr. Nigel Meakin** of FTI Consulting Canada Inc., in its capacity as Monitor, or such Person as he, in his sole discretion, may designate or, instead of the foregoing, appoints:

---

Print Name of Proxyholder if wishing to appoint  
someone other than Mr. Nigel Meakin

to attend on behalf of and act for the Eligible Voting Creditor at the Creditors' Meeting to be held in connection with the Plan and at any and all adjournments, postponements or other rescheduling of the Creditors' Meeting, and to vote the amount of the Eligible Voting Creditor's Affected Claim(s) for voting purposes as determined by and accepted for voting purposes in accordance with the Creditors' Meeting Order and as set out in the Plan as follows:

A. (mark one only):

- Vote FOR approval of the resolution to accept the Plan; or
- Vote AGAINST approval of the resolution to accept the Plan.

If a box is not marked as a vote for or against approval of the Plan, this Proxy shall be voted for approval

of the Plan.

- and -

- B. Vote at the nominee's discretion and otherwise act for and on behalf of the undersigned Eligible Voting Creditor with respect to any amendments or variations to the matters identified in the notice of the Creditors' Meeting and in this Plan, and with respect to other matters that may properly come before the Creditors' Meeting.

Dated this \_\_\_\_\_ day of May, 2010.

---

Print Name of Eligible Voting Creditor

---

Title of the authorized signing officer of the corporation, partnership or trust, if applicable

---

Signature of Eligible Voting Creditor or, if the Eligible Voting Creditor is a corporation, partnership or trust, signature of an authorized signing officer of the corporation, partnership or trust

---

Telephone number of the Eligible Voting Creditor or authorized signing officer

---

Mailing Address of Eligible Voting Creditor

---

Email address of Eligible Voting Creditor

---

Print Name of Witness, if Eligible Voting Creditor is an individual

---

Signature of Witness

### INSTRUCTIONS FOR COMPLETION OF PROXY

1. This Proxy should be read in conjunction with the Plan of Compromise and Arrangement of the Applicant dated May 4, 2010 (as it may be amended, restated or supplemented from time to time, the "Plan") filed pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA") with the Ontario Superior Court of Justice (Commercial List) (the "CCAA Court") on May 11, 2010 and the Creditors' Meeting Order. Capitalized terms used herein not otherwise defined shall have the meanings ascribed to them in the Plan.
2. Each Eligible Voting Creditor has the right to appoint a person (who need not be a Creditor) (a "Proxyholder") to attend, act and vote for and on behalf of such Eligible Voting Creditor and such right may be exercised by inserting the name of the Proxyholder in the blank space provided on the Proxy.
3. If no name has been inserted in the space provided to designate the Proxyholder on the Proxy, the Eligible Voting Creditor will be deemed to have appointed Mr. Nigel Meakin of FTI Consulting Canada Inc., in its capacity as Monitor (or such other Person as he, in his sole discretion, may designate), as the Eligible Voting Creditor's Proxyholder.
4. An Eligible Voting Creditor who has given a Proxy may revoke it, unless such Eligible Voting Creditor has agreed otherwise (as to any matter on which a vote has not already been cast pursuant to its authority), by an instrument in writing executed by such Eligible Voting Creditor or by its attorney, duly authorized in writing or, if an Eligible Voting Creditor is not an individual, by an officer or attorney thereof duly authorized, and deposited with the Monitor.
5. If this Proxy is not dated in the space provided, it shall be deemed to be dated as of the date on which it is received by the Monitor.
6. A valid Proxy from the same Eligible Voting Creditor bearing or deemed to bear a later date than this Proxy will be deemed to revoke this Proxy. If more than one valid Proxy from the same Eligible Voting Creditor and bearing or deemed to bear the same date are received by the Monitor with conflicting instructions, such Proxies shall not be counted for the purposes of the vote.
7. This Proxy confers discretionary authority upon the Proxyholder with respect to amendments or variations to the matters identified in the notice of the Creditors' Meeting and in the Plan, and with respect to other matters that may properly come before the Creditors' Meeting.
8. The Proxyholder shall vote the Proven Claim or Disputed Claim of the Eligible Voting Creditor in accordance with the direction of the Eligible Voting Creditor appointing him/her on any ballot that may be called for at the Creditors' Meeting. **IF AN ELIGIBLE VOTING CREDITOR FAILS TO INDICATE ON THIS PROXY A VOTE FOR OR AGAINST APPROVAL OF THE RESOLUTION TO ACCEPT THE PLAN, THIS PROXY WILL BE VOTED FOR THE RESOLUTION TO APPROVE THE PLAN, INCLUDING ANY AMENDMENTS, VARIATIONS OR SUPPLEMENTS THERETO.**
9. This Proxy must be signed by the Eligible Voting Creditor or by a person duly authorized (by power of attorney) to sign on the Eligible Voting Creditor's behalf or, if the Eligible Voting Creditor is a corporation, partnership or trust, by a duly authorized officer or attorney of the corporation, partnership or trust. If you are voting on behalf of a corporation, partnership or trust, you may be required to provide documentation evidencing your power and authority to sign this Proxy.
10. **PROXIES, ONCE DULY COMPLETED, DATED AND SIGNED, MUST BE SENT BY EMAIL TO THE MONITOR, OR IF CANNOT BE SENT BY EMAIL, DELIVERED TO THE MONITOR BY NO LATER THAN 1:00 P.M. (TORONTO TIME) ON THE LAST BUSINESS**

DAY PRECEDING THE DATE SET FOR THE CREDITORS' MEETING OR ANY ADJOURNMENT THEREOF IF ANY PERSON ON THE ELIGIBLE VOTING CREDITOR'S BEHALF IS TO ATTEND THE CREDITOR' MEETING AND VOTE ON THE PLAN OR IF THE ELIGIBLE VOTING CREDITOR WISHES TO APPOINT NIGEL MEAKIN TO ACT AS THE ELIGIBLE VOTING CREDITOR'S NOMINEE.

By email: [signature@fticonsulting.com](mailto:signature@fticonsulting.com)

By mail or courier: FTI Consulting Canada Inc.  
Monitor of Signature Aluminum Canada Inc.  
TD Waterhouse Tower  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, Ontario  
M5K 1G8

PROXIES MAY ALSO BE HAND DELIVERED TO THE CHAIR OF THE CREDITORS' MEETING PRIOR TO THE COMMENCEMENT OF THE CREDITORS' MEETING. AFTER THE COMMENCEMENT OF THE CREDITORS' MEETING, NO PROXIES CAN BE ACCEPTED BY THE MONITOR.

11. The Applicant and the Monitor are authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any Proxy is completed and executed, and may waive strict compliance with the requirements in connection with the deadlines imposed by the Creditors' Meeting Order.

**SCHEDULE "D" TO CREDITORS' MEETING ORDER  
FORM OF NEWSPAPER NOTICE**

NOTICE OF THE CREDITORS' MEETING OF SIGNATURE ALUMINUM CANADA INC.  
(hereinafter referred to as the "Applicant")

This notice is being published pursuant to the order of the Ontario Superior Court of Justice (the "CCAA Court") dated May 11, 2010 (the "Creditors' Meeting Order") which established the procedures for the Applicant to call, hold and conduct a meeting of its unsecured creditors (the "Creditors' Meeting") to consider and vote on the Plan of Compromise and Arrangement of the Applicant dated May 4, 2010 (as may be amended from time to time, the "Plan") and to transact such other business as may be properly brought before the Creditors' Meeting. The Creditors' Meeting will be held at the following date, times and location:

Date: June 1, 2010

Time: 10:00 a.m. (Toronto time)

Location: Ogilvy Renault LLP  
Boardrooms A and B  
Suite 3800, Royal Bank Plaza, South Tower  
200 Bay Street  
Toronto, Ontario  
M5J 2Z4

ONLY THOSE CREDITORS WITH PROVEN CLAIMS OR DISPUTED CLAIMS (AS SUCH TERMS ARE DEFINED IN THE PLAN), OR THEIR RESPECTIVE PROXY HOLDERS, SHALL BE ENTITLED TO ATTEND AND VOTE ON THE PLAN AT THE CREDITORS' MEETING.

Creditors who have not received copies of the Information Package, including the Plan, may obtain copies from the website of the Court-appointed monitor, FTI Consulting Canada Inc. (the "Monitor") (<http://cfcanada.fticonsulting.com/signature>) or by contacting the Monitor by email at [signature@fticonsulting.com](mailto:signature@fticonsulting.com) or by telephone at 1 (800) 323-0140.



**SCHEDULE "E" TO CREDITORS' MEETING ORDER  
RESOLUTION**

SCHEDULE "E" TO CREDITORS' MEETING ORDER OF  
SIGNATURE ALUMINUM CANADA INC.

TEXT OF PLAN RESOLUTION  
SIGNATURE ALUMINUM CANADA INC.

(the "Applicant")

Plan of Compromise and Arrangement  
under the *Companies' Creditors Arrangement Act*

BE IT RESOLVED THAT:

1. the Plan of Compromise and Arrangement dated May 4, 2010 filed by the Applicant under the *Companies' Creditors Arrangement Act*, as may be amended, restated or supplemented in accordance with its terms (the "Plan"), presented to the Creditors' Meeting (as defined in the Plan) be and is hereby authorized and approved;
2. notwithstanding that this resolution has been passed and the Plan approved by the required majorities of Eligible Voting Creditors (as defined in the Plan), the directors of the Applicant be and they are hereby authorized and empowered to amend or not proceed with the Plan in accordance with the terms thereof; and
3. any one director or officer of the Applicant be, and he or she is hereby authorized, empowered and instructed, acting for, and in the name of and on behalf of the Applicant (but not the creditors), to execute, or cause to be executed, and to deliver or cause to be delivered for, on behalf of and in the name of the Applicant, all such documents, agreements and instruments and to do or cause to be done all such other acts and things as such director or officer of the Applicant determines to be necessary or desirable in order to carry out the Plan, such determination to be conclusively evidenced by the execution and delivery by such directors or officers of such documents, agreements or instruments or the doing of any such act or thing.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C., 1985 c. C-36  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.

Applicant

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**CREDITORS' MEETING ORDER**

**BLAKE, CASSELS & GRAYDON LLP**  
Box 25, Commerce Court West  
Toronto, Ontario M5L 1A9

**Line Rogers** LSUC# 43562N  
Tel: (416) 863-4168  
Fax: (416) 863-2653

**Katherine McEachern** LSUC#: 38345M  
Tel: (416) 863-2566  
Fax: (416) 863-2653

**Jackie Moher** LSUC#53166V  
Tel: (416) 863-3174  
Fax: (416) 863-2653

Lawyers for the Applicant,  
Signature Aluminum Canada Inc.

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# Appendix D

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**The Plan, As Amended  
(Black-Line Against Plan dated May 4, 2010)**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF SIGNATURE ALUMINUM CANADA INC.**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36, AS AMENDED**

**SECOND AMENDED AND RESTATED  
PLAN OF COMPROMISE AND ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.**

**~~MAY 4,~~JUNE 7, 2010**

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**PLAN OF COMPROMISE AND ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.**

**PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT* (CANADA)**

**~~MAY 4,~~JUNE 7, 2010**

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Plan (including the Schedules hereto), unless otherwise stated or the context should otherwise require, the capitalized terms and phrases used but not defined herein have the following meanings:

“**324**” means 3241715 Nova Scotia Limited (previously 6919464 Canada Inc.);

“**Administration Charge**” means the Administration Charge granted under the Initial Order;

“**Administration Charge Reserve**” has the meaning set out in Section 5.2(a) of this Plan;

“**Affected Claim**” means a Claim that is not an Excluded Claim. For greater certainty, all Pre-Filing Claims and Subsequent Claims are “**Affected Claims**”;

“**Affected Pension Plans**” means, collectively, (i) the Pension Plan for Salaried Employees of Signature Aluminum Canada Inc., Financial Services Commission of Ontario Reg. No. 0311035, (ii) the Pension Plan for the Hourly Paid Employees of Signature Aluminum Canada Inc., Richmond Hill, Financial Services Commission of Ontario Reg. No. 0931642, and (iii) Regime De Retraite Des Employés D’Usine de Signature Aluminum Canada Inc., Régie des rentes du Québec Reg. No. 27145;

“**Applicable Law**” means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all laws, rules, statutes, regulations, treaties, orders, judgments and decrees, and all official requests, directives, rules, guidelines, orders, policies, practices and other requirements of any Authorized Authority;

“**Applicant**” means Signature Aluminum Canada Inc.

“**Authorized Authority**” means, in relation to any Person, transaction or event, any:

- (a) federal, provincial, territorial, state, municipal or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign;
- (b) agency, authority, commission, instrumentality, regulatory body, court, or other entity exercising executive, legislative, judicial, taxing, regulatory or

administrative powers or functions of or pertaining to government, including any Taxing Authority;

- (c) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions; or
- (d) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, in each case having jurisdiction over such Person, transaction or event;

“**Base Distribution**” means, for each Proven Claim, (i) 100% of the amount of the Proven Claim that is less than or equal to CDN\$1000, plus (ii) 50% of the amount of the Proven Claim that is greater than CDN\$1,000 and less than or equal to CDN\$4,7505,750;

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

“**Biscayne**” means Biscayne Metals Finance, LLC, including, without limitation, in its capacity as DIP Lender and Plan Sponsor;

“**Business Day**” means, with respect to any action to be taken, any day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario, Canada;

“**Canadian Dollars**”, “**CDN\$**” or “**\$**” means dollars denominated in lawful currency of Canada;

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

“**CCAA Court**” means the Ontario Superior Court of Justice;

“**CCAA Proceedings**” means the proceedings commenced by the Applicant under the CCAA on January 29, 2010 in the CCAA Court, Court File No. CV-10-8561-00CL;

“**Charges**” has the meaning given to it in paragraph 42 of the Initial Order;

“**Claim**” means any right or claim of any Person that may be asserted or made in whole or in part against the Applicant, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, legal or equitable, secured or unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including, without limitation, any right or ability of any Person to advance a claim for contribution or

indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future together with any other rights or claims of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the BIA if the Applicant were bankrupt, and for greater certainty, includes, without limitation (i) any Tax Claim, (ii) any claims by any Person for obligations or indebtedness owing by the Applicant under the Affected Pension Plans, and (iii) any Subsequent Claim;

“**Claims Bar Date**” means 5:00 p.m. (Toronto Time) on March 26, 2010, or such other date as may be ordered by the CCAA Court;

“**Claims Officer**” means any individual appointed by the Applicant, under such terms as are approved by the Monitor or further order of the CCAA Court, to act as a claims officer for purposes of, and in accordance with, the Claims Procedure Order;

“**Claims Procedure Order**” means the Order of the Honourable Madam Justice Karakatsanis dated February 25, 2010, as may be amended, restated or varied by subsequent Orders of the CCAA Court;

“**Creditor**” means, subject to the Claims Procedure Order and Section 6.5 of this Plan, any holder of an Affected Claim, in that capacity;

“**Creditors’ Meeting**” means the meeting of Creditors called for the purposes of considering and voting in respect of this Plan, which ~~has been~~was originally set by the Creditors’/Creditor’s Meeting Order to take place at 9:30 a.m. (Toronto Time) 10:00 am on June 1, 2010 and has been adjourned to 10:00 am on June 8, 2010. and any postponements, adjournments or amendments thereof;

“**Creditors’ Meeting Order**” means the Order of the CCAA Court made May 11, 2010 ordering and declaring, among other things, the procedures to be followed in connection with the Creditors’ Meeting, as amended, restated or varied from time to time by subsequent Order of the CCAA Court;

“**Crown**” means Her Majesty in right of Canada or a province of Canada;

“**Crown Claim**” means any Claim of the Crown, for all amounts that were outstanding at the Filing Date and are of a kind that could be subject to a demand under:

- (a) subsection 224(1.2) of the ITA;
- (b) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, or an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
- (c) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides

for the collection of a sum, and of any related interest, penalties or other amounts, where the sum

- (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the ITA; or
- (ii) is of the same nature as a contribution under the *Canada Pension Plan* if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

“**DIP Lender’s Charge**” means the DIP Lender’s Charge granted under the Initial Order;

“**DIP Lender**” means Biscayne in its capacity as lender under the DIP Term Sheet, and any other lenders becoming party as lenders to the DIP Term Sheet;

“**DIP Term Sheet**” means the DIP Term Sheet dated as of January 28, 2010 between the Applicant, as borrower, and Biscayne, as lender, as amended;

“**Disallowed Claim**” means a Disputed Claim (or any portion thereof) which has been finally disallowed in accordance with the Claims Procedure Order;

“**Disputed Claim**” means all or that portion of an Affected Claim that has not been allowed or accepted as proven by the Monitor, which is the subject of a Notice of Dispute or Notice of Revision or Disallowance, and which has not been resolved by the Claims Officer, by agreement or by further Order of the CCAA Court, as applicable. For greater certainty, once a Disputed Claim is finally determined, it shall become either a Proven Claim or a Disallowed Claim, as the case may be;

“**Disputed Claims Reserve**” shall have the meaning set out in Section 6.2;

“**Eligible Voting Creditor**” means a Creditor having a Proven Claim or a Disputed Claim;

“**Excluded Claim**” has the meaning set forth in Section 3.3 of this Plan;

“**Filing Date**” means January 29, 2010, being the date of the Initial Order;

“**Final Distribution Date**” means a Business Day to be chosen by the Monitor, in consultation with the Applicant, on which final distributions are to be made on account of Proven Claims and which shall be a date that occurs after all Disputed Claims have been finally determined in accordance with the Claims Procedure Order;

“**GST**” means goods and services tax under the *Excise Tax Act* (Canada), R.S.C., 1985, c. E-15, as amended to the date of this Plan;

“**H.I.G.**” means, collectively, H.I.G. Bayside Debt & LBO Fund II L.P., H.I.G. Bayside Advisors II, LLC and H.I.G.-GP II, Inc.;

“**Initial Distribution Date**” means a Business Day to be chosen by the Monitor, in consultation with the Applicant, on which initial distributions are to be made on account of Proven Claims;

“**Initial Order**” means the Order granted by the CCAA Court in the CCAA Proceedings on January 29, 2010, as amended, restated, varied or extended from time to time by subsequent Orders of the CCAA Court;

“**ITA**” means the *Income Tax Act* (Canada), R.S.C. 1985, c.1 (5<sup>th</sup> Supp.), as amended to the date of this Plan;

“**Lien**” means any mortgage, charge, pledge, assignment by way of security, lien, hypothec, security interest, deemed trust or other encumbrance granted or arising pursuant to a written agreement or statute or otherwise created by law;

“**Monitor**” means FTI Consulting Canada Inc., solely in its capacity as Court-appointed monitor of the Applicant in the CCAA Proceedings, and not in its corporate or personal capacity;

“**Monitor’s Certificate**” has the meaning given to it in Section 8.3 of this Plan;

“**Monitor’s Website**” means the website maintained by the Monitor located at the following address: <http://cfcanada.fticonsulting.com/signature>;

“**Notice of Claim**” means the notice of claim which may be provided by the Monitor to Known Creditors or Subsequent Claimants (each as defined in the Claims Procedure Order), as the case may be, substantially in the form attached as Schedule “2” to the Claims Procedure Order;

“**Notice of Dispute**” means a written notice, substantially in the form attached as Schedule “4” to the Claims Procedure Order, delivered to the Monitor by a Creditor disputing either a Notice of Claim or Notice of Revision or Disallowance issued by the Monitor, with reasons for its dispute;

“**Notice of Revision or Disallowance**” means a written notice, substantially in the form attached as Schedule “5” to the Claims Procedure Order, delivered to a Creditor advising that the Monitor has revised or disallowed all or part of such Creditor’s Filed Claim (as defined in the Claims Procedure Order) for the purposes of voting and/or distribution and providing the reasons for the revision or disallowance;

“**Order**” means any order of the CCAA Court in the CCAA Proceedings;

“**Person**” shall be broadly interpreted and includes, without limitation, any individual, corporation, limited or unlimited liability company, general or limited partnership, association, firm, trust, unincorporated organization, joint venture, venture capital fund, administrator or committee in respect of a registered pension plan, unincorporated association or organization, syndicate, committee, the government of a country, province or political subdivision thereof, or any agency, board, tribunal, commission, bureau, instrumentality or department of such

government or political subdivision, or any other entity, howsoever constituted, and the trustees, executors, administrators, or other legal representatives of an individual;

**“Plan”** means this Plan of Compromise and Arrangement, as it may be amended, restated, or supplemented from time to time in accordance with the provisions hereof;

**“Plan Implementation Date”** means a Business Day, as determined by the Applicant, once all conditions precedent to the implementation of this Plan set out in Section 8.2 have been satisfied or waived;

**“Plan Sponsor”** means Biscayne in its capacity as “Sponsor” under the Plan Support Agreement;

**“Plan Support Agreement”** means the plan support agreement, dated January 28, 2010, between the Applicant and Biscayne, as amended, attached as Appendix “A” to the Pre-filing Report of the Proposed Monitor, dated January 28, 2010;

**“Plan Support Deposit”** means the amount held by the Monitor pursuant to Section 3.01 of the Plan Support Agreement;

**“Plan Support Fund”** means the amount of CDN\$1,925,000;

**“Plan Support Fund Residual”** means the Plan Support Fund less the aggregate total of Base Distributions;

**“Plan Termination Date”** means June ~~7~~18, 2010;

**“Pre-Filing Claim”** means any Claim other than (i) an Excluded Claim, and (ii) a Subsequent Claim;

**“Proof of Assignment”** means a notice of transfer or assignment of an Affected Claim executed by a Creditor and the transferee or assignee, together with satisfactory evidence of such transfer or assignment as may be reasonably required by the Monitor and the Applicant, in accordance with Paragraph 11 of the Claims Procedure Order;

**“Proof of Claim”** means a proof of claim, in substantially the form attached as Schedule 3 to the Claims Procedure Order, as submitted to the Monitor by a Creditor in accordance with the Claims Procedure Order;

**“Pro Rata Distribution”** means, for each Proven Claim, an amount calculated by multiplying the Plan Support Fund Residual by the Proven Claim Residual, divided by the aggregate total of all Proven Claim Residuals;

**“Proven Claim”** means the amount, status and/or validity of the Claim of a Creditor, as finally determined in accordance with the Claims Procedure Order, any other order of the CCAA Court and/or this Plan;

**“Proven Claim Residual”** means a Proven Claim less the Base Distribution on account of such Proven Claim;

**“Proven Creditor”** means a Creditor holding a Proven Claim;

**“Related Parties”** means 324, Biscayne, Shapes and H.I.G.;

**“Related Party Claims”** means Claims held by the Related Parties;

**“Sanction Date”** means the date that the Sanction Order is granted;

**“Sanction Order”** means an Order sanctioning this Plan and giving all necessary directions regarding its implementation, which shall include the provisions set forth in Section 9.1 of this Plan;

**“Secured Claim”** means any Claim or portion thereof that is secured by a validly attached and existing Lien on the property of the Applicant that was duly and properly registered or perfected in accordance with Applicable Law at the Filing Date or in accordance with the Initial Order, but only to the extent of the realizable value of the property of the Applicant subject to such security, still in the possession of the Applicant, having regard to, among other things, the priority of such security;

**“Shapes”** means Shapes L.L.C.;

**“Subsequent Claim”** means any right or claim of any Person, that may be asserted in whole or in part against the Applicant, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, present or future, arising after the Filing Date (but before the Plan is sanctioned by the Court) by reason of any obligation incurred by the Applicant before the Filing Date, including any indebtedness, liability, or obligation resulting from the termination of employment, or the disclaimer or rescission by the Applicant in the CCAA Proceedings of an agreement that existed before the Filing Date, and any interest that may accrue thereon for which there is an obligation to pay, and costs payable at law or in equity in respect thereof, whether or not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature and that is provable under the BIA, but a “Subsequent Claim” shall not include an “Excluded Claim”;

**“Tax” or “Taxes”** means any and all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, levies, imposts and other assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, penalties, fines, fees, other charges and additions with respect thereto;

**“Tax Claim”** means any Claim against the Applicant for any Taxes in respect of any taxation year or period ending on or prior to the Filing Date, and in any case where a taxation year or period commences on or prior to the Filing Date, for any Taxes in respect of or attributable to the portion of the taxation period commencing prior to the Filing Date and up to and including the Filing Date. For greater certainty, a “Tax Claim” shall include, without limitation, any and all Claims of any Taxing Authority in respect of transfer pricing adjustments and any Canadian or non-resident Tax related thereto;

**“Taxing Authorities”** means Her Majesty the Queen, Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, the Canada Revenue Agency, any similar revenue or taxing authority of each and every province or territory of Canada and any political subdivision thereof, and any Canadian or foreign governmental authority exercising taxing powers in administering and/or collecting Taxes;

**“Unaffected Pickering Pension Plan”** means the defined contribution Pension Plan for the employees of the Applicant, Financial Services Commission of Ontario Reg. No. 1012053 relating to the Applicant’s operating facility in Pickering, Ontario.

## **1.2 Article and Section Reference**

The terms **“this Plan”**, **“hereof”**, **“hereunder”**, **“herein”**, and similar expressions refer to this Plan, and not to any particular article, section, subsection, paragraph or clause of this Plan and include any variations, amendments, modifications or supplements hereto. In this Plan, a reference to an article, section, subsection, clause or paragraph shall, unless otherwise stated, refer to an article, section, subsection, paragraph or clause of this Plan.

## **1.3 Extended Meanings**

In this Plan, where the context so requires, any word importing the singular number shall include the plural and vice versa, and any word or words importing gender shall include all genders.

## **1.4 Interpretation Not Affected by Headings**

The division of this Plan into articles, sections, subsections, paragraphs and clauses and the insertion of a table of contents and headings are for convenience of reference and shall not affect the construction or interpretation of this Plan.

## **1.5 Inclusive Meaning**

As used in this Plan, the words **“include”**, **“includes”**, **“including”** or similar words of inclusion means, in any case, those words as modified by the words **“without limitation”** and **“including without limitation”**; so that references to included matters shall be regarded as illustrative rather than exhaustive.



## **1.6 Currency**

Unless otherwise stated herein, all references to currency in this Plan are to Canadian Dollars. For the purposes of voting or distribution, Affected Claims shall be denominated in Canadian Dollars and all cash distributions under this Plan shall be paid in Canadian Dollars. Any Affected Claim in a currency other than Canadian Dollars will be deemed to have been converted to Canadian Dollars at the spot rate of exchange quoted by the Bank of Canada for exchanging such currency to Canadian Dollars as at noon on the Filing Date, which rate for greater certainty for the conversion of United States Dollars to Canadian Dollars was 1.0650.

## **1.7 Statutory References**

Any reference in this Plan to a statute includes all regulations made thereunder, all amendments to such statute or regulations in force from time to time to the date of this Plan and any statute or regulation that supplements or supersedes such statute or regulation to the date of this Plan.

## **1.8 Successors and Assigns**

The rights, benefits and obligations of any Person named or referenced in this Plan shall be binding on and shall inure to the benefit of any heir, administrator, executor, legal personal representative, successor or assign, as the case may be, or a trustee, receiver, interim receiver, receiver and manager, liquidator or other Person acting on behalf of such Person, as permitted hereunder.

## **1.9 Governing Law**

This Plan, shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to any conflict of law provision that would require the application of the law of any other jurisdiction. Any dispute or issue in connection with, or related to the interpretation, application or effect of this Plan and all proceedings taken in connection with this Plan and its revisions shall be subject to the exclusive jurisdiction of the CCAA Court.

## **1.10 Severability of Plan Provisions**

If any provision of this Plan is illegal, invalid or unenforceable, or becomes illegal, invalid or unenforceable on or following the Plan Implementation Date in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of this Plan, or the legality, validity or enforceability of that provision in any other jurisdiction.

## **1.11 Timing Generally**

Unless otherwise specified, all references to time herein, and in any document issued pursuant hereto, shall mean local time in Toronto, Ontario, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day.

### **1.12 Time of Payments and Other Actions**

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the payment to the next succeeding Business Day if the last day of the period is not a Business Day. Wherever any payment to be made or action to be taken under this Plan is required to be made or to be taken on a day other than a Business Day, such payment shall be made or action taken on the next succeeding Business Day.

### **1.13 Schedules**

The following are the Schedules to this Plan, which are incorporated by reference into this Plan and form an integral part hereof:

Schedule "A" - Form of Monitor's Certificate

## **ARTICLE 2 PURPOSE AND EFFECT OF PLAN**

### **2.1 Purpose**

The purpose of this Plan is:

- (a) to facilitate the rationalization of the Applicant's business of aluminum extrusion at its operating facility located in Pickering, Ontario; and
- (b) to provide for a compromise and arrangement of all Affected Claims against the Applicant;

in order to enable the business of the Applicant to continue as a going concern, in the expectation that a greater benefit will be derived by the Applicant and its stakeholders, including suppliers, customers, shareholders, secured creditors and employees, from the continued operation of the business of the Applicant and the distributions under the Plan than would result from the sale or forced liquidation of its assets.

## **ARTICLE 3 CLASSIFICATION OF CLAIMS**

### **3.1 Classification of Claims**

For the purposes of considering and voting on this Plan and receiving a distribution hereunder, the Affected Claims of the Creditors shall be grouped into a single class.

### **3.2 Affected Persons**

On the Plan Implementation Date, this Plan shall be binding upon the Applicant and the Creditors and their respective heirs, executors, administrators, legal representatives, successors and assigns in accordance with its terms, but shall not affect Excluded Claims.

### **3.3 Claims Excluded by the Plan**

This Plan does not compromise, release or otherwise affect the following Claims (collectively, “**Excluded Claims**”), and, subject to Section 3.4 hereof, such Excluded Claims shall be addressed by the Applicant in the ordinary course:

- (a) Claims for goods and/or services provided to the Applicant on or after the Filing Date;
- (b) Claims of the nature secured by the Administration Charge or the DIP Lender’s Charge;
- (c) Crown Claims;
- (d) Secured Claims, to the extent they are Proven Claims;
- (e) Related Party Claims; and
- (f) Claims relating to or in respect of the Unaffected Pickering Pension Plan.

### **3.4 Defences to Excluded Claims**

Nothing in this Plan shall affect the Applicant’s rights and defences, both legal and equitable, with respect to any Excluded Claims or any rights with respect to legal and equitable defences or entitlements to set-offs or recoupments against such Excluded Claims. Nothing herein shall constitute a waiver of any right of either the Monitor or the Applicant to dispute the entitlement to or quantum of an Excluded Claim.

### **3.5 Crown Claims**

All Crown Claims in respect of all amounts that were outstanding at the Filing Date or related to the period ending on the Filing Date shall be paid in full to the Crown within six months of the Sanction Order, as required by section 6(3) of the CCAA.

## ARTICLE 4 TREATMENT OF CREDITORS

### 4.1 Voting by Creditors

Each Eligible Voting Creditor shall have one vote, which vote shall have the aggregate value of its Dispute Claim(s) and/or Proven Claim(s), as applicable. The Monitor shall keep a separate record and tabulation of any votes cast in respect of Disputed Claims. The Monitor shall report the result of the vote and the tabulation of votes of Proven Claims and Disputed Claims to the CCAA Court, and if the vote on the approval or rejection of the Plan by Eligible Voting Creditors is decided by the votes in respect of the Disputed Claims, the Applicant shall seek an order for an expedited determination of any material Disputed Claims and an appropriate deferral of the application for the Sanction Order and any other applicable dates in the Plan. The fact that a Disputed Claim is allowed for voting purposes shall not preclude the Applicant and the Monitor from disputing the Disputed Claim for distribution purposes.

### 4.2 Treatment of Proven Claims

The Monitor shall distribute to each Proven Creditor, in full satisfaction of its Proven Claim, a cash distribution equal to:

- (a) the Base Distribution; plus
- (b) the Pro Rata Distribution.

## ARTICLE 5 IMPLEMENTATION OF THE PLAN

### 5.1 Funding of Creditor Distributions

Prior to the issuance of the Creditors' Meeting Order, or such other date as may be agreed by the Monitor, Biscayne shall have paid to the Monitor, or fund the Applicant's payment to the Monitor, the difference between the Plan Support Fund and the Plan Support Deposit, in satisfaction of Biscayne's obligation under the Plan Support Agreement.

### 5.2 Exit Financing and Charges

- (a) **Administration Charge.** On the Plan Implementation Date, (i) all outstanding, invoiced obligations, liabilities, fees and disbursements of the type secured by the Administration Charge shall be fully paid by the Applicant, and (ii) a reserve for any uninvoiced amounts of the type secured by the Administration Charge as of the Plan Implementation Date (together with an estimated amount for future accruals) shall be fully funded by the Applicant or Biscayne ("**Administration Charge Reserve**"). The amount of the Administration Charge Reserve shall be agreed to by the Monitor, the Applicant and Biscayne, acting reasonably, and the Administration Charge Reserve shall be administered by the Monitor. Subject to Section 8.1(g), upon payment of the amounts secured by the Administration

Charge, or the funding of the Administration Charge Reserve, the Administration Charge shall be and be deemed to be discharged from the assets of the Applicant and attach to the Administration Charge Reserve, if applicable. On the date of the discharge of the Monitor, to the extent that the Administration Charge Reserve exceeds the actual costs paid or payable from the Administration Charge Reserve, the excess amount shall be returned to the Applicant.

- (b) **DIP Lender's Charge.** On the Plan Implementation Date, all amounts owing by the Applicant to Biscayne pursuant to the DIP Term Sheet shall be (i) fully paid by the Applicant with cash on hand, or (ii) converted to liabilities of the Applicant under an exit financing facility between the Applicant (as borrower) and Biscayne or its designee (as lender), and shall be secured by such contractual security as may be agreed to by the parties, the terms and conditions of such exit facility to be settled by the Applicant and Biscayne, acting reasonably, not less than five Business Days prior to the Plan Implementation Date.

### **5.3 Effectuating Documents**

Any Director or the Controller and Treasurer of the Applicant shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures and other agreements or documents, and take such other actions, as may be necessary or appropriate, to effectuate and further evidence the terms and conditions of this Plan. The secretary or assistant secretary of the Applicant shall be authorized to certify or attest to any of the foregoing actions.

## **ARTICLE 6 PROVISIONS GOVERNING DISTRIBUTIONS**

### **6.1 Distributions on Proven Claims**

On the Initial Distribution Date, all Proven Creditors will receive distributions in accordance with Section 4.2 hereof, provided, however, that with respect to a Creditor that is the holder of both a Proven Claim and a Disputed Claim, the Monitor may elect, in its sole discretion, to withhold distribution on such Creditor's Proven Claim on the Initial Distribution Date and make a single distribution to such Proven Creditor on the Final Distribution Date.

### **6.2 Distribution when Disputed Claims Outstanding**

In the event that the Monitor elects to designate an Initial Distribution Date while Disputed Claims are still outstanding, then for the purposes of the calculation of the Pro Rata Distribution only, Disputed Claims shall be treated as though they are Proven Claims. For greater certainty, no distribution will be made on account of Disputed Claims unless and until such Disputed Claims become Proven Claims, but the aggregate amount of the Pro Rata Distribution attributable to such Disputed Claims shall be held in reserve by the Monitor in a separate, interest bearing trust account (the "**Disputed Claims Reserve**").

### **6.3 Final Distribution on Account of Proven Claims**

On the Final Distribution Date, the Disputed Claims Reserve shall be distributed to Proven Creditors, such that the total of distributions made to each Proven Creditor shall be the Base Distribution plus the Pro Rata Distribution.

### **6.4 Distributions by the Monitor**

All cash distributions to be made under this Plan to a Proven Creditor shall be made by the Monitor by cheque and will be sent, via regular mail, to such Proven Creditor to the last known address for such Proven Creditor in the list of Known Creditors provided to the Monitor by the Applicant pursuant to the Claims Procedure Order or, if a Proven Creditor filed a Proof of Claim or Notice of Dispute, the address specified in the Proof of Claim or Notice of Dispute filed by such Proven Creditor or such other address as the Proven Creditor may from time to time notify the Monitor in accordance with Section 11.8 of this Plan.

### **6.5 Interest on Affected Claims**

No interest or penalties shall accrue or be paid on an Affected Claim from and after or in respect of the period following the Filing Date and no holder of an Affected Claim will be entitled to any interest in respect of such Affected Claim accruing on or after or in respect of the period following the Filing Date. All interest accruing on any Affected Claim after or in respect of the period following the Filing Date shall be forever extinguished and released under this Plan.

### **6.6 Distributions in respect of Transferred or Assigned Claims**

The Applicant and the Monitor shall not be obligated to deliver any distributions under this Plan to any transferee or assignee of an Affected Claim unless a Proof of Assignment has been delivered to the Monitor and the Applicant no later than five Business Days prior to the Initial Distribution Date or Final Distribution Date, as applicable to such assigned Affected Claim.

### **6.7 Undeliverable and Unclaimed Distributions**

If any delivery or distribution to be made pursuant to Article 6 of this Plan is returned as undeliverable, or in the case of any distribution made by cheque, the cheque remains uncashed, for a period of more than seven months after the Final Distribution Date, or the date of delivery or mailing of the cheque, whichever is later, the Claim of any Proven Creditor with respect to such undelivered or unclaimed distribution shall be discharged and forever barred, notwithstanding any federal or provincial laws to the contrary and any such cash allocable to the undeliverable or unclaimed distribution, shall be released by the Monitor to the Applicant, free and clear of any claims of said Proven Creditor or any other Creditors and their respective successors and assigns. Nothing contained in this Plan shall require the Applicant or the Monitor to attempt to locate any holder of any undeliverable or unclaimed distributions.

## 6.8 Tax Matters

- (a) **Allocation of Distributions.** All distributions made pursuant to this Plan in respect of a Proven Claim shall be applied first in consideration of the outstanding principal amount of such Proven Claim, and secondly in consideration of the accrued and unpaid interest and penalties, if any, which form part of such Proven Claim. Notwithstanding any other provision of this Plan, including subsection (b) below, each Proven Creditor that is to receive a distribution or payment pursuant to this Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed by any Authorized Authority on account of such distribution.
- (b) **Withholding Rights.** All distributions hereunder shall be subject to any withholding and reporting requirements imposed by any Applicable Law or any Taxing Authority and the Applicant shall direct the Monitor, on behalf of the Applicant, to deduct, withhold and remit from any distributions hereunder payable to a Proven Creditor or to any Person on behalf of any Proven Creditor, such amounts as the Applicant determines that it or the Monitor, on behalf of the Applicant, are required to deduct and withhold with respect to such payment under the ITA or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or succeeded. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes as having been paid to the Proven Creditor in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate Taxing Authority. The Monitor shall have no responsibility to undertake any investigation regarding the Applicant's directions (or lack thereof) with respect to withholding and reporting requirements. Unless directed to withhold from a distribution on account of a Proven Claim by the Applicant, the Monitor shall have no liability with respect to any claim arising from any failure to make withholdings from any distribution on account of a Proven Claim.

## ARTICLE 7 CREDITORS' MEETING

### 7.1 Creditors' Meeting and Conduct

The Creditors' Meeting to consider and vote on this Plan shall be held and conducted by the Monitor in accordance with the terms of the Creditors' Meeting Order.

### 7.2 Acceptance of Plan

If the Plan is approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting, being a majority in number of Creditors present and voting either in person or by proxy, representing two thirds in value of the aggregate Affected Claims, then this Plan shall be approved and shall be deemed to have been agreed to, accepted and approved by the Creditors and shall be binding upon all Creditors, if the Sanction Order is granted.

**ARTICLE 8**  
**CONDITIONS OF PLAN IMPLEMENTATION**

**8.1 Sanction Order**

If this Plan is approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting, the Applicant shall bring a motion before the CCAA Court for the Sanction Order as soon as reasonably practicable, which Sanction Order shall provide, among other things, that:

- (a) (i) this Plan has been approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting in conformity with the CCAA; (ii) the Applicant acted in good faith and has complied with the provisions of the CCAA and the Orders made in the CCAA Proceedings in all respects; (iii) the CCAA Court is satisfied that the Applicant has not done nor purported to do anything that is not authorized by the CCAA; and (iv) this Plan and the transactions contemplated by it are fair and reasonable;
- (b) this Plan (including the compromises, arrangements and releases set out herein) shall be sanctioned and approved pursuant to Section 6 of the CCAA and will be binding and effective as herein set out on the Applicant, all Creditors and all other Persons as provided for in this Plan or in the Sanction Order;
- (c) subject to the performance by the Applicant and Biscayne of their respective obligations under this Plan, and except to the extent expressly contemplated by this Plan or the Sanction Order, all obligations or agreements to which the Applicant is a party, other than agreements which were terminated or repudiated by the Applicant prior to the deadline specified in the Creditors' Meeting Order in accordance with the Initial Order, will be and shall remain in full force and effect as at the Plan Implementation Date, unamended except as they may have been amended by agreement of the parties subsequent to the Filing Date in accordance with the Plan, and no Person who is a party to any such obligations or agreements shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, option, dilution or other remedy) or make any demand under or in respect of any such obligation or agreement, by reason of:
  - (i) any defaults or events of default arising as a result of the insolvency of the Applicant prior to the Plan Implementation Date;
  - (ii) any change of control of the Applicant arising from implementation of the Plan;
  - (iii) the fact that the Applicant has sought or obtained relief under the CCAA or that this Plan has been implemented by the Applicant;



- (iv) the effect on the Applicant of the completion of any of the transactions contemplated by this Plan;
  - (v) any compromises or arrangements effected pursuant to this Plan; or
  - (vi) any other event(s) which occurred on or prior to the Plan Implementation Date which would have entitled any Person to enforce rights and remedies, subject to any express provisions to the contrary in any agreements entered into with the Applicant after the Filing Date. For greater certainty, nothing in this paragraph shall waive any obligations of the Applicant in respect of any Excluded Claim;
- (d) the appointment of one or more Claims Officer(s), if applicable, shall cease on the Plan Implementation Date, except with respect to matters to be completed pursuant to the Claims Procedure Order and this Plan after the Plan Implementation Date (including, without limitation, the resolution of the Disputed Claims), unless otherwise agreed with the Applicant;
- (e) the commencement or prosecution, whether directly, indirectly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgment, or other remedy or recovery with respect to any Claim released, discharged or terminated pursuant to this Plan shall be permanently enjoined;
- (f) the releases effected by this Plan shall be approved, and declared to be binding and effective as of the Plan Implementation Date upon all Creditors, the Monitor and all other Persons affected by this Plan and shall enure to the benefit of all such Persons; and
- (g) all Charges established by the Initial Order (other than the Administrative Charge) or any other Order of the CCAA Court, shall be terminated, released and discharged effective on the Plan Implementation Date, save and except insofar as the Administration Charge has attached to the Administration Charge Reserve established by the Monitor pursuant to Section 5.2 herein.

## **8.2 Conditions of Plan Implementation**

The implementation of this Plan shall be conditional upon the fulfillment or waiver, where applicable, of the following conditions on or before the Plan Implementation Date:

- (a) this Plan shall have been approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting;
- (b) the Sanction Order shall have been granted by the CCAA Court in a form acceptable to the Applicant and Biscayne, and shall be in full force and effect and not reversed, stayed, varied, modified or amended;

- (c) all applicable appeal periods in respect of the Sanction Order shall have expired and in the event of an appeal or application for leave to appeal, final determination shall have been made by the applicable appellate court;
- (d) all approvals, orders, determinations or consents required pursuant to Applicable Law (including approvals under the *Investment Canada Act* and/or the *Competition Act*), if applicable, shall have been obtained on terms and conditions satisfactory to the Applicant, Biscayne and the Monitor, acting reasonably, and shall remain in full force and effect on the Plan Implementation Date;
- (e) all necessary corporate action and proceedings of the Applicant shall have been taken to approve this Plan and to enable the Applicant to execute, deliver and perform its obligations under the agreements, documents and other instructions to be executed and delivered by it pursuant to this Plan;
- (f) the delivery, completion and execution of any documentation required in connection with the exit financing facility as contemplated in Section 5.2 shall have occurred;
- (g) all agreements, resolutions, documents and other instruments, which are necessary to be executed and delivered by Biscayne (whether in its capacity as DIP Lender or Plan Sponsor) or any director or officer of the Applicant in order to implement this Plan and perform their obligations under this Plan shall have been executed and delivered; and
- (h) the Monitor shall file the Monitor's Certificate with the CCAA Court and deliver a copy thereof to the Applicant and Biscayne.

Except for the conditions set out in 8.2(a), (b) and (h), each of the conditions set out in this Section 8.2 may be waived in whole or in part by the Applicant with the consent of Biscayne by written notice to the Monitor. If a condition set out above has not been satisfied or waived in accordance with this Section 8.2 on or before the date of the Plan Termination Date, this Plan shall automatically terminate, in which case the Applicant shall not be under any further obligation to implement this Plan.

### **8.3 Monitor's Certificate**

Upon written notice from the Applicant and Biscayne (or respective counsel on their behalf) to the Monitor that the conditions set out in Section 8.2, other than condition 8.2(h), have been satisfied or waived, the Monitor shall, as soon as possible following receipt of such written notice, deliver to the Applicant and Biscayne, and file with the CCAA Court, a certificate which states that all conditions precedent set out in Section 8.2 have been satisfied or waived, in substantially the form as the certificate attached as Schedule "A" to this Plan (the "**Monitor's Certificate**").

## **ARTICLE 9 AMENDMENTS TO THE PLAN**

### **9.1 Amendments to Plan Prior to Approval**

The Applicant reserves the right to file any variation or modification of, or amendment or supplement to, this Plan by way of a supplementary or amended and restated plan or plans of compromise or arrangement or both filed with the CCAA Court at any time or from time to time prior to the commencement of the Creditors' Meeting, provided that the Applicant obtains the prior consent of the Monitor and Biscayne to any such variation, modification, amendment or supplement. Any such supplementary or amended and restated plan or plans of compromise or arrangement or both shall, for all purposes, be deemed to be a part of and incorporated into this Plan. Any such variation, modification, amendment or supplement shall be posted on the Monitor's Website on the day on which it is filed with the CCAA Court and notice will be provided to the CCAA Proceedings service list. Creditors are advised to check the Monitor's Website regularly. Creditors who wish to receive written notice of any variation, modification, amendment or supplement to the Plan should contact the Monitor in the manner set out in Section 11.8 of this Plan. Creditors in attendance at the Creditors' Meeting will also be advised of any amendment made to the Plan.

In addition, the Applicant may propose a variation, modification of, or amendment or supplement to this Plan during the Creditors' Meeting, provided that (a) the Applicant obtains the prior consent of the Monitor and Biscayne to any such variation, modification, amendment or supplement, and (b) notice of such variation, modification, amendment or supplement is given to all Eligible Voting Creditors present in person or by proxy at the Creditors' Meeting prior to the vote being taken, in which case any such variation, modification, amendment or supplement shall, for all purposes, be deemed to be part of the Plan. Any variation, amendment, modification or supplement at the Creditors' Meeting will be promptly posted on the Monitor's Website and filed with the CCAA Court as soon as practicable following the Creditors' Meeting.

### **9.2 Amendments to Plan Following Approval**

After the Creditors' Meeting (and both prior to and subsequent to the obtaining of the Sanction Order), the Applicant may at any time and from time to time vary, amend, modify or supplement this Plan without the need for obtaining an Order of the CCAA Court or providing notice to the Creditors, if the Applicant, Biscayne and the Monitor, acting reasonably and in good faith, determine that such variation, amendment, modification or supplement is of a technical or administrative nature that would not be materially prejudicial to the interests of any of the Creditors under this Plan and is necessary in order to give effect to the substance of this Plan or the Sanction Order. The Monitor shall post a notice of such variance, amendment, modification or supplement to the Plan on the Monitor's Website, together with the varied, amended, modified or supplemented language.

**ARTICLE 10**  
**PLAN IMPLEMENTATION AND EFFECT OF THE PLAN**

**10.1 Implementation**

On the Plan Implementation Date, subject to the satisfaction or waiver of the conditions contained in Section 8.2 of this Plan, this Plan shall be implemented by the Applicant and shall be binding upon all Creditors in accordance with the terms of this Plan and the Sanction Order.

**10.2 Effect of the Plan Generally**

The payment, compromise or satisfaction of any Affected Claims under this Plan, if sanctioned and approved by the CCAA Court, shall be binding upon each Creditor, his, her or its heirs, executors, administrators, legal personal representatives, successors and assigns, as the case may be, for all purposes and this Plan will constitute: (a) full, final and absolute settlement of all rights of any Creditor against the Applicant in respect of the Affected Claims; and (b) an absolute release and discharge of all indebtedness, liabilities and obligations of or in respect of the Affected Claims against the Applicant, including any interest or costs accruing thereon whether before or after the Filing Date.

**10.3 Compromise Effective for All Purposes**

No Person who has a Claim as a guarantor, surety, indemnitor or similar covenant in respect of any Claim which is compromised under this Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim which is compromised under this Plan shall be entitled to any greater rights than the Creditor whose Claim was compromised under this Plan. Accordingly, the payment, compromise or other satisfaction of any Claim under this Plan, if sanctioned and approved by the CCAA Court, shall be binding upon such Creditor, its heirs, executors, administrators, successors and assigns for all purposes and, to such extent, shall also be effective to relieve any third party directly or indirectly liable for such indebtedness, whether as guarantor, surety, indemnitor, director, joint covenantor, principal or otherwise.

**10.4 Contracts**

As of the Plan Implementation Date, each contract to which the Applicant is a party as at the Filing Date, as it may have been modified, amended or varied after the Filing Date remains in full force and effect as at the Plan Implementation Date (other than in respect of Claims that are affected by this Plan) unless such contract: (a) is the subject of a notice of repudiation or disclaimer delivered prior to the deadline specified in the Creditors' Meeting Order, or (b) has expired or terminated pursuant to its terms.

**10.5 Plan Releases**

On the Plan Implementation Date:

- (a) The Applicant shall be forever released from all Affected Claims;

- (b) In consideration for the obligations of the Applicant and Biscayne under the Plan and the distributions to be delivered in connection with the Plan, each holder of a Claim (whether or not a Proven Claim) against, or equity interests in, the Applicant, and each Person or entity participating in distributions under or pursuant to the Plan, for itself and its respective successors and assigns, transferees, current and former officers, directors, agents and employees, in each case in their capacity as such, shall be deemed to have released (i) the Applicant; (ii) the Related Parties; (iii) the Monitor; (iv) subject to section 5.1(2) of the CCAA, any of their respective directors, officers, employees, agents, professional advisors (including legal counsel) affiliates and their respective property, and (v) any person who may claim contribution or indemnification against for from the Applicants, the Related Parties or the Monitor, of any and all demands, claims, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, charges and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereinafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or before the Plan Implementation Date relating to, arising out of or in connection with the Applicant, the Applicant's property, business or affairs, this Plan, the CCAA Proceedings or the DIP Term Sheet;
- (c) The Applicant shall release and be permanently enjoined from any prosecution or attempted prosecution against (i) the Monitor, (ii) the Related Parties, and (iii) any of the Related Parties' and the Monitor's respective directors, officers, employees, agents, professional advisors (including legal counsel), affiliates and their respective property, of any and all demands, claims, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, charges and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereinafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or before the Plan Implementation Date relating to, arising out of or in connection with the Applicant, the Applicant's property, business or affairs, this Plan, the CCAA Proceedings or the DIP Term Sheet;

provided, however, that nothing in this Section 10.5 shall release (i) any Person from fraud, gross negligence, wilful misconduct, or criminal conduct, (ii) any Excluded Claim, or (iii) any Person's right to enforce the Applicant's obligations under this Plan.

#### **10.6 Stay of Proceedings**

Any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings, enforcement processes or other remedies commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any Person having a Claim, and by any employees,

shareholders, customers, suppliers, contractors, lenders, equipment lessors, licensors, licensees, sub-licensors, sub-licensees, governments of 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 and 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 or entity wherever situate or domiciled, against or in respect of the Applicant or in respect of any property, assets, rights, concessions and undertaking wherever located, whether held by the Applicant, in whole or in part, directly or indirectly, as principal, agent or nominee, beneficially or otherwise, whether pursuant to the BIA or otherwise, shall be permanently stayed as reflected in the Sanction Order.

### **10.7 Knowledge of Claims**

Each Person to which Section 10.5 applies shall be deemed to have granted the releases set forth in Section 10.5 notwithstanding that it may hereafter discover facts in addition to, or different from, those which it now knows or believes to be true, and without regard to the subsequent discovery or existence of such different or additional facts, and such party expressly waives any and all rights that it may have under any Applicable Law which would limit the effect of such releases to those Claims or causes of action known or suspected to exist at the time of the granting of the release.

### **10.8 Exculpation**

None of (i) the Applicant; (ii) the Related Parties; (iii) the Monitor; and (iv) any of their respective directors, officers, employees, agents, professional advisors (including legal counsel) or successors and assigns, shall have or incur any liability to any holder of a Claim or equity interest in the Applicant, or other party in interest, or any of their respective members, officers, directors, employees, professional advisors (including legal counsel) or agents or any of their successors and assigns, for any act or omission in connection with, related to, or arising out of the CCAA Proceedings, the pursuit of the sanction of the Plan, the consummation of the Plan or the administration of the Plan, or the property to be distributed under the Plan, including the negotiation and solicitation of the Plan, except for wilful misconduct or gross negligence, and, in all respects, the Applicant and each other their respective members, officers, directors, employees, professional advisors (including legal counsel) or agents shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

### **10.9 Waiver of Defaults**

From and after the Plan Implementation Date, and subject to any express provisions to the contrary in any amending agreement entered into with the Applicant after the Filing Date, all Persons shall be deemed to have waived any and all defaults of the Applicant then existing or previously committed by the Applicant or caused by the Applicant or any of the provisions hereof or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, express or implied, in every contract, agreement, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease, personal property lease or other agreement, written or oral, any amendments or

supplements thereto, existing between such Person and the Applicant. Any and all notices of default, acceleration of payments and demands for payments under any instrument, or other notices, including without limitation, any notices of intention to proceed to enforce security, arising from any of such aforesaid defaults shall be deemed to have been rescinded and withdrawn. For greater certainty, nothing in this paragraph shall waive any obligations of the Applicant in respect of any Excluded Claim.

#### **10.10 Consents and Releases**

From and after the Plan Implementation Date, all Persons with a Claim shall be deemed to have consented and to have agreed to all of the provisions of this Plan as an entirety. In particular, each Creditor shall be deemed to have granted, and executed and delivered to the Applicant all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out this Plan in its entirety.

#### **10.11 Deeming Provisions**

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

### **ARTICLE 11 GENERAL PROVISIONS**

#### **11.1 Different Capacities**

Creditors whose Claims are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, each such Creditor shall be entitled to participate hereunder in each such capacity. Any action taken by a Creditor in any one capacity shall not affect the Creditor in any other capacity, unless expressly agreed by the Creditor in writing or unless the Claims overlap or are otherwise duplicative.

#### **11.2 Further Assurances**

Notwithstanding that the transactions and events set out in this Plan may be deemed to occur without any additional act or formality other than as may be expressly set out herein, each of the Persons affected hereto shall make, do, and execute or cause to be made, done or executed all such further acts, deeds, agreements, assignments, transfers, conveyances, discharges, assurances, instruments, documents, elections, consents or filings as may be reasonably required by the Applicant in order to implement this Plan.

#### **11.3 Set-Off**

The law of set-off applies to all Claims made against the Applicant and to all actions instituted by it for the recovery of debts due to the Applicant in the same manner and to the same extent as if the Applicant was plaintiff or defendant, as the case may be.

#### **11.4 Paramountcy**

Without limiting any other provision hereof, from and after the Plan Implementation Date, in the event of any conflict between this Plan and the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed, or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease, personal property lease or other agreement, written or oral and any and all amendments or supplements thereto existing between the Applicant and any other Persons affected by this Plan, the terms, conditions and provisions of this Plan shall govern and shall take precedence and priority.

To the extent the Plan is inconsistent with the report of the Monitor filed in connection with the Plan, the provisions of the Plan shall govern and shall take precedence and priority.

#### **11.5 Revocation, Withdrawal, or Non-Consummation**

The Applicant reserves the right to revoke or withdraw this Plan at any time prior to the Plan Implementation Date and to file subsequent plans of compromises or arrangement (or to file no subsequent plan), in each case with the consent of the Monitor and Biscayne. If the Applicant revokes or withdraws this Plan, or if the Sanction Order is not issued, (a) this Plan shall be null and void in all respects, (b) any Affected Claim, any settlement or compromise embodied in this Plan (including the fixing or limiting of any Affected Claim to an amount certain), assumption or termination, repudiation of contracts or leases effected by this Plan, any document or agreement executed pursuant to this Plan shall be deemed null and void, and (c) nothing contained in this Plan, and no action taken in preparation for consummation of this Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Affected Claims by or against the Applicant or any Person; (ii) prejudice in any manner the rights of the Applicant or any Person in any further proceedings involving the Applicant, or (iii) constitute an admission of any sort by the Applicant or any Person.

#### **11.6 Preservation of Rights of Action**

Except as otherwise provided in this Plan or in the Sanction Order, or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, following the Plan Implementation Date, the Applicant will retain and may enforce, sue on, settle, or compromise (or decline to do any of the foregoing) all claims, rights or causes of action, suits and proceedings, whether in law or in equity, whether known or unknown, that the Applicant may hold against any Person or entity without further approval of the CCAA Court.

#### **11.7 Responsibilities of the Monitor**

The Monitor is acting in its capacity as Monitor in the CCAA Proceedings with respect to the Applicant and is not responsible or liable for any obligations of the Applicant. The Monitor will have the powers granted to it by this Plan, by the CCAA and by any Order, including the Initial Order.



## 11.8 Notices

Any notice or communication to be delivered hereunder will be in writing and will reference this Plan and may, subject to as hereinafter provided, be made or given by personal delivery or by facsimile or email transmission addressed to the respective parties as follows:

(a) if to the Applicant:

Signature Aluminum Canada Inc.  
500 Edward Avenue  
Richmond Hill, Ontario L4C 4Y9

Attention: Parminder Punia  
Fax: 905-884-2453  
E-mail: [parminder.punia@signaturealuminumcanada.com](mailto:parminder.punia@signaturealuminumcanada.com)

with a copy to:

Blake, Cassels & Graydon LLP  
199 Bay Street, Suite 2800  
Commerce Court West  
Toronto, ON M5L 1A9

Attention: Linc Rogers  
Fax: 416-863-2653  
E-mail: [linc.rogers@blakes.com](mailto:linc.rogers@blakes.com)

and a copy to:

FTI Consulting Canada Inc.  
TD Waterhouse Tower, Suite 2010  
79 Wellington Street  
Toronto, Ontario M5K 1G8

Attention: Nigel Meakin  
Fax: 416-649-8101  
E-mail: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

and a copy to:

Ogilvy Renault LLP  
Royal Bank Plaza, South Tower  
200 bay Street, Suite 3800  
P.O. Box 84  
Toronto, Ontario M5J 2Z4

Attention: Virginie Gauthier

Fax: 416-216-3930  
email: [vgauthier@ogilvyrenault.com](mailto:vgauthier@ogilvyrenault.com)

(b) if to a Creditor:

To the last known address (including fax number or email address) for such Creditor set out in the books and records of the Applicant or, if a Creditor filed a Proof of Claim, the address specified in the Proof of Claim filed by such Creditor or such other address as the Creditor may from time to time notify the Monitor in accordance with this Section.

(c) if to the Monitor:

FTI Consulting Canada Inc.  
TD Waterhouse Tower, Suite 2010  
79 Wellington Street  
Toronto, Ontario M5K 1G8

Attention: Nigel Meakin  
Fax: 416-649-8101  
E-mail: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

with a copy to:

Ogilvy Renault LLP  
Royal Bank Plaza, South Tower  
200 bay Street, Suite 3800  
P.O. Box 84  
Toronto, Ontario M5J 2Z4

Attention: Virginie Gauthier  
Fax: 416-216-3930  
email: [vgauthier@ogilvyrenault.com](mailto:vgauthier@ogilvyrenault.com)

(d) if to Biscayne:

Biscayne Metals Finance, LLC  
c/o H.I.G. Bayside Capital  
1001 Brickell Bay Drive, 26<sup>th</sup> Floor  
Miami, Florida 33131

Attention: Sean Ozbolt  
Fax: 305-379-3655  
E-mail: [sozbolt@higcapital.com](mailto:sozbolt@higcapital.com)

with a copy to:

Gowling Lafleur Henderson LLP  
100 King Street West, Suite 1600  
Toronto, ON M5X 1G5

Attention: Clifton Prophet  
Fax: 416-863-3509  
E-mail: [clifton.prophet@gowlings.com](mailto:clifton.prophet@gowlings.com)

and a copy to:

FTI Consulting Canada Inc.  
TD Waterhouse Tower, Suite 2010  
79 Wellington Street  
Toronto, Ontario M5K 1G8

Attention: Nigel Meakin  
Fax: 416-649-8101  
E-mail: [nigel.meakin@fticonsulting.com](mailto:nigel.meakin@fticonsulting.com)

and a copy to:

Ogilvy Renault LLP  
Royal Bank Plaza, South Tower  
200 Bay Street, Suite 3800  
P.O. Box 84  
Toronto, Ontario M5J 2Z4

Attention: Virginie Gauthier  
Fax: 416-216-3930  
email: [vgauthier@ogilvyrenault.com](mailto:vgauthier@ogilvyrenault.com)

or to such other address as any party may from time to time notify the others in accordance with this Section. All such notices and communications which are delivered will be deemed to have been received on the date of delivery. All such notices and communications which are faxed or emailed will be deemed to be received on the date faxed or emailed if sent before 5:00 p.m. (Toronto Time) on a Business Day and otherwise will be deemed to be received on the Business Day next following the day upon which such fax or email was sent.

**SCHEDULE "A"**

**FORM OF MONITOR'S CERTIFICATE**

Court File No. CV-10-8561-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF SIGNATURE ALUMINUM CANADA INC.**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c.C-36, AS AMENDED**

**MONITOR'S CERTIFICATE**

**RECITALS**

- A. Pursuant to the order of this Honourable Court dated January 29, 2010 (the "Initial Order") Signature Aluminum Canada Inc. ("the Applicant") filed for and obtained protection from its creditors under the *Companies' Creditors Arrangement Act* R.S.C. 1985, c. C-36, as amended.
- B. Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed the Monitor of the Applicant (the "Monitor") with the powers, duties and obligations set out in the Initial Order;
- C. The Applicant has filed a Plan of Compromise and Arrangement under the CCAA dated May ~~3~~4, 2010 (as amended, the "Plan"), which Plan has been approved by the Creditors and the Court; and
- D. Unless otherwise indicated herein, initially capitalized terms used herein have the meaning set out in the Plan.

\* \* \* \* \*

**THE MONITOR HEREBY CERTIFIES** that it has been advised by the Applicant and Biscayne in accordance with Section 8.3 of the Plan that the conditions precedent set out in Section 8.2 of the Plan, other than the delivery of this certificate, have been satisfied or waived in accordance with the Plan on \_\_\_\_\_, 2010 and that accordingly, the Plan Implementation Date is \_\_\_\_\_, 2010.

**DATED** at Toronto, Ontario, this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

**FTI CONSULTING CANADA INC.**, in its capacity as Monitor of Signature Aluminum Canada Inc. and not in its personal or corporate capacity

By: \_\_\_\_\_  
Name:  
Title:

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

Court File No: CV-10-8561-00CL

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

Proceeding commenced at Toronto

**PLAN OF COMPROMISE AND  
ARRANGEMENT OF  
SIGNATURE ALUMINUM CANADA INC.  
(May 4, 2010)**

**BLAKE, CASSELS & GRAYDON LLP**  
Barristers & Solicitors  
Box 25, Commerce Court West  
199 Bay Street, Suite 2800  
Toronto, Ontario M5L 1A9

**Line Rogers** LSUC #43562N  
Tel: (416) 863-4168

**Katherine McEachern** LSUC#38345M  
Tel: (416) 863-2566

**Jackie Moher** LSUC #53166V  
Tel: (416) 863-3174  
Fax: (416) 863-2653

Lawyers for the Applicant

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Description	TOR_2024-#12387860-v2-Signature_-_Amended_Plan
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<b>Legend:</b>	
<u>Insertion</u>	
Deletion	
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<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

<b>Statistics:</b>	
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Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	21