

COURT FILE NUMBER 2501-00574

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

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

AND IN THE MATTER OF THE COMPROMISE
OR ARRANGEMENT OF WESTPHALIA DEV.
CORP.

APPLICANT WESTPHALIA DEV. CORP.

DOCUMENT **APPLICATION**

**Re: Amended and Restated Initial Order and
Claims Process Order**

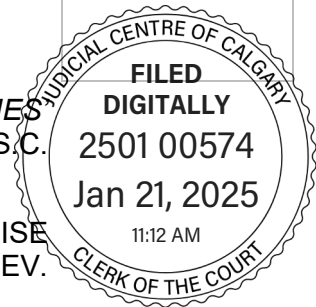
ADDRESS FOR
SERVICE AND
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INFORMATION OF
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Lawyers for the Applicant, Westphalia Dev. Corp.
File no.: 1001326363

Clerk's stamp



NOTICE TO RESPONDENT

This application is made against you. You are a respondent. You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

Date: January 23, 2025
Time: 2:00 P.M.
Where: Calgary
Before Whom: The Honourable Justice Jeffrey via WebEx
<https://albertacourts.webex.com/meet/virtual.courtroom60>

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

Remedy claimed or sought:

1. The Applicant, Westphalia Dev. Corp. (**WDC**, or the **Applicant**), under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the **CCAA**), seeks an amended and restated initial order, substantially in the form attached hereto as **Schedule "A"** (the **Amended and Restated Initial Order**, or **ARIO**), that includes provisions:

- (a) deeming service of this Application and supporting materials to be good and sufficient;
- (b) extending the Stay Period up to and including March 31, 2025, or such further and other date as deemed appropriate by this Honourable Court;
- (c) approving of WDC's entry into a certain interim loan agreement and approving a priority charge up to a maximum amount of \$550,000 in respect of the same;
- (d) increasing the Administration Charge in favour of the Monitor, the Monitor's counsel, and the Applicants' counsel, in respect of their fees and disbursements, to \$250,000; and
- (e) granting such further and other relief as the Applicant may require and this Honourable Court may permit.

2. A blackline of the proposed ARIO to the Alberta Template is attached as **Schedule "B"**.

3. A blackline of the proposed ARIO to the Initial Order granted in this matter, on January 14, 2025 (the **Initial Order**) is attached as **Schedule "C"**.

4. The Applicant, under the CCAA, further seeks an order approving the claims process, substantially in the form attached hereto as **Schedule "D"** (the **Claims Process Order**), that includes provisions:

- (a) deeming service of this Application and supporting materials to be good and sufficient;
- (b) approving the process for the Claims Process (as defined in Schedule "D")

- (c) approving the Claims Bar Date (as defined in Schedule “D”);
- (d) granting such other and further relief as sought in Schedule “D”; and
- (e) granting such further and other relief as the Applicant may require and this Honourable Court may permit.

5. Capitalized terms used but not defined herein take their meaning from the Initial Order.

Grounds for making this application:

6. On January 14, 2025, this Honourable Court granted the Initial Order, which, among other things:

- (a) declared that the Applicant is a company to which the CCAA applies;
- (b) stayed all proceedings and remedies taken or that might be taken in respect of the Applicant or any of its property, except as set forth in the Initial Order or as otherwise permitted by law, for 10 days;
- (c) authorized the Applicant to carry on business in a manner consistent with the preservation of its property and business;
- (d) authorized the Applicant to make certain essential payments to creditors;
- (e) appointed FTI Consulting Canada Inc. as the monitor of the Company (**FTI** or the **Monitor**) under section 11.7 of the CCAA;
- (f) approved certain priority charges with respect to activities occurring in the first 10 days following pronouncement of the Initial Order, including the Administration Charge and D&O Charge, as defined below;
- (g) authorized payment of the reasonable fees and disbursements of the Monitor, the Monitor’s legal counsel, and the Applicant’s counsel; and
- (h) deemed service of the within Application for an Initial Order to be good and sufficient.

7. The purpose of this CCAA proceeding is to stabilize the Applicant and provide time for the Applicant and Monitor to restructure the Applicant, engage with shareholders and key creditors, identify and assess potential restructuring options, and review other strategic alternatives to maximize the value of the Applicant for its stakeholders.
8. The Applicant and the Monitor have been acting diligently and in good faith in this CCAA proceeding since the granting of the Initial Order.
9. The relief sought in the ARIO and Claims Process Order is appropriate.
10. The provisions of the CCAA and the equitable jurisdiction of this Court permit the granting of the ARIO and the Claims Process Order.
11. Such further and other grounds as counsel may advise and this Court may permit.

Material or evidence to be relied on:

12. The affidavit of Bryce Tingle, K.C., filed January 14, 2025.
13. The second affidavit of Bryce Tingle, K.C.
14. The Pre-filing Report of the proposed Monitor, filed January 14, 2025.
15. The First Report of the Monitor, filed.
16. Such further and other evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

17. *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended.
18. *Judicature Act*, RSA 2000, c J-2, as amended.
19. *Alberta Rules of Court*, Alta Reg 124/2010.

20. Such further and other acts and regulations as counsel may advise and this Honourable Court may permit.

Any irregularity complained of or objection relied on:

21. None.

How the application is proposed to be heard or considered:

22. Before the Honourable Justice Jeffrey, on the Commercial List, or as soon thereafter as this matter may be heard.

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 applicant(s) 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 applicant(s) a reasonable time before the application is to be heard or considered.

Schedule “A”

COURT FILE NUMBER 2501-00574
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's stamp

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

AND IN THE MATTER OF THE COMPROMISE
OR ARRANGEMENT OF WESTPHALIA DEV.
CORP.

APPLICANT WESTPHALIA DEV. CORP.
DOCUMENT **Amended and Restated Initial Order**

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Fax: +1 403.264.5973

Lawyers for the Applicant, Westphalia Dev. Corp.
File no.: 1001326363

DATE ON WHICH ORDER WAS PRONOUNCED: **January 23, 2025**
LOCATION OF HEARING: **Calgary, Alberta**
NAME OF JUSTICE WHO GRANTED THIS ORDER: **The Honourable Justice Jeffrey**

UPON the application of Westphalia Dev. Corp. (the **Applicant**); **AND UPON** having read the Application of the Applicant; the first and second affidavits of Bryce Tingle, K.C.; the Affidavit of Service; and the Brief of Law of the Applicant; **AND UPON** having read the consent of FTI Consulting Canada Inc. (**FTI** or the **Monitor**) to act as Monitor, the Pre-Filing Report of FTI as proposed Monitor dated January 14, 2025 and the First Report of the Monitor, to be filed; **AND UPON** reviewing the initial order granted in the proceedings pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the **CCAA**) by the Honourable Justice Feasby on January 14, 2025 (the **Initial Order**); **AND UPON** hearing counsel for the Applicant and any other interested parties appearing at the Application; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order (the **Order**) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicant is a company to which the the CCAA applies.
3. References in this Order to the "date of this Order", the "date hereof" or similar phrases refer to the date of the Initial Order.

PLAN OF ARRANGEMENT

4. 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 (the **Plan**).

POSSESSION OF PROPERTY AND OPERATIONS

5. The Applicant shall:
 - (a) 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**);
 - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the **Business**) and Property;
 - (c) 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; and

6. To the extent permitted by law, the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:
 - (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
 - (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order.

7. 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 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; and
 - (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. 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 that 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,but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (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; and
 - (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal 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 that are attributable to or in respect of the carrying on of the Business by the Applicant.
9. Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicant from time to time for the period commencing from and including the date of this Order (**Rent**), but shall not pay any rent in arrears.
10. Except as specifically permitted in this Order, the Applicant is hereby directed, until further order of this Court:
- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the date of this Order;
 - (b) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of its Property; and
 - (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. The Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:
- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;

- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it 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 the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and
- (d) 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**).

12. The Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.
13. If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:
 - (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice; and
 - (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided

that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. Until and including March 31, 2025, or such later date as this Court may order (the **Stay Period**), no proceeding or enforcement process in any court (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 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

15. 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**), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:
- (a) empower the Applicant to carry on any business that the Applicant is not lawfully entitled to carry on;
 - (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
 - (c) prevent the filing of any registration to preserve or perfect a security interest;
 - (d) prevent the registration of a claim for lien; or
 - (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment.
16. Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

17. During the Stay Period, no person shall accelerate, suspend, 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

18. During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicant, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. 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 usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the 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

19. Nothing in this Order has the effect of prohibiting a person 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.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date of this Order 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 AND CHARGE

21. The Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors and or officers of the Applicants after the commencement of the within proceedings except to the extent that, with respect to any officer or director, the obligation was incurred as a result of the director's or officer's gross negligence or wilful misconduct.
22. The directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the **Directors' Charge**) on the Property, which charge shall not exceed an aggregate amount of \$25,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 31 and 33 herein.
23. Notwithstanding any language in any applicable insurance policy to the contrary:
 - (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
 - (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

24. FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicant with the powers and obligations set out in the CCAA or 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.
25. 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, Business and dealings with the Property;
 - (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 immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
 - (c) assist the Applicant, to the extent required by the Applicant, in the dissemination to the Interim Lender and its counsel of financial and other information as agreed to between the Applicant and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;
 - (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, as required by the Definitive Documents, or as otherwise agreed to by the Interim Lender;
 - (e) advise the Applicant in its development 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 Property, Business, and financial affairs of the Applicant 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) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
 - (j) perform such other duties as are required by this Order or by this Court from time to time.
26. The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be

environmentally contaminated, 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, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. 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 federal or provincial environmental legislation.

27. The Monitor shall provide any creditor of the Applicant with information provided by the Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicant is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicant may agree.
28. In addition to the rights and protections afforded the Monitor under the CCAA or as an Officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.
29. The Monitor, counsel to the Monitor, and counsel to the Applicant shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a monthly basis, or as may be agreed, and, in addition, the Applicant is hereby authorized to pay to the Monitor and counsel to the Applicant retainers in the respective amounts of USD \$125,000 and USD \$100,000 respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
30. The Monitor and its legal counsel shall pass their accounts from time to time.
31. The Monitor, counsel to the Monitor, if any, and the Applicant's counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the **Administration Charge**) on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for their

professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 37 and 39 hereof.

INTERIM FINANCING

32. The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Walton Global Investments Ltd. (the **Interim 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 \$550,000 unless permitted by further order of this Court.
33. Such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the Interim Lender dated as of January 20, 2025 (the **Commitment Letter**), filed.
34. 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, the **Definitive Documents**), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim 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 Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.
35. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the **Interim Lender's Charge**) on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall not secure any obligation existing before this the date this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 37 and 39 hereof.
36. Notwithstanding any other provision of this Order:
 - (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
 - (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender may exercise any and all of its rights and remedies

against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents, and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the Interim Lender to the Applicant against the obligations of the Applicant to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

- 37. The Interim 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 Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

- 38. The priorities of the Directors' Charge, the Administration Charge, and the Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$250,000);

Second – Interim Lender's Charge (to the maximum amount of \$550,000);

Third – Directors' Charge (to the maximum amount of \$25,000).

- 39. The filing, registration or perfection of the Directors' Charge, the Administration Charge, or the Interim Lender's Charge (collectively, the **Charges**) shall not be required, and 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.

- 40. Each of the Directors' Charge, the Administration Charge, and the Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, **Encumbrances**) in favour of any Person.

41. 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 Directors' Charge, the Administration Charge, or the Interim Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the Interim Lender, and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.
42. The Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents, and the Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the **Chargees**) and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:
- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
 - (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**) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, including the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
 - (ii) 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 creation of the Charges, the Applicant entering into the Commitment Letter, or the execution, delivery, or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicant pursuant to this Order, including the Commitment Letter or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

43. Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge, the Interim Lender's Charge, and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

44. The Monitor shall (i) without delay, publish in the Calgary Herald a notice containing the information prescribed under the CCAA; (ii) within five (5) 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 \$1,000 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 made thereunder.
45. The Monitor shall establish a Case Website in respect of the within proceedings with the following URL: <http://cfcanada.fticonsulting.com/westphaliadevcorp>.

GENERAL

46. 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.
47. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
48. 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.
49. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, 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.

50. 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 proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
51. 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.
52. This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Justice of the Court of King's Bench of Alberta

Schedule “B”

COURT FILE NUMBER

Clerk's Stamp: 2501-00574

Clerk's stamp

~~COURT FILE NUMBER~~

~~COURT~~ COURT

COURT OF ~~QUEEN'S~~ KING'S BENCH OF ALBERTA

~~JUDICIAL CENTRE OF~~ JUDICIAL CENTRE

CALGARY

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

•
= AND IN THE MATTER OF ~~A PLAN OF THE~~ COMPROMISE OR ARRANGEMENT OF ~~[THE DEBTOR(S)]~~ WESTPHALIA DEV. CORP.

APPLICANT:

WESTPHALIA DEV. CORP.

~~RESPONDENT(S):~~ DOCUMENT

Amended and Restated Initial Order

~~DOCUMENT~~

ALBERTA TEMPLATE CCAA INITIAL ORDER

~~CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT:~~ ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

Norton Rose Fulbright Canada LLP
400 3rd Avenue SW, Suite 3700
Calgary, Alberta T2P 4H2 CANADA

Howard A. Gorman, K.C. / Meghan L. Parker
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[LAW FIRM NAME]

{Address}-

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Solicitor: ●-

Telephone: ●-

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Lawyers for the Applicant, Westphalia Dev. Corp.

File no.: 1001326363

~~DATE ON WHICH ORDER WAS PRONOUNCED:~~

~~NAME OF JUDGE WHO~~

~~MADE THIS ORDER:~~

~~LOCATION OF~~

~~HEARING:~~

~~[*NOTE: DO NOT USE THIS ORDER AS A PRECEDENT WITHOUT REVIEWING
THE ACCOMPANYING EXPLANATORY NOTES.]~~

DATE ON WHICH ORDER WAS PRONOUNCED: January 23, 2025

LOCATION OF HEARING: Calgary, Alberta

NAME OF JUSTICE WHO GRANTED THIS ORDER: The Honourable Justice Jeffrey

UPON the application of [NAME] Westphalia Dev. Corp. (the "**Applicant**"); AND UPON having read the ~~Originating Application, of the Applicant; the first and second affidavits of Bryce Tingle, K.C.; the Affidavit of **Service**; and the Affidavit of Service of **[if applicable]**, filed; AND UPON reading the consent of [NAME] to act as Monitor; AND UPON being advised that the secured creditors who are likely to be affected by the charges created herein have been provided notice of this application and either do not oppose or alternatively consent to the within~~ Brief of Law of the Applicant; AND UPON having read the consent of FTI Consulting Canada Inc. (FTI or the **Monitor**) to act as Monitor, the Pre-Filing Report of FTI as proposed Monitor dated January 14, 2025 and the First Report of the Monitor, to be filed; AND UPON reviewing the initial order granted in the proceedings pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 (the **CCAA**) by the Honourable Justice Feasby on January 14, 2025 (the **Initial Order** ~~[if applicable]~~); AND UPON hearing counsel for ~~;~~; AND UPON reading the ~~Pre-Filing Report of [Monitor's Name]~~ the Applicant and any other interested parties appearing at the Application; IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order (the "**Order**") is hereby abridged and deemed good and sufficient ~~[if applicable]~~ and this application is properly returnable today.

APPLICATION

2. The Applicant is a company to which the ~~*Companies' Creditors Arrangement Act of Canada* (the "**CCAA**")~~ applies.
3. References in this Order to the "date of this Order", the "date hereof" or similar phrases refer to the date of the Initial Order.

PLAN OF ARRANGEMENT

4. ~~3-~~ 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 (the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

5. ~~4-~~ The Applicant shall:
 - (a) 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**");

- (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the **"Business"**) and Property;
- (c) 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; and

~~(d) be entitled to continue to utilize the central cash management system currently in place as described in the Affidavit of [NAME] sworn [DATE] or replace it with another substantially similar central cash management system (the **"Cash Management System"**) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of 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, shall 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 shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.] **[See Explanatory Note]**~~

6. ~~5.~~ To the extent permitted by law, the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order.

7. ~~6.~~ 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 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; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. ~~7.~~ 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 that 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,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (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; and
- (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal 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 that are attributable to or in respect of the carrying on of the Business by the Applicant.

9. ~~8.~~ Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicant from time to time for the

period commencing from and including the date of this Order (~~"Rent"~~), but shall not pay any rent in arrears.

10. ~~9.~~ Except as specifically permitted in this Order, the Applicant is hereby directed, until further order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the date of this Order;
- (b) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of its Property; and
- (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. ~~10.~~ The Applicant shall, subject to such requirements as are imposed by the CCAA [and such covenants as may be contained in the Definitive Documents (as hereinafter defined ~~in paragraph [33]~~),] have the right to:

- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding ~~£~~\$100,000 in any one transaction or ~~£~~\$500,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it 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 the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and
- (d) 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"~~).

12. ~~11.~~ The Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. ~~12.~~ If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:

- (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice; and
- (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. ~~13.~~ Until and including ~~[DATE — MAX.]~~ March 30, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court (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 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

15. ~~14.~~ 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"**), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

- (a) empower the Applicant to carry on any business that the Applicant is not lawfully entitled to carry on;
- (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
- (c) prevent the filing of any registration to preserve or perfect a security interest;
- (d) prevent the registration of a claim for lien; or
- (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment.

16. ~~15.~~ Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

17. ~~16.~~ During the Stay Period, no person shall accelerate, suspend, 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

18. ~~17.~~ During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicant, including without limitation all computer software, communication and other data services, centralized

banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Applicant

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. 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 usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the 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

19. ~~18.~~ Nothing in this Order has the effect of prohibiting a person 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, ~~other than the Interim Lender where applicable,~~ 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.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. ~~19.~~ During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph ~~[15]~~ of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date of this Order 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 AND CHARGE

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

22. ~~21.~~ The directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of ~~[\$]~~\$25,000, as security for the indemnity provided in paragraph ~~{20}~~ of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{37.1}~~ and ~~{39.3}~~ herein.

23. ~~22.~~ Notwithstanding any language in any applicable insurance policy to the contrary:

- (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
- (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~{20}~~ of this Order.

APPOINTMENT OF MONITOR

24. ~~23.~~ ~~[MONITOR'S NAME]~~FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs ~~and of~~ the Applicant with the powers and obligations set out in the CCAA or 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.

25. ~~24.~~ 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, Business and dealings with the Property;
- (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 immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
- (c) assist the Applicant, to the extent required by the Applicant, in ~~its~~the dissemination to the Interim Lender and its counsel ~~on a [TIME INTERVAL] basis~~ of financial and other information as agreed to between the Applicant and the Interim Lender which may be

used in ~~in~~ these proceedings, including reporting on a basis as reasonably required by the Interim Lender;

- (d) advise the Applicant in its preparation of the Applicant's cash flow statements and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, ~~but not less than [TIME INTERVAL]~~ as required by the Definitive Documents, or as otherwise agreed to by the Interim Lender;
- (e) advise the Applicant in its development 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 Property, Business, and financial affairs of the Applicant 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) hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

26. ~~25.~~ The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, 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 ~~or~~ of waste or other contamination, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. 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 federal or provincial environmental legislation.

27. ~~26.~~ The Monitor shall provide any creditor of the Applicant ~~and the Interim 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.

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

29. ~~28.~~ The Monitor, counsel to the Monitor, and counsel to the Applicant shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a ~~TIME-INTERVAL~~ monthly basis, or as may be agreed, and, in addition, the Applicant is hereby authorized to pay to the Monitor, ~~counsel to the Monitor,~~ and counsel to the Applicant, retainers in the respective amounts ~~of~~ USD \$125,000 and USD \$100,000 respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. ~~29.~~ The Monitor and its legal counsel shall pass their accounts from time to time.

31. ~~30.~~ The Monitor, counsel to the Monitor, if any, and the Applicant's counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of ~~USD \$250,000~~, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~{37}~~ and ~~{39}~~ hereof.

INTERIM FINANCING

32. ~~31.~~ The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from ~~{INTERIM LENDER'S NAME}~~ (the "Walton Global Investments Ltd. (the Interim 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 ~~{~~\$550,000~~}~~ unless permitted by further order of this Court.

33. ~~32.~~ Such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the Interim Lender dated as of ~~{DATE}~~January 20, 2025 (the "**Commitment Letter**"), filed.

34. ~~33.~~ 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, the "**Definitive Documents**"), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim 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 Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. ~~34.~~ The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the "**Interim Lender's Charge**") on the Property to secure all obligations under the Definitive Documents incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall not secure any obligation existing before this the date this Order is made. ~~{see Explanatory Notes}~~ The Interim Lender's Charge shall have the priority set out in paragraphs ~~{37}~~ and ~~{39}~~ hereof.

36. ~~35.~~ Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender, ~~upon **{●}** days notice to the Applicant and the Monitor,~~ may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents, and the

Interim Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the Interim Lender to the Applicant against the obligations of the Applicant to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and

- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

37. ~~36.~~ The Interim 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 Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

38. ~~37.~~ The priorities of the Directors' Charge, the Administration Charge, and the Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of ~~[\$]250,000~~);

Second – Interim Lender's Charge; ~~and~~ (to the maximum amount of \$550,000);

Third – Directors' Charge (to the maximum amount of ~~[\$]25,000~~).

39. ~~38.~~ The filing, registration or perfection of the Directors' Charge, the Administration Charge, or the Interim Lender's Charge (collectively, the "**Charges**") shall not be required, and 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.

40. ~~39.~~ Each of the Directors' Charge, the Administration Charge, and the Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person. ~~[See Explanatory Notes.]~~

41. ~~40.~~ 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 Directors' Charge, the Administration Charge, or the Interim Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the Interim Lender, and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.

42. ~~41.~~ The Directors' Charge, the Administration Charge, ~~the~~ Commitment Letter, the Definitive Documents, ~~and~~ the Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the **"Chargees"**) and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:

- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
- (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"**) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
 - (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, ~~including the~~ Commitment Letter or the Definitive Documents, ~~shall~~ create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
 - (ii) 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 creation of the Charges, ~~the~~ Applicant entering into the Commitment Letter, ~~or~~ the execution, delivery, or performance of the Definitive Documents; and
 - (iii) the payments made by the Applicant pursuant to this Order, ~~including the~~ Commitment Letter or the Definitive Documents, ~~and~~ the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances,

transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

43. ~~42.~~ Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge, the Interim Lender's Charge, and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

44. ~~43.~~ The Monitor shall (i) without delay, publish in ~~[newspapers specified by the Court]~~ [the Calgary Herald](#) a notice containing the information prescribed under the CCAA; (ii) within five (5) 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 \$1,000 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 made thereunder.

~~44. The E-Service Guide of the Commercial List (the "Guide") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at: [●]) shall be valid and effective service. Subject to Rules 11.25 and 11.26 this Order shall constitute an order for substituted service pursuant to Rule 11.28 of the Rules of Court. Subject to paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL '[●]:'."~~

45. [The Monitor shall establish a Case Website in respect of the within proceedings with the following URL: http://cfcanada.fticonsulting.com/westphaliadevcorp.](#)

GENERAL

46. ~~45.~~ 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.

47. ~~46.~~ Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in

affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.

48. ~~47.~~ 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.

49. ~~48.~~ This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, 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.

50. ~~49.~~ 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 proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

51. ~~50.~~ 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.

52. ~~51.~~ This Order and all of its provisions are effective as of 12:01 a.m. Mountain Standard Time on the date of this Order.

Schedule “C”

COURT FILE NUMBER [2501-00574](#)
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's stamp

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

-

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF WESTPHALIA DEV. CORP.

APPLICANT WESTPHALIA DEV. CORP.

DOCUMENT ~~CAA INITIAL ORDER~~ Amended and Restated Initial Order

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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Lawyers for the Applicant, Westphalia Dev. Corp.
File no.: 1001326363

DATE ON WHICH ORDER WAS PRONOUNCED: **January 14~~23~~, 2025**

LOCATION OF HEARING: **Calgary, Alberta**

NAME OF JUSTICE WHO GRANTED THIS ORDER: **The Honourable Justice ~~C. Feasby~~ Jeffrey**

UPON the application of Westphalia Dev. Corp. (the **Applicant**); **AND UPON** having read the ~~Originating Application of the Applicant~~; the first and second Affidavits of Bryce Tingle, K.C.; ~~and~~ the Affidavit of Service; and the Brief of Law of the Applicant; **AND UPON** ~~reading~~having read the consent of FTI Consulting Canada Inc. (~~FTI~~, or the **Monitor**) to act as Monitor; ~~AND UPON being advised that there are no secured creditors who are likely to be affected by the charges created herein~~, the Pre-Filing Report of FTI as proposed Monitor dated January 14, 2025 and the First Report of the Monitor, to be filed; **AND UPON** reviewing the initial order granted in the proceedings pursuant to the Companies' Creditors Arrangement Act, RSC 1985, c C-36 (the CCAA) by the Honourable Justice Feasby on January 14, 2025 (the Initial Order); **AND UPON** hearing counsel for the Applicant and any other ~~party that might be present~~; ~~AND UPON reading the Pre-Filing Report of FTI~~interested parties appearing at the Application;
IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. The time for service of the notice of application for this order (the **Order**) is hereby abridged and deemed good and sufficient and this application is properly returnable today.

APPLICATION

2. The Applicant is a company to which the ~~Companies' Creditors Arrangement Act of Canada~~ (the CCAA) applies.
3. References in this Order to the "date of this Order", the "date hereof" or similar phrases refer to the date of the Initial Order.

PLAN OF ARRANGEMENT

4. ~~3.~~ 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 (the **Plan**).

POSSESSION OF PROPERTY AND OPERATIONS

5. ~~4.~~ The Applicant shall:
 - (a) 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**);
 - (b) subject to further order of this Court, continue to carry on business in a manner consistent with the preservation of its business (the **Business**) and Property;

- (c) 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; and

6. ~~5.~~ To the extent permitted by law, the Applicant shall be entitled but not required to make the following advances or payments of the following expenses, incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the reasonable fees and disbursements of any Assistants retained or employed by the Applicant in respect of these proceedings, at their standard rates and charges, including for periods prior to the date of this Order.

7. ~~6.~~ 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 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; and
- (b) payment for goods or services actually supplied to the Applicant following the date of this Order.

8. ~~7.~~ 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 that 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,

but only where such statutory deemed trust amounts arise after the date of this Order, or are not required to be remitted until after the date of this Order, unless otherwise ordered by the Court;

- (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; and
- (c) any amount payable to the Crown in Right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal 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 that are attributable to or in respect of the carrying on of the Business by the Applicant.

9. ~~8.~~ Until such time as a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicant may pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable as rent to the landlord under the lease) based on the terms of existing lease arrangements or as otherwise may be negotiated by the Applicant from time to time for the period commencing from and including the date of this Order (**Rent**), but shall not pay any rent in arrears.

10. ~~9.~~ Except as specifically permitted in this Order, the Applicant is hereby directed, until further order of this Court:

- (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicant to any of its creditors as of the date of this Order;
- (b) to grant no security interests, trusts, liens, charges or encumbrances upon or in respect of any of its Property; and
- (c) not to grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

| 11. ~~10.~~ The Applicant shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any portion of its business or operations and to dispose of redundant or non-material assets not exceeding \$100,000 in any one transaction or \$500,000 in the aggregate, provided that any sale that is either (i) in excess of the above thresholds, or (ii) in favour of a person related to the Applicant (within the meaning of section 36(5) of the CCAA), shall require authorization by this Court in accordance with section 36 of the CCAA;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it 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 the Plan;
- (c) disclaim or resiliate, in whole or in part, with the prior consent of the Monitor (as defined below) or further Order of the Court, their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicant deems appropriate, in accordance with section 32 of the CCAA; and
- (d) 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**).

12. ~~11.~~ The Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal. If the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further order of this Court upon application by the Applicant on at least two (2) days' notice to such landlord and any such secured creditors. If the Applicant disclaims or resiliates the lease governing such leased premises in accordance with section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute other than Rent payable for the notice period provided for in section 32(5) of the CCAA, and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. ~~12.~~ If a notice of disclaimer or resiliation is delivered pursuant to section 32 of the CCAA, then:

- (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal

business hours, on giving the Applicant and the Monitor 24 hours' prior written notice; and

- (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANT OR THE PROPERTY

14. ~~13.~~ Until and including ~~January 24~~March 31, 2025, or such later date as this Court may order (the **Stay Period**), no proceeding or enforcement process in any court (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 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

15. ~~14.~~ 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**), whether judicial or extra-judicial, statutory or non-statutory against or in respect of the Applicant or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended and shall not be commenced, proceeded with or continued except with leave of this Court, provided that nothing in this Order shall:

- (a) empower the Applicant to carry on any business that the Applicant is not lawfully entitled to carry on;
- (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by section 11.1 of the CCAA;
- (c) prevent the filing of any registration to preserve or perfect a security interest;
- (d) prevent the registration of a claim for lien; or

- (e) exempt the Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment.

16. ~~15.~~ Nothing in this Order shall prevent any party from taking an action against the Applicant where such an action must be taken in order to comply with statutory time limitations in order to preserve their rights at law, provided that no further steps shall be taken by such party except in accordance with the other provisions of this Order, and notice in writing of such action be given to the Monitor at the first available opportunity.

NO INTERFERENCE WITH RIGHTS

17. ~~16.~~ During the Stay Period, no person shall accelerate, suspend, 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

18. ~~17.~~ During the Stay Period, all persons having:

- (a) statutory or regulatory mandates for the supply of goods and/or services; or
- (b) oral or written agreements or arrangements with the Applicant, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or the Applicant

are hereby restrained until further order of this Court from discontinuing, altering, interfering with, suspending or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. 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 usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the 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

19. ~~18.~~ Nothing in this Order has the effect of prohibiting a person 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.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. ~~19.~~ During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA and paragraph 15 of this Order, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicant with respect to any claim against the directors or officers that arose before the date of this Order 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 AND CHARGE

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

22. ~~21.~~ The directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the **Directors' Charge**) on the Property, which charge shall not exceed an aggregate amount of \$25,000, as security for the indemnity provided in paragraph 20 of this Order. The Directors' Charge shall have the priority set out in paragraphs 31 and 33 herein.

23. ~~22.~~ Notwithstanding any language in any applicable insurance policy to the contrary:

- (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge; and
- (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

APPOINTMENT OF MONITOR

24. ~~23.~~ FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the Property, Business, and financial affairs of the Applicant with the powers and obligations set out in the CCAA or 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.

25. ~~24.~~ 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, Business and dealings with the Property;
- (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 immediately report to the Court if in the opinion of the Monitor there is a material adverse change in the financial circumstances of the Applicant;
- (c) [assist the Applicant, to the extent required by the Applicant, in the dissemination to the Interim Lender and its counsel of financial and other information as agreed to between the Applicant and the Interim Lender which may be used in these proceedings, including reporting on a basis as reasonably required by the Interim Lender;](#)
- (d) ~~(e)~~ [advise the Applicant in its preparation of the Applicant's cash flow statements; and reporting required by the Interim Lender, which information shall be reviewed with the Monitor and delivered to the Interim Lender and its counsel on a periodic basis, as required by the Definitive Documents, or as otherwise agreed to by the Interim Lender;](#)
- (e) ~~(d)~~ advise the Applicant in its development of the Plan and any amendments to the Plan;
- (f) ~~(e)~~ 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) ~~(f)~~ 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 Property, Business, and financial affairs of the Applicant or to perform its duties arising under this Order;
- (h) ~~(g)~~ 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) ~~(h)~~ hold funds in trust or in escrow, to the extent required, to facilitate settlements between the Applicants and any other Person; and

(j) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

26. ~~25.~~—The Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintain possession or control of the Business or Property, or any part thereof. Nothing in this Order shall require the Monitor to occupy or to take control, care, charge, possession or management of any of the Property that might be environmentally contaminated, 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, provided however that this Order does not exempt the Monitor from any duty to report or make disclosure imposed by applicable environmental legislation or regulation. 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 federal or provincial environmental legislation.

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

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

29. ~~28.~~—The Monitor, counsel to the Monitor, and counsel to the Applicant shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements related to these CCAA proceedings), in each case at their standard rates and charges, by the Applicant as part of the costs of these proceedings. The Applicant is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a monthly basis,

or as may be agreed, and, in addition, the Applicant is hereby authorized to pay to the Monitor and counsel to the Applicant retainers in the respective amounts of USD \$125,000 and USD \$100,000 respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. ~~29.~~The Monitor and its legal counsel shall pass their accounts from time to time.

31. ~~30.~~The Monitor, counsel to the Monitor, if any, and the Applicant's counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and are hereby granted a charge (the **Administration Charge**) on the Property, which charge shall not exceed an aggregate amount of \$~~40~~250,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 37 and 39 hereof.

INTERIM FINANCING

32. The Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from Walton Global Investments Ltd. (the **Interim 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 \$550,000 unless permitted by further order of this Court.

33. Such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the Interim Lender dated as of January 20, 2025 (the **Commitment Letter**), filed.

34. 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, the **Definitive Documents**), as are contemplated by the Commitment Letter or as may be reasonably required by the Interim 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 Interim Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. The Interim Lender shall be entitled to the benefits of and is hereby granted a charge (the **Interim Lender's Charge**) on the Property to secure all obligations under the Definitive Documents

incurred on or after the date of this Order which charge shall not exceed the aggregate amount advanced on or after the date of this Order under the Definitive Documents. The Interim Lender's Charge shall not secure any obligation existing before this the date this Order is made. The Interim Lender's Charge shall have the priority set out in paragraphs 37 and 39 hereof.

36. Notwithstanding any other provision of this Order:

- (a) the Interim Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Interim Lender's Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the Interim Lender's Charge, the Interim Lender may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents, and the Interim Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the Interim Lender to the Applicant against the obligations of the Applicant to the Interim Lender under the Commitment Letter, the Definitive Documents or the Interim Lender's Charge, to make demand, accelerate payment, and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and
- (c) the foregoing rights and remedies of the Interim Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.

37. The Interim 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 Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES

38. ~~31.~~ The priorities of the Directors' Charge ~~and~~, the Administration Charge, and the Interim Lender's Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of \$~~40~~25,000);

Second – Interim Lender's Charge (to the maximum amount of \$550,000);

~~Second~~Third – Directors' Charge (to the maximum amount of \$25,000).

39. ~~32.~~ The filing, registration or perfection of the Directors' Charge ~~or~~, the Administration Charge, or the Interim Lender's Charge (collectively, the **Charges**) shall not be required, and 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.

40. ~~33.~~ Each of the Directors' Charge ~~and~~, the Administration Charge, and the Interim Lender's Charge (all as constituted and defined herein) shall constitute a charge on the Property and subject always to section 34(11) of the CCAA such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, and claims of secured creditors, statutory or otherwise (collectively, **Encumbrances**) in favour of any Person.

41. ~~34.~~ 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 Directors' Charge ~~or~~, the Administration Charge, or the Interim Lender's Charge, unless the Applicant also obtains the prior written consent of the Monitor, the Interim Lender, and the beneficiaries of the Directors' Charge and the Administration Charge, or further order of this Court.

42. ~~35.~~ The Directors' Charge ~~and~~, the Administration Charge, the Commitment Letter, the Definitive Documents, and the Interim Lender's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the **Chargees**) and/or the Interim Lender thereunder shall not otherwise be limited or impaired in any way by:

- (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
- (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**) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:

- (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of any documents in respect thereof, [including the Commitment Letter or the Definitive Documents](#), shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
- (ii) 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 creation of the Charges, [the Applicant entering into the Commitment Letter, or the execution, delivery, or performance of the Definitive Documents](#); and
- (iii) the payments made by the Applicant pursuant to this Order, [including the Commitment Letter or the Definitive Documents](#), and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

ALLOCATION

[43.](#) ~~36.~~ Any interested Person may apply to this Court on notice to any other party likely to be affected for an order to allocate the Administration Charge, [the Interim Lender's Charge](#), and the Directors' Charge amongst the various assets comprising the Property.

SERVICE AND NOTICE

[44.](#) ~~37.~~ The Monitor shall (i) without delay, publish in the Calgary Herald a notice containing the information prescribed under the CCAA; (ii) within five (5) 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 \$1,000 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 made thereunder.

[45.](#) ~~38.~~ The Monitor shall establish a Case Website in respect of the within proceedings with the following URL: <http://cfcanada.fticonsulting.com/westphaliadevcorp>.

GENERAL

[46.](#) ~~39.~~ 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.

47. ~~40.~~ Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Monitor will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence. The Monitor's reports shall be filed by the Court Clerk notwithstanding that they do not include an original signature.
48. ~~41.~~ 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.
49. ~~42.~~ This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any foreign jurisdiction, 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.
50. ~~43.~~ 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 proceeding for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
51. ~~44.~~ 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.
52. ~~45.~~ This Order and all of its provisions are effective as of ~~3:12:30~~ 3:01 p.m. Mountain Standard Time on the date of this Order.

Schedule “D”

COURT FILE NUMBER 2501-00574
COURT COURT OF KING'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

Clerk's stamp

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

AND IN THE MATTER OF THE COMPROMISE
OR ARRANGEMENT OF WESTPHALIA DEV.
CORP.

APPLICANT WESTPHALIA DEV. CORP.
DOCUMENT **CLAIMS PROCESS ORDER**

ADDRESS FOR
SERVICE AND
CONTACT
INFORMATION OF
PARTY FILING THIS
DOCUMENT

Norton Rose Fulbright Canada LLP
400 3rd Avenue SW, Suite 3700
Calgary, Alberta T2P 4H2 CANADA

Howard A. Gorman, K.C. / Meghan L. Parker
howard.gorman@nortonrosefulbright.com
meghan.parker@nortonrosefulbright.com
Tel: +1 403.267.8222
Fax: +1 403.264.5973

Lawyers for the Applicant, Westphalia Dev. Corp.
File no.: 1001326363

DATE ON WHICH ORDER WAS PRONOUNCED: January 23, 2025

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Justice Jeffrey

LOCATION OF HEARING: Calgary, Alberta

UPON the Application of the Applicant, Westphalia Dev. Corp. (**WDC** or the **Applicant**);
AND UPON having read the Application; the first and second affidavits of Bryce Tingle, K.C., the
First Report of the Monitor, to be filed; and the Affidavit of Service, filed; AND UPON hearing from
counsel for the Applicant, counsel for the Monitor, and any other parties that may be present:

IT IS HEREBY ORDERED THAT:

1. Capitalized terms not otherwise defined herein shall take their meaning from the Claims Process attached as **Schedule "A"**.

SERVICE

2. Service of the Application and supporting materials is hereby declared to be good and sufficient and the Application is properly returnable today. Further service of the Application other than to those listed on the service list is hereby dispensed with.

APPROVAL OF CLAIMS PROCESS

3. The Claims Process set out in the attached Schedule "A" for determining claims of Creditors is hereby approved, and the Applicant, in consultation with the Monitor, is authorized and directed to implement the Claims Process.

4. The following forms, together with any non-substantive amendments, are hereby approved: Claims Notice at **Schedule "B"**, Instruction Letter at **Schedule "C"**, Proof of Claim at **Schedule "D"**, Notice of Revision or Disallowance at **Schedule "E"**, Notice of Dispute at **Schedule "F"**, and Newspaper Notice at **Schedule "G"**.

CLAIMS BAR

5. The Claims Bar Date of 5:00 PM MST on February 28, 2025 is hereby approved.

6. The Subsequent Claims Bar Date of the later of: (a) the Claims Bar Date; and (b) 5:00 pm MST on the day which is 30 days after the date on which the agreement in question was disclaimed, is hereby approved.

7. Any Known Creditor who has received a Claims Notice and fails to deliver a Proof of Claim in respect of a Pre-Filing Claim by the Claims Bar Date containing an alternate assessment of the classification and/or quantum of its Pre-Filing Claim shall be forever barred, estopped and enjoined from amending or otherwise putting forward any alternate or additional Claim(s) against the Applicant and the Claim as set out in the Claims Notice shall be a Proven Claim.

8. Any Unknown Creditor who fails to deliver a Proof of Claim in respect of a Pre-Filing Claim in accordance with the Claims Process on or before the Claims Bar Date shall:

- (a) be forever barred, estopped and enjoined from asserting or enforcing any Pre-Filing Claim (or filing a Proof of Claim in respect of such Pre-Filing Claim) against the Applicant and such Pre-Filing Claim shall be forever extinguished;
- (b) not be entitled to vote in any meeting of Creditors and not be entitled to receive any distribution under any plan; and
- (c) not be entitled to receive further notice in these proceedings.

9. Any Creditor with a Subsequent Claim who fails to deliver a Proof of Claim in respect of the Subsequent Claim in accordance with the Claims Process on or before the Subsequent Claims Bar Date shall:

- (a) be forever barred, estopped and enjoined from asserting or enforcing any Subsequent Claim (or filing a Proof of Claim in respect of such Subsequent Claim) against the Applicant and such Subsequent Claim shall be forever extinguished;
- (b) not be entitled to vote in any meeting of Creditors and not be entitled to receive any distribution under any plan;
- (c) not be entitled to receive further notice in these proceedings.

NOTICE SUFFICIENT

10. The publication of the Newspaper Notice, the posting of the Claims Package and this Claims Process Order on the Website, and the mailing to the Known Creditors of the Claims Package in accordance with the Claims Process and the requirements of this Order, shall constitute good and sufficient service and delivery of (i) notice of this Order, (ii) the Claims Bar Date, and (iii) the Subsequent Claims Bar Date, on all Persons who may be entitled to receive notice and who may wish to assert Pre-Filing Claims or Subsequent Claims, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

FILING PROOFS OF CLAIM

11. A Proof of Claim shall be deemed filed in a timely manner only if delivered by prepaid registered mail, courier, email (in PDF format) or facsimile transmission so as to actually be received by the Monitor on or before the Claims Bar Date or Subsequent Claims Bar Date, as applicable.

NOTICE OF TRANSFER OR ASSIGNMENT

12. If a Creditor or any subsequent holder of a Pre-Filing Claim or Subsequent Claim transfers or assigns that Pre-Filing Claim or Subsequent Claim to another Person, neither the Applicant nor the Monitor shall be required to give notice to or otherwise deal with the transferee or assignee of the Pre-Filing Claim or Subsequent Claim as the holder of such Pre-Filing Claim or Subsequent Claim unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, has been delivered to the Applicant and the Monitor. Thereafter, such transferee or assignee shall, for all purposes hereof, constitute the holder of such Pre-Filing Claim or Subsequent Claim and shall be bound by notices given and steps taken in respect of such Pre-Filing Claim or Subsequent Claim in accordance with the provisions of this Order.

NOTICES AND COMMUNICATION

13. Except as otherwise provided herein, the Applicant and the Monitor may deliver any notice or other communication to be given under this Order to Creditors or other interested Persons by forwarding true copies thereof by ordinary mail, courier, facsimile or email to such Creditors or Persons at the address last shown on the books and records of the Applicant and any such service or notice by courier, facsimile or email shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by ordinary mail, on the third Business Day after mailing within Alberta, the fifth Business Day after mailing within Canada and the tenth Business Day after mailing internationally.

14. Any notice or other communication to be given under this Order by a Creditor to the Monitor or the Applicant shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if delivered by prepaid registered mail, courier, email (in PDF) or facsimile transmission addressed to:

To the Monitor:

FTI Consulting Canada Inc.

1610-520 5th Ave S.W.
Calgary, AB T2P 3R7
Attn: Dustin Olver, Robert
Kleebaum
Dustin.olver@fticonsulting.com

Robert.kleebaum@fticonsulting.com

Copied to:

Blake, Cassels & Graydon LLP

855 2 St. S.W., Suite 3500,
Calgary AB T2P 4J8
Attn: Kelly Bourassa, Jenna Willis
kelly.bourassa@blakes.com
jenna.willis@blakes.com

To the Applicant:

Westphalia Dev. Corp.

25th Floor, 500 – 4th Avenue SW
Calgary, Alberta, T2P 2V6, Canada
Attn: Bill Doherty, Autumn Habermehl
bdoherly@walton.com
ahabermehl@walton.com

Copied to :

Norton Rose Fulbright Canada LLP

400 3rd Avenue SW, Suite 3700
Calgary, Alberta T2P 4H2 CANADA
Attn: Howard A. Gorman, K.C. / Meghan L. Parker
howard.gorman@nortonrosefulbright.com
meghan.parker@nortonrosefulbright.com

15. In the event that the day on which any notice or communication required to be delivered pursuant to the Claims Process is not a Business Day, then such notice or communication shall be required to be delivered on the next Business Day.

16. In the event of any strike, lockout or other event which interrupts postal service in any part of Canada, all notices and communication during such interruption may only be delivered by courier, email or facsimile and any notice or other communication given or made by prepaid mail within the 5 Business Day period immediately preceding the commencement of such interruption, unless actually received, shall be deemed not to have been delivered.

AID AND ASSISTANCE OF OTHER COURTS

17. 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, regulator or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any provinces 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 Order.

GENERAL

18. The Applicant, with the consent of the Monitor, is hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which Proofs of Claim and Notices of Dispute are completed and executed and may, if they are satisfied that a Pre-Filing Claim or Subsequent Claim has been adequately proven, waive strict compliance with the requirements of the Claims Process and this Order as to the completion and execution of Proofs of Claim and Notices of Dispute; however, for greater certainty, the Applicant, even with the consent of the Monitor, may not waive strict compliance with the Claims Bar Date or Subsequent Claims Bar Date.

19. The Monitor, in addition to its prescribed rights and obligations under the CCAA and under the Amended and Restated Initial Order, shall assist the Applicant in connection with the administration of the Claims Process, and is hereby authorized and directed to take such other actions and fulfill such other roles as are contemplated by the Claims Process and this Order.

20. References in this Order to the singular shall include the plural, references to the plural shall include the singular and references to any gender shall include the other gender.

21. Notwithstanding the terms of this Order, the Applicant 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 the Claims Process or this Order.

Justice of the Court of King's Bench of Alberta

SCHEDULE "A"

CLAIMS PROCESS

DEFINITIONS

1. For purposes of this Claims Process, the following terms shall have the following meanings:

- (a) **"Amended and Restated Initial Order"** means the Order granted by the Honourable Justice Jeffrey on January 23, 2025 in Court of King's Bench Action No. 2501-00574, as may be amended by further order of the Court;
- (b) **"Applicant"** means Westphalia Dev. Corp.;
- (c) **"Business Day"** means a day, other than a Saturday or a Sunday on which banks are generally open for business in Calgary, Alberta;
- (d) **"CAA"** means the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36 as amended;
- (e) **"Claim"** means (i) 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, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, 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 had the Applicant become bankrupt, but excluding Excluded Claims; (ii) any Tax Claim; and (iii) any D&O Claim;

- (f) **“Claims Bar Date”** means 5:00 p.m. MST on February 28, 2025;
- (g) **“Claims Notice”** means, in the case of Known Creditors, the letter regarding the assessment of the Known Creditor’s Claim, substantially in the form attached hereto as Schedule “B”;
- (h) **“Claims Package”** means the document package which shall include a copy of the Instruction Letter, Proof of Claim and such other materials as the Applicant or the Monitor consider necessary or appropriate;
- (i) **“Claims Process”** means the procedures outlined herein in connection with the assertion of Pre-Filing Claims or Subsequent Claims against one or more of the Applicant;
- (j) **“Claims Process Order”** means the order granted by the Honourable Justice Jeffrey of the Court on January 23, 2025 approving the Claims Process;
- (k) **“Court”** means the Court of King’s Bench of Alberta;
- (l) **“Creditor”** means any Person asserting a Pre-Filing Claim or Subsequent Claim;
- (m) **“D&O Claim”** means any right or claim of any Person made in whole or in part in respect of the directors and/or officers of the Applicant, provided however, that such claim does not include any of the matters described in section 5.1(2) of the CCAA;
- (n) **“Excluded Claims”** means (i) indemnity claims for any former or current officers or directors of the Applicant; (ii) claims subject to the Administration Charge (as defined in the Amended and Restated Initial Order); (iii) the Regulatory Obligations owed or owing to any Regulator; and (iv) claims of Canadian Imperial Bank of Commerce;
- (o) **“Filing Date”** means January 14, 2025;

- (p) **“Known Creditors”** means Creditors which the books and records of the Applicant disclose were owed money by the Applicant as of the Filing Date, which obligations remain unpaid in whole or in part;
- (q) **“Monitor”** means FTI Consulting Canada Inc., in its capacity as the Court-appointed Monitor of the Applicant and not in its personal capacity;
- (r) **“Newspaper Notice”** means the notice of the Claims Process to be published in the newspapers in accordance with the Claims Process in substantially the form attached to the Claims Process Order as Schedule “G”;
- (s) **“Notice of Dispute”** means the notice that may be delivered by a Creditor who has received a Notice of Revision or Disallowance disputing such Notice of Revision or Disallowance, which notice shall be substantially in the form attached to the Claims Process Order at **Schedule “F”**;
- (t) **“Notice of Revision or Disallowance”** means the notice that may be delivered to a Creditor revising or rejecting such Creditor’s Pre-Filing Claim or Subsequent Claim as set out in its Proof of Claim in whole or in part, which notice shall be substantially in the form attached to the Claims Process Order at **Schedule “E”**;
- (u) **“Person”** shall be broadly interpreted and includes an individual, firm, partnership, joint venture, fund, limited liability company, unlimited liability company, association, trust, corporation, unincorporated association or organization, syndicate, committee, the government of a country or any political subdivision thereof, or any agency, board, tribunal, commission, bureau, or any other entity, howsoever designated or constituted, including any Taxing Authority, and the trustees, executors, administrators or other legal representatives of an individual;
- (v) **“Pre-Filing Claim”** means any Claim arising prior to the Filing Date and not including a Subsequent Claim;
- (w) **“Proof of Claim”** means the form, substantially in the form attached to the Claims Process Order at **Schedule “D”**, to be completed and filed by a Creditor setting forth its Pre-Filing Claim or Subsequent Claim;

- (x) **“Proven Claim”** means the amount, status and/or validity of the Claim as a Creditor as finally determined in accordance with this Claims Process. A Proven Claim will be “finally determined” in accordance with this Claims Process when: (i) the Notice to Creditor setting out such Claim is issued and remains unanswered, (ii) the Claim has been accepted by the Applicant, with the consent of the Monitor, (iii) the applicable time period for filing a Notice of Dispute in response to a Notice of Revision or Disallowance issued by any one of the Applicant has expired and no Notice of Dispute has been filed in accordance with this Order, or (iv) any court of competent jurisdiction has made a determination with respect to the amount, status and/or validity of the Claim, and no appeal or application for leave to appeal therefrom shall have been taken or served on either party, or if any appeal or application for leave to appeal shall have been taken therefrom or served on either party, any and all such appeal or application shall have been dismissed, determined or withdrawn;
- (y) **“Regulator”** means any regulator, government or government body;
- (z) **“Regulatory Obligation”** means any obligation owed or owing by the Applicant to any Regulator which includes, but is not limited to, any suspension, abandonment and/or reclamation obligations owed or owing by the Applicant;
- (aa) **“Subsequent Claim”** means any Claim arising on or after the Filing Date as a result of the disclaimer after the Filing Date of any contract, lease, employment agreement or other arrangement or agreements of any nature whatsoever, whether oral or written, and any amending agreement related thereto;
- (bb) **“Subsequent Claims Bar Date”** means the later of: (i) the Claims Bar Date; and (ii) 5:00 p.m. MST on the day which is 30 days after the date on which the agreement in question was disclaimed;
- (cc) **“Tax”** or **“Taxes”** means any and all amounts subject to a withholding or remitting obligation and any and all taxes, duties, fees and other governmental charges, duties, impositions and liabilities of any kind whatsoever whether or not assessed by the Taxing Authorities (including any Claims by any of the Taxing Authorities), including all interest, penalties, fines, fees, other charges and additions with respect to such amount;

- (dd) **“Taxing Authorities”** means His Majesty the King, His Majesty the King in right of Canada, His Majesty the King 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, and “Taxing Authority” means any one of the Taxing Authorities;
- (ee) **“Tax Claim”** means any Claim against any one of the Applicant for any Taxes in respect of any taxation year or period ending on or prior to the applicable 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 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;
- (ff) **“Unknown Creditor”** means creditors that are not Known Creditors;
- (gg) **“Website”** means the website maintained by the Monitor located at: <http://cfcanada.fticonsulting.com/westphaliadevcorp>.

NOTICE OF CLAIMS PROCESS

2. The Monitor shall cause a Claims Package with a Claims Notice to be sent to each Known Creditor, whose Claims have been assessed by the Applicant in consultation with the Monitor, by regular prepaid mail, fax, courier or email on or before January 30, 2025. A form of Claims Notice is included as Schedule “B” to the Claims Process Order.
3. The Monitor shall cause the Newspaper Notice to be published in the *Calgary Herald* on or before February 7, 2025.
4. The Monitor shall cause the Claims Package to be posted on the Website.
5. The Applicant shall issue a press release outlining the existence of the Claims Process and may post notice of the Claims Process on its website, in both cases directing any creditor to the Website.

6. Any action taken by the Applicant to restructure, disclaim, resiliate, terminate or breach any contract, lease or other agreement that gives rise to a Subsequent Claim will occur on or before the day that is fifteen (15) calendar days prior to the date of any Creditors' meeting. Any such notice to disclaim or resiliate such an agreement will be accompanied by a Claims Package.

7. The Monitor shall cause a copy of the Claims Package to be sent to any Unknown Creditor requesting such material as soon as practicable.

FILING OF PROOFS OF CLAIM

8. In the event a Known Creditor receives a Claims Package with a Claims Notice and such Known Creditor agrees with the assessment of the amount and classification of its Pre-Filing Claim as set out in the Claims Notice, it need not file a Proof of Claim or take any further action and upon no further action being taken, the Pre-Filing Claim shall be a Proven Claim.

9. In the event a Known Creditor receives a Claims Package with a Claims Notice and such Known Creditor disagrees with the assessment of either the amount or classification (or both) of its Pre-Filing Claim as set out in the Notice to Creditor, it must deliver a Proof of Claim setting out its Pre-Filing Claim so that it is received by the Monitor and the Applicant by no later than the Claims Bar Date.

10. An Unknown Creditor asserting a Pre-Filing Claim against the Applicant shall set out its aggregate Pre-Filing Claim in a written Proof of Claim and deliver that Proof of Claim so that it is received by the Monitor and the Applicant by no later than the Claims Bar Date.

11. Every Creditor asserting a Subsequent Claim against the Applicant shall set out its aggregate Subsequent Claim in a Proof of Claim and deliver that Proof of Claim so that it is received by the Monitor and the Applicant by no later than the Subsequent Claims Bar Date.

12. Every Creditor asserting a D&O Claim against any of the current or former directors or officers of the Applicant in the Claims Process shall set out its aggregate Claim in a Proof of Claim and deliver that Proof of Claim to the Monitor and the Applicant no later than the Claims Bar Date or the Subsequent Claims Bar Date, as the case may be. To the extent that any such D&O claims are filed in the Claims Process, a corresponding directors and officers indemnity claim shall be deemed to have been filed in respect of such D&O Claim.

DETERMINATION OF CLAIMS AND SUBSEQUENT CLAIMS

13. The Applicant shall review each Proof of Claim received by the Claims Bar Date or Subsequent Claims Bar Date, as applicable, and subject to paragraph 14 herein, shall accept, revise or disallow the Pre-Filing Claim or Subsequent Claim with the consent of the Monitor.

14. The Applicant may attempt to consensually resolve the classification and amount of any Pre-Filing Claim or Subsequent Claim with any Creditor prior to the Applicant accepting, revising or disallowing a Pre-Filing Claim or Subsequent Claim with the consent of the Monitor.

15. If the Applicant, with the consent of the Monitor, accepts a Pre-Filing Claim or Subsequent Claim, then such Pre-Filing Claim or Subsequent Claim shall be a Proven Claim.

NOTICE OF REVISION OR DISALLOWANCE

16. If the Applicant, with the consent of the Monitor, determines to revise or disallow a Pre-Filing Claim or Subsequent Claim, the Monitor shall send a Notice of Revision or Disallowance to the Creditor.

NOTICE OF DISPUTE

17. Any Creditor who disputes the classification or amount of its Pre-Filing Claim or Subsequent Claim as set forth in a Notice of Revision or Disallowance shall deliver a Notice of Dispute to the Monitor by 5:00 p.m. MST on or before the day that is fifteen (15) days after the date of the Notice of Revision or Disallowance. In addition, the disputing Creditor must file an application with the Court supported by an affidavit setting out the basis for the dispute and must send the application and affidavit to the Applicant and to the Monitor immediately upon filing. The application and affidavit must be filed by the disputing Creditor within fifteen (15) calendar days after sending the Notice of Dispute to the Applicant and the Monitor.

18. Any Creditor who fails to deliver a Notice of Dispute and file an application with the Court by the deadlines set forth in paragraph 17 shall be deemed to accept the classification and the amount of its Pre-Filing Claim or Subsequent Claim as set out in the Notice of Revision or Disallowance. Such Pre-Filing Claim or Subsequent Claim as set out in the Notice of Revision or Disallowance shall, to the extent it is not wholly disallowed, constitute a Proven Claim.

RESOLUTION OF CLAIMS AND SUBSEQUENT CLAIMS

19. Upon receipt of a Notice of Dispute, the Applicant may with the consent of the Monitor, attempt to consensually resolve the classification and amount of the Pre-Filing Claim or Subsequent Claim with the Creditor.

20. If the Applicant and the Creditor consensually resolve the classification and amount of the Pre-Filing Claim or Subsequent Claim in accordance with paragraph 19 herein, the Applicant may accept, with the consent of the Monitor, a revised Pre-Filing Claim or Subsequent Claim, and such Pre-Filing Claim or Subsequent Claim will constitute a Proven Claim.

21. Where the value of a Creditor's Claim has not been finally determined by the Court by the date of any Creditors' meeting, the Applicant, in consultation with the Monitor, shall either:

- (a) accept the Creditor's determination of the value of the Claim as set out in the applicable Notice of Dispute only for the purposes of voting and conduct the vote of the Creditors on that basis subject to a final determination of the Claim, and in such case, the Monitor shall record separately the value of such Creditor's Claim and whether such Creditor voted in favour of or against any plan;
- (b) adjourn the Creditors' meeting until a final determination of the Claim(s) is made;
or
- (c) deal with the matter as the Court may otherwise direct or as the Applicant, the Monitor and the Creditor may otherwise agree.