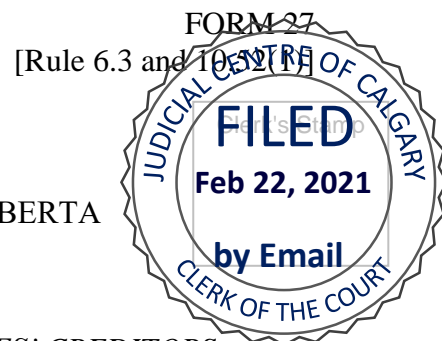


ENTERED



COURT FILE NUMBER 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

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APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT **Gowling WLG (Canada) LLP**
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9

Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514

NOTICE TO THE RESPONDENTS

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

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

To do so, you must attend Court by videoconference or phone when the application is heard as shown below:

Date: February 24, 2021
Time: 2:00 pm
Where: Calgary Courts Centre – via Webex. Videoconference details are enclosed as **Appendix “A”** to this Application
Before: The Honourable Justice K.M. Eidsvik – Commercial List

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

Remedy claimed or sought:

1. The Applicants, JMB Crushing Systems Inc. (“**JMB**”), 2161889 Alberta Ltd. (“**216**”, and with JMB, the “**Applicants**”), and Mantle Materials Group, Ltd. (“**Mantle**”) seek an order pursuant to the *Companies’ Creditors Arrangement Act*, RSC 1985, c C-36, as amended, (the “**CCAA**”), as follows:

- (a) An Order, substantially in the form attached as **Schedule “A”** hereto:
 - (i) Approving the Asset Purchase Agreement dated January 19, 2021 (the “**McDonald #1 APA**”) between JMB, as vendor, and McDonald Aggregates Inc. (“**McDonald**”), as purchaser, the sale, transfer and assignment of the assets identified therein (the “**McDonald #1 Assets**”), and the transfer and vesting of the McDonald #1 Assets to McDonald, and authorizing JMB and FTI Consulting Canada Inc. (the “**Monitor**”), in its capacity as the court-appointed monitor of the Applicants, to take any and all such steps as are necessary or advisable to close the transaction for the purchase and sale of the McDonald #1 Assets as contemplated by the McDonald #1 APA, the Initial Order granted under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) on May 1, 2020 (as subsequently amended and restated on May 11, 2020, the “**Initial Order**”), the sale and investment solicitation process attached as Schedule “A” to the Initial Order (the “**SISP**”), and any other Order granted in these proceedings;
 - (ii) Ordering and declaring that, effective upon the Monitor filing a certificate with this Honourable Court (the “**Monitor’s Certificate**”) confirming that all terms and conditions under the McDonald #1 APA and any and all modifications thereto have either been satisfied or waived, and that the transactions contemplated by the McDonald #1 APA have otherwise been completed to the satisfaction of the Monitor, all legal and beneficial ownership of and title to the McDonald #1 Assets shall vest in McDonald

(or its designated assignee or nominee, to the extent permitted by the McDonald #1 APA), free and clear of any and all security interests (whether contractual, statutory, or otherwise), liens, writs, executions, ownership interests, levies, charges, or other financial or monetary claims, whether or not they have been attached, registered, perfected, or filed, and whether secured, unsecured, liquidated, contingent, or absolute (collectively, the “**Claims**”);

- (iii) Ordering that JMB and any and all persons claiming through, by, or under JMB and all persons in possession of any or all of the McDonald #1 Assets shall deliver up possession of the McDonald #1 Assets to McDonald or its assignee or nominee, upon the filing of the Monitor’s Certificate; and
 - (iv) Ordering and declaring that, notwithstanding the pendency of these proceedings or the provision of any federal or provincial statute, the vesting provisions contained in the proposed form of the Sale Approval and Vesting Order attached as **Schedule “A”** hereto, concerning the assignment, sale, and transfer of the McDonald #1 Assets: (a) will not be void or voidable at the instance of creditors or claimants; (b) do not constitute and shall not be deemed to be a fraudulent preference, a fraudulent conveyance, a transfer at undervalue, or otherwise subject to challenge under the *Bankruptcy and Insolvency Act* (Canada), the *Fraudulent Preferences Act* (Alberta), or any other applicable federal or provincial legislations; and (c) do not constitute and shall not be deemed to constitute conduct meriting an oppression remedy;
- (b) An Order, substantially in the form attached as **Schedule “B”** hereto:
- (i) Approving the Asset Purchase Agreement dated January 25, 2021 (the “**McDonald #2 APA**”), between JMB, as vendor, and McDonald, as purchaser, the sale, transfer and assignment of the assets identified therein (the “**McDonald #2 Assets**”), and the transfer and vesting of the McDonald #2 Assets to McDonald, and authorizing JMB and the Monitor to take any

and all such steps as are necessary or advisable to close the transaction for the purchase and sale of the McDonald #2 Assets as contemplated by the McDonald #2 APA, the Initial Order, the SISP, and any other Order granted in these proceedings;

- (ii) Ordering and declaring that, effective upon the Monitor filing a Monitor's Certificate with this Honourable Court confirming that all terms and conditions under the McDonald #2 APA and any and all modifications thereto have either been satisfied or waived, and that the transactions contemplated by the McDonald #2 APA have otherwise been completed to the satisfaction of the Monitor, all legal and beneficial ownership of and title to the McDonald #2 Assets shall vest in McDonald (or its designated assignee or nominee, to the extent permitted by the McDonald #2 APA), free and clear of any and all Claims;
- (iii) Ordering that JMB and any and all persons claiming through, by, or under JMB and all persons in possession of any or all of the McDonald #2 Assets shall deliver up possession of the McDonald #2 Assets to McDonald or its assignee or nominee, upon the filing of the Monitor's Certificate; and
- (iv) Ordering and declaring that, notwithstanding the pendency of these proceedings or the provision of any federal or provincial statute, the vesting provisions contained in the proposed form of the Sale Approval and Vesting Order attached as **Schedule "B"** hereto, concerning the assignment, sale, and transfer of the McDonald #2 Assets: (a) will not be void or voidable at the instance of creditors or claimants; (b) do not constitute and shall not be deemed to be a fraudulent preference, a fraudulent conveyance, a transfer at undervalue, or otherwise subject to challenge under the *Bankruptcy and Insolvency Act* (Canada), the *Fraudulent Preferences Act* (Alberta), or any other applicable federal or provincial legislations; and (c) do not constitute and shall not be deemed to constitute conduct meriting an oppression remedy;

- (c) An Order, substantially in the form attached as **Schedule “C”** hereto:
- (i) Approving the Asset Purchase Agreement (the “**Summit APA**”), between JMB, as vendor, and Summit Trailer Ltd. (“**Summit**”), as purchaser, the sale, transfer and assignment of the assets identified therein (the “**Summit Assets**”), and the transfer and vesting of the Summit Assets to Summit, and authorizing JMB and the Monitor to take any and all such steps as are necessary or advisable to close the transaction for the purchase and sale of the Summit Assets as contemplated by the Summit APA, the Initial Order, the SISP, and any other Order granted in these proceedings;
 - (ii) Ordering and declaring that, effective upon the Monitor filing a Monitor’s Certificate with this Honourable Court confirming that all terms and conditions under the Summit APA, and any and all modifications thereto have either been satisfied or waived, and that the transactions contemplated by the Summit APA have otherwise been completed to the satisfaction of the Monitor, all legal and beneficial ownership of and title to the Summit Assets shall vest in Summit (or its designated assignee or nominee, to the extent permitted by the Summit APA), free and clear of any and all Claims;
 - (iii) Ordering that JMB and any and all persons claiming through, by, or under JMB and all persons in possession of any or all of the Summit Assets shall deliver up possession of the Summit Assets to Summit or its assignee or nominee upon the filing of the Monitor’s Certificate; and
 - (iv) Ordering and declaring that, notwithstanding the pendency of these proceedings or the provision of any federal or provincial statute, the vesting provisions contained in the proposed form of the Sale Approval and Vesting Order attached as **Schedule “C”** hereto, concerning the assignment, sale, and transfer of the Summit Assets: (a) will not be void or voidable at the instance of creditors or claimants; (b) do not constitute and shall not be deemed to be a fraudulent preference, a fraudulent conveyance, a transfer at undervalue, or otherwise subject to challenge under the *Bankruptcy and*

Insolvency Act (Canada), the *Fraudulent Preferences Act* (Alberta), or any other applicable federal or provincial legislations; and (c) do not constitute and shall not be deemed to constitute conduct meriting an oppression remedy;

- (d) An Order, substantially in the form attached as **Schedule “D”** hereto, extending the Stay Period, as defined in the Initial Order up to and including April 16, 2021, or such other date as this Honourable Court may deem appropriate;
- (e) An Order, substantially in the form attached as **Schedule “E”** hereto, sealing the confidential Affidavit of Blake M. Elyea sworn February 19, 2021 (the “**Confidential Affidavit**”) on the Court file until the filing of the Monitor’s Certificates;
- (f) An abridgement of the time for service of notice of this Application and supporting materials, an abridgement of the time for service to the time provided, a provision deeming service good and sufficient, and a declaration that no other person is required to have been served with notice; and
- (g) Such further and other relief as counsel requests and this Honourable Court may grant.

Grounds for making this application

- 2. On May 1, 2020, the Applicants were granted the Initial Order under the CCAA, among other things:
 - (a) Declaring that the Applicants are companies to which the CCAA applies;
 - (b) Granting a stay of proceedings up to and including May 11, 2020 (the “**Stay Period**”);
 - (c) Approving the SISP; and

- (d) Appointing FTI Consulting Canada Inc. as Monitor of the Applicants in these proceedings.
3. On May 11, 2020, the Applicants sought and obtained an Amended and Restated Initial Order, *inter alia*:
- (a) Extending the Stay Period to July 31, 2020;
 - (b) Appointing Sequeira Partners as Sale Advisor for the SISP; and
 - (c) Authorizing the Monitor, the Sale Advisor, and the Applicants to conduct the SISP and carry out their obligations thereunder.
4. Pursuant to the SISP, the Monitor is, *inter alia*, authorized to: (i) direct and manage any sale and investment solicitation process and all bids made therein; (ii) assess the bids in consultation with the Sales Agent, the Applicants and the Applicants' secured creditors, as appropriate; and (iii) seek approval from the Court for the consummation of any successful bid.
5. In accordance with the terms of the SISP the Monitor and the Sales Agent marketed the business and assets of the Applicants. No acceptable offers for the McDonald #1 Assets, the McDonald #2 Assets and the Summit Assets (collectively, the "**Assets**") were received during the SISP.

Sale Approval and Vesting Orders

6. In or about January, 2021 the Applicants received offers for the purchase of the Assets (collectively, the "**Offers**").
7. The Applicants and the Monitor discussed the Offers with relevant and key stakeholders and the primary secured creditors of the Assets, being Fiera Private Debt Fund V LP, by its general partner Fiera Private Debt Fund GP Inc. (collectively, "**Fund V**"), and Fiera Private Debt Fund VI LP, by its general partner Fiera Private Debt Fund GP Inc. (collectively, "**Fund VI**", and with Fund V, "**Fiera**").

8. The McDonald #1 APA provides that, *inter alia*, upon and subject to the terms and conditions of the McDonald #1 APA, in consideration of the payment of the purchase price contemplated therein, JMB will sell, transfer, convey, assign and deliver to McDonald, and McDonald will purchase, acquire, and assume from JMB, free and clear of all Claims, all of JMB's right, title, benefit, estate and interest in and to the McDonald #1 Assets, as described in Schedule "A" to the McDonald #1 APA.
9. The McDonald #2 APA provides that, *inter alia*, upon and subject to the terms and conditions of the McDonald #2 APA, in consideration of the payment of the purchase price contemplated therein, JMB will sell, transfer, convey, assign and deliver to McDonald, and McDonald will purchase, acquire, and assume from JMB, free and clear of all Claims, all of JMB's right, title, benefit, estate and interest in and to the McDonald #2 Assets, as described in Schedule "A" to the McDonald #2 APA.
10. The Summit APA provides that, *inter alia*, upon and subject to the terms and conditions of the Summit APA, in consideration of the payment of the purchase price contemplated therein, JMB will sell, transfer, convey, assign and deliver to Summit, and Summit will purchase, acquire, and assume from JMB, free and clear of all Claims, all of the Applicants respective right, title, benefit, estate and interest in and to the Summit Assets, as described in Schedule "A" to the Summit APA.
11. JMB negotiated the McDonald #1 APA and the McDonald #2 APA and the related transaction documents. The McDonald #1 APA and the McDonald #2 APA are conditional, *inter alia*, on the approval of this Honourable Court.
12. JMB and Fiera negotiated the Summit APA (with the McDonald #1 APA and the McDonald #2 APA, the "APAs") and the related transaction documents. The Summit APA is conditional, *inter alia*, on the approval of this Honourable Court.
13. The Assets being conveyed pursuant to the APAs were sufficiently exposed to the relevant market in a commercially reasonable and fair marketing process as approved by and in accordance with the terms of the SISF and the Initial Order.

14. The price to be paid for the Assets, pursuant to the APAs, represents the highest and best price that can be obtained for the Assets in the current circumstances.
15. The APAs, as proposed, are in the best interest of the Applicants' estates and stakeholders.

Stay Extension Order

16. The Stay Period granted by the Initial Order and subsequently extended currently expires on February 26, 2021.
17. The Applicants are seeking a further extension of the Stay Period pursuant to the Stay Extension Order to and including April 16, 2021, or such further date as this Honourable Court may deem appropriate.
18. This Honourable Court approved the Amended and Restated Asset Purchase Agreement dated September 28, 2020 (the transactions contemplated thereby, the "**Mantle Transaction**") between the Applicants and Mantle Materials Group, Ltd. ("**Mantle**") pursuant to the Amended and Restated Sale Approval and Vesting Order pronounced October 16, 2020.
19. Impediments remain to the Mantle Transaction being completed. The approval of Alberta Environment and Parks ("**AEP**") is required for the transfers to Mantle of surface material leases, registrations and other dispositions included in the Mantle Transaction, and the transfers to 216 of certain surface material leases, registrations and other dispositions excluded from the Mantle Transaction. Although discussions are ongoing between JMB, Mantle and the AEP, this condition precedent has not been satisfied.
20. The Applicants require an extension of the Stay Period in order to continue discussions with the AEP with a view to completing the Mantle Transaction. The Applicants will also be making an application to amend and restate the Mantle Asset Purchase Agreement and certain Orders granted on October 16, 2020, which requires court approval. In addition, there are other matters not related to the Mantle Transaction that must be addressed by the Applicants during an extended stay period, including the implications of a claim being

pursued by the Canada Revenue Agency and an upcoming application in relation to a lien determination appeal by RBEE Aggregates Inc.

21. The Applicants believe that the stakeholders will not be prejudiced by the proposed extension of the Stay Period to and including April 16, 2021.
22. The Applicants have acted and continue to act in good faith and with due diligence in respect of all matters relating to the CCAA proceedings, and no creditor will be prejudiced by the proposed extension of the Stay Period.

Sealing Order

23. The Confidential Affidavit contains certain information concerning the APAs, the assets acquired thereby, and certain commercially sensitive information related thereto. The public disclosure and dissemination of the information in the Confidential Affidavit would cause serious and irreparable harm to the estates of the Companies and their stakeholders. The limited sealing provision that the Monitor seeks on the Application, in respect of the Confidential Affidavit, is a fair and reasonable method of addressing the serious and irreparable harm that would result, if the Confidential Affidavit were publically disseminated.
24. The proposed sealing order sought is the least restrictive and prejudicial alternative in the circumstances.

Miscellaneous

25. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Material or evidence to be relied on:

26. The SISP and the Initial Order
27. The pleadings and materials filed in the within proceedings;
28. The Thirteenth Report, to be filed;

29. Affidavit of Blake M. Elyea sworn February 19, 2021, filed concurrently with the within Application;
30. Confidential Affidavit of Blake M. Elyea sworn February 19, 2021, unfiled; and
31. Such further and other materials or evidence as counsel may advise and this Honourable Court may permit.

Applicable Rules:

32. Rules 1.3 ,1.4, 6.3, 6.9, 11.27 and Part 6 Division 4 of the *Alberta Rules of Court*, Alta Reg 124/2010; and
33. Such further and other rules as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

34. *Companies' Creditors Arrangement Act*, RSC 1985, c. C-36, as amended, and this Honourable Court's equitable and statutory jurisdiction thereunder; and
35. Such further and other authority as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

36. None.

How this application is proposed to be heard or considered:

37. By Webex.

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicants what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and time shown at the beginning of the form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicants a reasonable time before the application is to be heard or considered.

APPENDIX "A"
(Webex instructions)

Virtual Courtroom 60 has been assigned for the following matter:

Date: Feb 24, 2021 02:00 PM

Style of Cause: 2001 05482 - JMB CRUSHING SYSTEMS INC v. COMPANIES CREDITORS ARRANGEMENT ACT

Presiding Justice: EIDSVIK J

Virtual Courtroom Link:

<https://albertacourts.webex.com/meet/virtual.courtroom60>

Instructions for Connecting to the Meeting

1. Click on the link above or open up Chrome or Firefox and cut and paste it into your browser address bar.
2. If you do not have the Cisco Webex application already installed on your device, the site will have a button to install it. Follow installation instructions. Enter your full name and email address when prompted
3. Click on the **Open Cisco Webex Meeting**.
4. You will see a preview screen. Click on **Join Meeting**.

Key considerations for those attending:

1. Please connect to the courtroom **15 minutes prior** to the start of the hearing.
2. Please ensure that your microphone is muted and remains muted for the duration of the proceeding, unless you are speaking. Ensure that you state your name each time you speak.
3. If bandwidth becomes an issue, some participants may be asked to turn off their video and participate by audio only.
4. **Note: Recording or rebroadcasting of the video is prohibited.**
5. **Note: It is highly recommended you use headphones with a microphone or a headset when using Webex. This prevents feedback.**

If you are a non-lawyer attending this hearing remotely, you must complete the undertaking located here:

<https://www.albertacourts.ca/qb/resources/announcements/undertaking-and-agreement-for-non-lawyers>

For more information relating to Webex protocols and procedures, please visit:

<https://www.albertacourts.ca/qb/court-operations-schedules/webex-remote-hearings-protocol>

SCHEDULE "A"
[McDonald #1 Sale Approval and Vesting Order]

Clerk's Stamp

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889
ALBERTA LTD.

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **ORDER**
(Sale Approval and Vesting – McDonald Aggregates – January 19)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9
Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514

DATE ON WHICH ORDER WAS PRONOUNCED: February 24, 2021

LOCATION AT WHICH ORDER WAS MADE: Calgary Court House

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice K.M. Eidsvik

UPON the application (the “**Application**”) of JMB Crushing Systems Inc. (“**JMB**”) and 2161889 Alberta Ltd. (“**216**”, and with JMB, the “**Applicants**”), that commenced the within proceedings (the “**Proceedings**”) pursuant to the initial order granted under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) on May 1, 2020 (as subsequently amended and restated on May 11, 2020, the “**Initial Order**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by the Asset Purchase Agreement, dated January 19, 2021 (the “**APA**”), between the Applicants, as vendors, and McDonald Aggregates Inc. (the “**Purchaser**”),

as purchaser, and vesting in the Purchaser (or its nominee), all of JMB's right, title, and interest in and to the assets described in the APA (collectively, the "**Purchased Assets**");

AND UPON HAVING READ the Initial Order and the sale and investment solicitation process attached as Schedule "A" to the Initial Order (the "**SISP**"); **AND UPON HAVING READ** the Thirteenth Report of FTI Consulting Canada Inc. (the "**Monitor**"), in its capacity as the court-appointed monitor of the Applicants, dated February 9, 2021 (the "**Thirteenth Report**"), filed; **AND UPON HAVING READ** the Affidavit of Blake Elyea sworn February 19, 2021, the Confidential Affidavit of Blake Elyea sworn February 19, 2021 and the Affidavit of Service of 9, to be filed; **AND UPON HEARING** the submissions of counsel for the Applicants, the Monitor, and for any other parties who may be present; **IT IS HEREBY ORDERED THAT:**

Service

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

Approval of Transaction

2. The Transaction is hereby approved and execution of the APA is hereby authorized, ratified, confirmed, and approved, with such minor amendments as the Monitor and the Purchaser may agree to, with the consent of JMB. The Monitor and JMB are hereby authorized and directed to take such additional steps and JMB is hereby authorized and empowered to execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser (or its nominee).

Vesting of Purchased Assets

3. Upon the delivery of a Monitor's certificate to the Purchaser (or its nominee) substantially in the form set out in Schedule "A" hereto (the "**Monitor's Certificate**"), all of JMB's right, title, and interest in and to the Purchased Assets, as described in the APA, shall vest absolutely, exclusively, and entirely in the name of the Purchaser (or its nominee), free and

clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts, reservations of ownership, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary, or otherwise, whether or not they have attached or been perfected, registered, or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Initial Order; and,
- (b) all charges, security interests or claims evidences by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;

and for greater certainty, this Court orders that all Claims, including Encumbrances as set out in **Schedule “B”** hereto other than Permitted Encumbrances as set out in **Schedule “C”** hereto (the “**Permitted Encumbrances**”), affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Monitor’s Certificate and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to in this paragraph (collectively, “**Governmental Authorities**”) are hereby authorized, requested, and directed to accept delivery of such Monitor’s Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets. Without limiting the foregoing, the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than the Permitted Encumbrances) in the estate or interest of JMB in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial number goods.

5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the APA. Presentment of this Order and the Monitor's Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims.
6. The Monitor is authorized and directed to undertake and perform such activities and obligations as are contemplated to be undertaken or performed by the Monitor pursuant to this Order, the SISP, the APA, or any ancillary document related thereto, and shall incur no liability in connection therewith, save and except for any gross negligence or wilful misconduct on its part.
7. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery, and performance by JMB of the APA.
8. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets from and after delivery of the Monitor's Certificate and all Claims shall not attach to, encumber, or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
9. Upon completion of the Transaction, JMB and all persons who claim by, through or under JMB in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, shall stand absolutely and forever barred, estopped, and foreclosed from and permanently enjoined from pursuing, asserting, or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any

such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

10. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by JMB, or any person claiming by, through or against JMB.
11. The Monitor is directed to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
12. The Monitor may rely on written notice from JMB and the Purchaser or their respective counsel regarding the fulfillment of conditions to closing under the APA and shall incur no liability with respect to the delivery of the Monitor's Certificate.

Miscellaneous Matters

13. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended (the "**BIA**"), in respect of JMB, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of JMB; and
 - (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of JMB and shall not be void or voidable by creditors of JMB, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent

conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. The Applicants, the Monitor, the Purchaser (or its nominee), and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
15. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order, and to assist JMB, 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 order and to provide such assistance to JMB, and the Monitor as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist JMB, the Monitor and their respective agents in carrying out the terms of this Order.
16. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors;
 - (b) Posting a copy of this Order on the Monitor's website at: <http://cfcanda.fticonsulting.com/jmb/default.htm>; and,

(c) Posting a copy of the Order to CaseLines in accordance with the CaseLines Service Order granted on May 29, 2020,

and service on any other person is hereby dispensed with.

17. Service of this Order shall be deemed good and sufficient by serving the same in accordance with procedure in the CaseLines Service Order granted May 29, 2020.

J.C.C.Q.B.A.

**SCHEDULE "A" TO THE ORDER
(Sale Approval And Vesting – McDonald Aggregates – January 19)**

MONITOR'S CERTIFICATE

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's Stamp

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

DOCUMENT **MONITOR'S CERTIFICATE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, Alberta T2P 4K9
Attn: Sean Collins/Pantelis Kyriakakis
Tel: 403-260-3531 / 3536
Fax: 403-260-3501
Email: scollins@mccarthy.ca / pkiriakakis@mccarthy.ca

RECITALS

- A. Pursuant to an Order of the Honourable Justice K.M. Eidsvik of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**"), dated May 1, 2020, as subsequently amended and restated on May 11, 2020, FTI Consulting Canada Inc., was appointed as the monitor (the "**Monitor**") of JMB Crushing Systems Inc. ("**JMB**") and 2161889 Alberta Ltd. ("**216**", and with JMB, the "**Applicants**").
- B. Pursuant to an Order of the Court, dated February 24, 2021, the Court approved the Asset Purchase Agreement dated January 19, 2021 (the "**APA**") between JMB, as vendor, and McDonald Aggregates Inc. (the "**Purchaser**"), as purchaser, and provided for the vesting in the Purchaser of JMB's right, title, and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of

the Purchase Price for the Purchased Assets; (ii) that all conditions to the closing of the APA have been satisfied or waived by JMB and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

- C. Unless otherwise indicated herein, all capitalized terms have the meanings set out in the Order.

THE MONITOR CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Monitor has received the purchase price for the Purchased Assets in accordance with and as contemplated by the terms of the APA;
2. The conditions to the closing of the APA have been satisfied or waived by JMB and the Purchaser (or its nominee); and
3. The Transaction has been completed to the satisfaction of the Monitor.

This Certificate was delivered by the Monitor at **[Time]** on **[Date]**.

FTI CONSULTING CANADA INC., in its capacity as the monitor of **JMB CRUSHING SYSTEMS INC.** and **2161889 ALBERTA LTD.**, and not in its personal or corporate capacity.

Per: _____
Name:
Title:

SCHEDULE “B”

(Encumbrances)

1. Fiera Private Debt Fund V LP, as Collateral Agent - Registration No.: 18062002625; and
2. Canadian Western Bank Leasing Inc. – Broker Buying Centre – Registration No.: 19051033925.

SCHEDULE "C"

(Permitted Encumbrances)

Nil

SCHEDULE "B"
[Mcdonald #2 Sale Approval and Vesting Order]

**Order
Rule 9.1**

Clerk's Stamp

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889
ALBERTA LTD.

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **ORDER (Sale Approval and Vesting Order – McDonald Aggregates
– January 25)**

ADDRESS FOR SERVICE AND CONTACT
INFORMATION OF PARTY FILING
THIS DOCUMENT **Gowling WLG (Canada) LLP**
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9

Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514

DATE ON WHICH ORDER WAS PRONOUNCED: February 24, 2021

LOCATION AT WHICH ORDER WAS MADE: Calgary Court House

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice K.M. Eidsvik

UPON the application (the “**Application**”) of JMB Crushing Systems Inc. (“**JMB**”) and 2161889 Alberta Ltd. (“**216**”, and with JMB, the “**Applicants**”) that commenced the within proceedings (the “**Proceedings**”) pursuant to the initial order granted under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) on May 1, 2020 (as subsequently amended and restated on May 11, 2020 the “**Initial Order**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by the Asset Purchase Agreement, dated January 25, 2021 (the “**APA**”), between the Applicants, as vendors, and McDonald Aggregates Inc. (the “**Purchaser**”),

as purchaser, and vesting in the Purchaser (or its nominee), all of JMB's right, title, and interest in and to the assets described in the APA (collectively, the "**Purchased Assets**");

AND UPON HAVING READ the Initial Order and the sale and investment solicitation process attached as Schedule "A" to the Initial Order (the "**SISP**"); **AND UPON HAVING READ** the Thirteenth Report of FTI Consulting Canada Inc. (the "**Monitor**"), in its capacity as the court-appointed monitor of the Applicants, dated February ●, 2021 (the "**Thirteenth Report**"), filed; **AND UPON HAVING READ** the Affidavit of Blake Elyea sworn February 19, 2021, the Confidential Affidavit of Blake Elyea sworn 19, 2021 and the Affidavit of Service of ●, to be filed; **AND UPON HEARING** the submissions of counsel for the Applicants, the Monitor, and for any other parties who may be present;

IT IS HEREBY ORDERED THAT:

Service

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application, time for service of this application is abridged to that actually given

Approval of Transaction

2. The Transaction is hereby approved and execution of the APA is hereby authorized, ratified, confirmed, and approved, with such minor amendments as the Monitor and the Purchaser may agree to, with the consent of JMB. The Monitor and JMB are hereby authorized and directed to take such additional steps and JMB is hereby authorized and empowered to execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser (or its nominee).

Vesting of Purchased Assets

3. Upon the delivery of a Monitor's certificate to the Purchaser (or its nominee) substantially in the form set out in Schedule "A" hereto (the "**Monitor's Certificate**"), all of JMB's right, title, and interest in and to the Purchased Assets, as described in the APA, shall vest

absolutely, exclusively, and entirely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts, reservations of ownership, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary, or otherwise, whether or not they have attached or been perfected, registered, or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Initial Order; and,
- (b) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;

and for greater certainty, this Court orders that all Claims, including Encumbrances as set out in **Schedule “B”** hereto other than Permitted Encumbrances as set out in **Schedule “C”** hereto (the “**Permitted Encumbrances**”), affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Monitor’s Certificate and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to in this paragraph (collectively, “**Governmental Authorities**”) are hereby authorized, requested, and directed to accept delivery of such Monitor’s Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets. Without limiting the foregoing, the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than the Permitted Encumbrances) in the estate or interest of JMB in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.

5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the APA. Presentment of this Order and the Monitor's Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims.
6. The Monitor is authorized and directed to undertake and perform such activities and obligations as are contemplated to be undertaken or performed by the Monitor pursuant to this Order, the SISF, the APA, or any ancillary document related thereto, and shall incur no liability in connection therewith, save and except for any gross negligence or wilful misconduct on its part.
7. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery, and performance by JMB of the APA.
8. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets from and after delivery of the Monitor's Certificate and all Claims shall not attach to, encumber, or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
9. Upon completion of the Transaction, JMB and all persons who claim by, through or under JMB in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, shall stand absolutely and forever barred, estopped, and foreclosed from and permanently enjoined from pursuing, asserting, or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any

such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

10. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by JMB, or any person claiming by, through or against JMB.
11. The Monitor is directed to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
12. The Monitor may rely on written notice from JMB and the Purchaser or their respective counsel regarding the fulfillment of conditions to closing under the APA and shall incur no liability with respect to the delivery of the Monitor's Certificate.

Miscellaneous Matters

13. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act, RSC 1985, c.B-3, as amended (the "BIA"), in respect of JMB, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of JMB; and
 - (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of JMB and shall not be void or voidable by creditors of JMB, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent

conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. The Applicants, the Monitor, the Purchaser (or its nominee), and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
15. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order, and to assist JMB, 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 order and to provide such assistance to JMB, and the Monitor as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist JMB, the Monitor and their respective agents in carrying out the terms of this Order.
16. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors;
 - (b) Posting a copy of this Order on the Monitor's website at: <http://cfcanda.fticonsulting.com/jmb/default.htm>; and,

(c) Posting a copy of the Order to CaseLines in accordance with the CaseLines Service Order granted on May 29, 2020,

and service on any other person is hereby dispensed with.

17. Service of this Order shall be deemed good and sufficient by serving the same in accordance with procedure in the CaseLines Service Order granted May 29, 2020.

J.C.C.Q.B.A.

SCHEDULE "A" TO THE ORDER
(Sale Approval And Vesting – McDonald Aggregates – January 25)

MONITOR'S CERTIFICATE

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

DOCUMENT **MONITOR'S CERTIFICATE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, Alberta T2P 4K9
Attn: Sean Collins/Pantelis Kyriakakis
Tel: 403-260-3531 / 3536
Fax: 403-260-3501
Email: scollins@mccarthy.ca / pkiriakakis@mccarthy.ca

RECITALS

- A. Pursuant to an Order of the Honourable Justice K.M. Eidsvik of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**"), dated May 1, 2020, as subsequently amended and restated on May 11, 2020, FTI Consulting Canada Inc., was appointed as the monitor (the "**Monitor**") of JMB Crushing Systems Inc. ("**JMB**") and 2161889 Alberta Ltd. ("**216**", and with JMB, the "**Applicants**").
- B. Pursuant to an Order of the Court, dated February 24, 2021, the Court approved the Asset Purchase Agreement dated January 25, 2021 (the "**APA**") between JMB, as vendor, and McDonald Aggregates Inc. (the "**Purchaser**"), as purchaser, and provided for the vesting in the Purchaser of JMB's right, title, and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of

the Purchase Price for the Purchased Assets; (ii) that all conditions to the closing of the APA have been satisfied or waived by JMB and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, all capitalized terms have the meanings set out in the Order.

THE MONITOR CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Monitor has received the purchase price for the Purchased Assets, in accordance with and as contemplated by the terms of the APA;
2. The conditions to the closing of the APA have been satisfied or waived by JMB and the Purchaser (or its nominee); and,
3. The Transaction has been completed to the satisfaction of the Monitor.

This Certificate was delivered by the Monitor at **[Time]** on **[Date]**.

FTI CONSULTING CANADA INC., in its capacity as the monitor of **JMB CRUSHING SYSTEMS INC.** and **2161889 ALBERTA LTD.,** and not in its personal or corporate capacity.

Per: _____
Name:
Title:

SCHEDULE “B”

(Encumbrances)

1. Fiera Private Debt Fund V LP, as Collateral Agent – Registration No.: 18062002625.

SCHEDULE "C"

(Permitted Encumbrances)

Nil

SCHEDULE "C"
[Summit Sale Approval And Vesting Order]

**Order
Rule 9.1**

Clerk's Stamp

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889
ALBERTA LTD.

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **ORDER (Sale Approval and Vesting Order – Summit Trailer)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9
Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514

DATE ON WHICH ORDER WAS PRONOUNCED: February 24, 2021

LOCATION AT WHICH ORDER WAS MADE: Calgary Court House

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice K.M. Eidsvik

UPON the application (the “**Application**”) of JMB Crushing Systems Inc. (“**JMB**”) and 2161889 Alberta Ltd. (“**216**”, and with JMB, the “**Applicants**”) that commenced the within proceedings (the “**Proceedings**”) pursuant to the initial order granted under the *Companies’ Creditors Arrangement Act* (the “**CCAA**”) on May 1, 2020 (as subsequently amended and restated on May 11, 2020, the “**Initial Order**”), for an order approving the sale transaction (the “**Transaction**”) contemplated by the Asset Purchase Agreement, dated February ●, 2021 (the “**APA**”), between the Applicants, as vendors, and Summit Trailer Ltd. (the “**Purchaser**”), as

purchaser, and vesting in the Purchaser (or its nominee), all of JMB's right, title, and interest in and to the assets described in the APA (collectively, the "**Purchased Assets**");

AND UPON HAVING READ the Initial Order and the sale and investment solicitation process attached as Schedule "A" to the Initial Order (the "**SISP**"); **AND UPON HAVING READ** the Thirteenth Report of FTI Consulting Canada Inc. (the "**Monitor**"), in its capacity as the court-appointed monitor of the Applicants, dated February ●, 2021 (the "**Thirteenth Report**"), filed; **AND UPON HAVING READ** the Affidavit of Blake Elyea sworn February 19, 2021 (the "**Elyea Affidavit**"), the Confidential Affidavit of Blake Elyea sworn February 19, 2021 and the Affidavit of Service of ●, to be filed; **AND UPON HEARING** the submissions of counsel for the Applicants, the Monitor, and for any other parties who may be present;

IT IS HEREBY ORDERED THAT:

Service

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application, and time for service of this application is abridged to that actually given.

Approval of Transaction

2. The Transaction is hereby approved and execution of the APA is hereby authorized, ratified, confirmed, and approved, with such minor amendments as the Monitor and the Purchaser may agree to, with the consent of JMB. The Monitor and JMB are hereby authorized and directed to take such additional steps and JMB is hereby authorized and empowered to execute such additional documents as may be necessary or desirable for the completion of the Transaction or for the conveyance of the Purchased Assets to the Purchaser (or its nominee).

Vesting of Purchased Assets

3. Upon the delivery of a Monitor's certificate to the Purchaser (or its nominee) substantially in the form set out in Schedule "A" hereto (the "**Monitor's Certificate**"), all of JMB's right, title, and interest in and to the Purchased Assets, as described in the APA, shall vest

absolutely, exclusively, and entirely in the name of the Purchaser (or its nominee), free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts, reservations of ownership, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary, or otherwise, whether or not they have attached or been perfected, registered, or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing:

- (a) any encumbrances or charges created by the Initial Order; and,
- (b) all charges, security interests or claims evidences by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;

and for greater certainty, this Court orders that all Claims, including Encumbrances other than Permitted Encumbrances as set out in **Schedule “B”** hereto (the “**Permitted Encumbrances**”), affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets.

4. Upon delivery of the Monitor’s Certificate and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to in this paragraph (collectively, “**Governmental Authorities**”) are hereby authorized, requested, and directed to accept delivery of such Monitor’s Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser or its nominee clear title to the Purchased Assets. Without limiting the foregoing, the Registrar of the Alberta Personal Property Registry (the “**PPR Registrar**”) shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than the Permitted Encumbrances) in the estate or interest of JMB in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.

5. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the APA. Presentment of this Order and the Monitor's Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims.
6. The Monitor is authorized and directed to undertake and perform such activities and obligations as are contemplated to be undertaken or performed by the Monitor pursuant to this Order, the SISF, the APA, or any ancillary document related thereto, and shall incur no liability in connection therewith, save and except for any gross negligence or wilful misconduct on its part.
7. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery, and performance by JMB of the APA.
8. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets from and after delivery of the Monitor's Certificate and all Claims shall not attach to, encumber, or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
9. Upon completion of the Transaction, JMB and all persons who claim by, through or under JMB in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, shall stand absolutely and forever barred, estopped, and foreclosed from and permanently enjoined from pursuing, asserting, or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any

such persons or entities remain in the possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser (or its nominee).

10. The Purchaser (or its nominee) shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by JMB, or any person claiming by, through or against JMB.
11. The Monitor is directed to file with the Court a copy of the Monitor's Certificate forthwith after delivery thereof to the Purchaser (or its nominee).
12. The Monitor may rely on written notice from JMB and the Purchaser or their respective counsel regarding the fulfillment of conditions to closing under the APA and shall incur no liability with respect to the delivery of the Monitor's Certificate.

Miscellaneous Matters

13. Notwithstanding:
 - (a) the pendency of these proceedings and any declaration of insolvency made herein;
 - (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the Bankruptcy and Insolvency Act, RSC 1985, c.B-3, as amended (the "BIA"), in respect of JMB, and any bankruptcy order issued pursuant to any such applications;
 - (c) any assignment in bankruptcy made in respect of JMB; and
 - (d) the provisions of any federal or provincial statute:

the vesting of the Purchased Assets in the Purchaser (or its nominee) pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of JMB and shall not be void or voidable by creditors of JMB, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent

conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. The Applicants, the Monitor, the Purchaser (or its nominee), and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.
15. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms of this Order, to give effect to this Order, and to assist JMB, 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 order and to provide such assistance to JMB, and the Monitor as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist JMB, the Monitor and their respective agents in carrying out the terms of this Order.
16. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving the same on:
 - (i) the persons listed on the service list created in these proceedings;
 - (ii) any other person served with notice of the application for this Order;
 - (iii) any other parties attending or represented at the application for this Order;
 - (iv) the Purchaser or the Purchaser's solicitors;
 - (b) Posting a copy of this Order on the Monitor's website at: <http://cfcanda.fticonsulting.com/jmb/default.htm>; and,

(c) Posting a copy of the Order to CaseLines in accordance with the CaseLines Service Order granted on May 29, 2020,

and service on any other person is hereby dispensed with.

17. Service of this Order shall be deemed good and sufficient by serving the same in accordance with procedure in the CaseLines Service Order granted May 29, 2020.

J.C.C.Q.B.A.

**SCHEDULE "A" TO THE ORDER
(Sale Approval And Vesting – Summit Trailer)**

MONITOR'S CERTIFICATE

Clerk's Stamp

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

IN THE MATTER OF THE *COMPANIES' CREDITORS
ARRANGEMENT ACT*, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and
2161889 ALBERTA LTD.

DOCUMENT **MONITOR'S CERTIFICATE**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McCarthy Tétrault LLP
4000, 421 – 7th Avenue SW
Calgary, Alberta T2P 4K9
Attn: Sean Collins/Pantelis Kyriakakis
Tel: 403-260-3531 / 3536
Fax: 403-260-3501
Email: scollins@mccarthy.ca / pkiriakakis@mccarthy.ca

RECITALS

- A. Pursuant to an Order of the Honourable Justice K.M. Eidsvik of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "**Court**"), dated May 1, 2020, as subsequently amended and restated on May 11, 2020, FTI Consulting Canada Inc., was appointed as the monitor (the "**Monitor**") of JMB Crushing Systems Inc. ("**JMB**") and 2161889 Alberta Ltd. ("**216**", and with JMB, the "**Applicants**").
- B. Pursuant to an Order of the Court, dated February 24, 2021, the Court approved the Asset Purchase Agreement dated February ●, 2021 (the "**APA**") between JMB, as vendor, and Summit Trailer Ltd. (the "**Purchaser**"), as purchaser, and provided for the vesting in the Purchaser of JMB's right, title, and interest in and to the Purchased Assets, which vesting

is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that all conditions to the closing of the APA have been satisfied or waived by JMB and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, all capitalized terms have the meanings set out in the Sale Approval Order.

THE MONITOR CERTIFIES the following:

1. The Purchaser (or its nominee) has paid and the Monitor has received the purchase price for the Purchased Assets, in accordance with and as contemplated by the terms of the APA;
2. The conditions to the closing of the APA have been satisfied or waived by JMB and the Purchaser (or its nominee); and,
3. The Transaction has been completed to the satisfaction of the Monitor.

This Certificate was delivered by the Monitor at [**Time**] on [**Date**].

FTI CONSULTING CANADA INC., in its capacity as the monitor of **JMB CRUSHING SYSTEMS INC.** and **2161889 ALBERTA LTD.**, and not in its personal or corporate capacity.

Per: _____
Name:
Title:

SCHEDULE "B"

(Permitted Encumbrances)

Nil

SCHEDULE "D"
[Stay Extension Order]

Clerk's Stamp

COURT FILE NO. 2001-05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE COMPROMISE OR
ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889
ALBERTA LTD.

APPLICANTS JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **STAY EXTENSION ORDER**

ADDRESS FOR SERVICE AND CONTACT
Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9

INFORMATION OF PARTY FILING THIS DOCUMENT
Attn: **Tom Cumming/Caireen E. Hanert/Stephen Kroeger**
Phone: 403.298.1938/403.298.1992/403.298.1018
Fax: 403.263.9193
File No.: A163514

DATE ON WHICH ORDER WAS PRONOUNCED: February 24, 2021

LOCATION AT WHICH ORDER WAS MADE: Calgary Court House

NAME OF JUSTICE WHO MADE THIS ORDER: Honourable Justice K.M. Eidsvik

UPON THE APPLICATION of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. (collectively, the “**Applicants**”); **AND UPON** reading the Application, the Affidavit of Blake M. Elyea sworn February 19, 2021, the Thirteenth Report of FTI Consulting Canada Inc., the Court-appointed Monitor of the Applicants (the “**Monitor**”), and the pleadings and proceedings in this Action, including the Initial Order granted in the within proceedings on May 1, 2020, all filed; **AND UPON** hearing the submissions of counsel for the Applicants, counsel for the Monitor and counsel for those parties present; **IT IS HEREBY ORDERED THAT:**

1. Service of this Application and supporting materials is hereby deemed to be good and sufficient, the time for notice is hereby abridged to the time provided, this application is properly returnable today, and no other person is required to have been served with notice of this Application.

2. The Stay Period as ordered and defined in paragraph 13 of the Initial Order, is hereby extended until and including April 16, 2021.

J.C.C.Q.B.A.

SCHEDULE "E"
[Sealing Order]

Clerk's Stamp

COURT FILE NUMBER 2001- 05482

COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

APPLICANTS IN THE MATTER OF THE *COMPANIES' CREDITOR ARRANGEMENT ACT*, RSC 1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF JMB CRUSHING SYSTEMS INC. and 2161889 ALBERTA LTD.

DOCUMENT **ORDER (Sealing Order)**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Gowling WLG (Canada) LLP
Suite 1600, 421 7th Avenue SW
Calgary, AB T2P 4K9

Attn: **Tom Cumming / Caireen E. Hanert / Stephen Kroeger**
Phone: 403.298.1938 / 403.298.1992 / 403.298.1018
Fax: 403.263.9193
File No.: A163514

DATE ON WHICH ORDER WAS PRONOUNCED: February 24, 2021

LOCATION OF HEARING OR TRIAL: Calgary Court House

NAME OF JUDGE WHO MADE THIS ORDER: Madam Justice K.M. Eidsvik

UPON THE APPLICATION (the “**Application**”) of JMB Crushing Systems Inc. and 2161889 Alberta Ltd. (collectively, the “**Applicants**”); **AND UPON** reading the Affidavit of Blake M. Elyea, sworn February 19, 2021, and the Confidential Affidavit of Blake M. Elyea, sworn February 19, 2021 (the “**Confidential Affidavit**”); **AND UPON** reading the reading the Thirteenth Report of the Monitor, dated February ●, 2021, filed; **AND UPON** reading the Affidavit of Service

of ●, to be filed; **AND UPON** hearing from counsel for the Applicants and for any other parties who may be present;

IT IS HEREBY ORDERED AND DECLARED THAT:

1. Part 6, Division 4 of the *Alberta Rules of Court* does not apply to the Application and the Clerk of the Court is hereby directed to seal the Confidential Affidavit, on the Court file, until the filing of the Monitor's Certificate, to be filed upon the completion and closing of the transactions contemplated under the Confidential Affidavit, attached as Exhibits "A" to D to the Confidential Affidavit. The Confidential Affidavit shall be sealed and filed in an envelope containing the following endorsement thereon:

**THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS
FILED IN COURT FILE NO. 2001-05482. THE CONFIDENTIAL
MATERIALS ARE SEALED PURSUANT TO THE SEALING
ORDER ISSUED BY THE HONOURABLE MADAM JUSTICE K.M.
EIDSVIK ON FEBRUARY 24, 2021.**

2. Any person may apply, on reasonable notice to the Monitor, the Applicants, and any other persons likely to be affected, to vary or amend the terms of paragraph 1 of this Order.
3. The Confidential Affidavit shall also be uploaded to the online filesite established by the Monitor (the "**CaseLines Filesite**"), in connection with the within proceedings, in a case file that may only be accessed by the presiding Justices of the Court of Queen's Bench and any parties who are subsequently authorized to access materials under and pursuant to this sealing order.
4. Service of this Order shall be deemed good and sufficient by:
 - (a) Serving same on:
 - (i) the persons listed on the Service List created in these proceedings;
 - (ii) any other person served with notice of the Application for this Order;
 - (iii) any other parties attending or represented at the Application for this Order;and,

(b) Posting a copy of this Order on the Monitor's Website at:
<http://cfcanada.fticonsulting.com/jmb/default.htm>

and service on any other person is hereby dispensed with.

5. Service of this Order shall be deemed good and sufficient by serving the same in accordance with the procedures in the CaseLines Service Order granted on May 29, 2020.

J.C.C.Q.B.A