



Court File No.: CV-24-00730212-00CL

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

THE HONOURABLE ) THURSDAY, THE 7TH  
 )  
JUSTICE KIMMEL ) DAY OF NOVEMBER, 2024  
 )

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
**CHESSWOOD GROUP LIMITED, CASE FUNDING INC., CHESSWOOD HOLDINGS  
LTD., CHESSWOOD US ACQUISITIONCO LTD., PAWNEE LEASING  
CORPORATION, LEASE-WIN LIMITED, WINDSET CAPITAL CORPORATION,  
TANDEM FINANCE, INC., CHESSWOOD CAPITAL MANAGEMENT INC.,  
CHESSWOOD CAPITAL MANAGEMENT USA INC., RIFCO NATIONAL AUTO  
FINANCE CORPORATION, RIFCO INC., WAYPOINT INVESTMENT PARTNERS  
INC. and 1000390232 ONTARIO INC.**

**AMENDED AND RESTATED INITIAL ORDER**  
**(amending and restating the Initial Order dated October 29, 2024)**

**THIS MOTION**, made by Royal Bank of Canada, in capacity as administrative and collateral agent (the “**Pre-Filing Agent**” or the “**Applicant**”) to the lenders (the “**Pre-Filing Lenders**”) under a second amended and restated credit agreement dated as of January 14, 2022, as amended, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCA**”) was heard this day via Zoom videoconference in Toronto, Ontario.

**ON READING** the affidavit of Wenwei (Wendy) Chen sworn October 28, 2024 and the Exhibits thereto (the “**Chen Affidavit**”), the pre-filing report of FTI Consulting Canada Inc. (“**FTI**”), in its capacity as proposed monitor of Chesswood Group Limited, Case Funding Inc., Chesswood Holdings Ltd., Chesswood US Acquisitionco Ltd., Pawnee Leasing Corporation, Lease-Win Limited, Windset Capital Corporation, Tandem Finance, Inc., Chesswood Capital Management Inc., Chesswood Capital Management USA Inc., Rifco National Auto Finance Corporation, Rifco Inc., Waypoint Investment Partners Inc. and 1000390232 Ontario Inc.

(collectively, the “**CCAA Parties**”), dated October 29, 2024 (the “**Pre-Filing Report**”), and the first report of FTI, in its capacity as monitor of the CCAA Parties (in such capacity, the “**Monitor**”), dated November 6, 2024 (the “**First Report**”), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Pre-Filing Agent and the DIP Agent (as defined in the DIP financing principal terms sheet dated October 29, 2024, the “**DIP Term Sheet**”), counsel to the Monitor, and such other counsel present; and on reading the consent of the Monitor to act as monitor,

## **DEFINITIONS**

1. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms have the meanings given to them in the Chen Affidavit.
2. **THIS COURT ORDERS** that references in this Order to the “date of this Order”, the “date hereof” or similar phrases refer to the date of the Initial Order of this Court that was granted in these proceedings, being October 29, 2024 (the “**Initial Order**”).

## **SERVICE**

3. **THIS COURT ORDERS** that the time for and method of service of the Initial Order Notice of Application, the Initial Order Application Record, the Notice of Motion, the Motion Record, the Pre-Filing Report and the First Report are hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## **APPLICATION**

4. **THIS COURT ORDERS AND DECLARES** that the CCAA Parties are companies to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

5. **THIS COURT ORDERS** that the CCAA Parties shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

## **POSSESSION OF PROPERTY AND OPERATIONS**

6. **THIS COURT ORDERS** that, subject to the rights and powers granted in favour of the Monitor under this Order, the CCAA Parties shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the CCAA Parties shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The CCAA Parties shall each be authorized and empowered, subject to the consent of the Monitor and the terms of the DIP Term Sheet, to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

7. **THIS COURT ORDERS** that the CCAA Parties shall be entitled to continue to utilize the central cash management system currently in place as described in the Chen Affidavit or replace it with another substantially similar central cash management system with the consent of the Monitor (in either case, 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 CCAA Parties 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 defined below) other than the CCAA Parties, 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.

8. **THIS COURT ORDERS** that the CCAA Parties shall, with the consent of the Monitor, be entitled but not required to pay the following expenses whether incurred prior to, on, or after

the date of this Order, to the extent that such expenses are incurred and payable by the CCAA Parties and subject to the terms of the DIP Term Sheet:

- (a) all outstanding and future wages, salaries, employee benefits (including, without limitation, employee medical, dental, registered retirement savings plan contributions and similar benefit plans or arrangements), vacation pay and expenses, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements, and other payroll and benefits processing and servicing expenses;
- (b) the fees and disbursements of any Assistants retained or employed by the CCAA Parties or the Pre-Filing Agent, Pre-Filing Lenders, DIP Agent or DIP Lenders (as defined in the DIP Term Sheet) in respect of these proceedings, at their standard rates and charges; and
- (c) amounts owing for goods or services supplied to the CCAA Parties prior to the date of this Order by third party suppliers or service providers not exceeding US\$1,000,000 in aggregate, if in the opinion of the Monitor such supplier or service provider is critical to the Business and ongoing operations of the CCAA Parties and the Property.

9. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, and subject to the terms of the DIP Term Sheet, the CCAA Parties shall, with the consent of the Monitor, be entitled but not required to pay all reasonable expenses incurred by the CCAA Parties in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order or any other Order of the Court, 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 CCAA Parties following the date of this Order.

10. **THIS COURT ORDERS** that the CCAA Parties are authorized to remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services taxes, harmonized sales taxes and other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the CCAA Parties in connection with the sale of goods and services by the CCAA Parties, 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, workers' compensation or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the CCAA Parties.

11. **THIS COURT ORDERS** that notwithstanding anything to the contrary in this Order, any cash, legal title, assets, or any other property that is (i) required to be held in trust by the CCAA Parties for the benefit of a Securitization Funder (as defined in the Chen Affidavit) pursuant to an agreement with a Securitization Funder, including a Securitization Agreement (as defined in the Chen Affidavit) (a "**Subject Agreement**"), and (ii) received or held by the CCAA Parties pursuant to the applicable Subject Agreement (collectively, whether received or held by the CCAA Parties before, on, or after the date of this Order, "**Securitized Assets**") shall neither (a) constitute Property of the CCAA Parties under this Order, nor (b) be subject to any Charges or Encumbrances granted pursuant to this Order, and shall be deemed to be held in trust for and on behalf of the applicable Securitization Funder in accordance with the Subject Agreement. The CCAA Parties shall remit any Securitized Assets to the applicable

Securitization Funder, in each case in accordance with the terms of the applicable Subject Agreement, and no bank providing the Cash Management System or other Person with an Encumbrance or control over any account of the CCAA Parties shall prevent or interfere with the remittance of such Securitized Assets to the applicable Securitization Funder in accordance with the foregoing.

12. **THIS COURT ORDERS** that until a real property lease, including a sublease and related documentation, to which any CCAA Party is a party (each a “**Lease**”), is disclaimed in accordance with the CCAA or otherwise consensually terminated, the applicable CCAA Party shall pay, with the consent of the Monitor, without duplication, all amounts constituting rent or payable as rent under such Lease (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the applicable landlord (the “**Landlord**”) under such Lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the CCAA Parties or the making of this Order) or as otherwise may be negotiated between the applicable CCAA Party and the Landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

13. **THIS COURT ORDERS** that, except as specifically permitted herein, the CCAA Parties and the Monitor, for and on the behalf of the CCAA Parties, are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the CCAA Parties to any of their creditors as of this date, except to the Pre-Filing Agent and Pre-Filing Lenders as provided for in this Order or the DIP Term Sheet or any Definitive Documents (each as defined below); (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business or pursuant to this Order or any other Order of the Court.

## **RESTRUCTURING**

14. **THIS COURT ORDERS** that the Monitor, in consultation with the DIP Agent shall, subject to such requirements as are imposed by the CCAA and such covenants as may be

contained in the Definitive Documents (as defined below), have the right, for and on behalf of and in the name of the CCAA Parties, to:

- (a) permanently or temporarily cease, downsize or shut down any of the CCAA Parties' business or operations, and to dispose of redundant or non-material assets not exceeding US\$1,000,000 in any one transaction or US\$2,000,000 in the aggregate.
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as the Monitor, for and on behalf of and in the name of the applicable CCAA Parties, deems appropriate;
- (c) disclaim, in whole or in part, with the prior consent of the DIP Agent or further Order of the Court, any of the arrangements or agreements of any nature whatsoever and with whomsoever, whether oral or written, of the CCAA Parties, as the Monitor, for and on behalf of and in the name of the CCAA Parties, 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 CCAA Parties to proceed with an orderly restructuring of the Business (the "**Restructuring**").

15. **THIS COURT ORDERS** that each CCAA Party shall provide each of the relevant Landlords with notice of the CCAA Parties' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant Landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes a CCAA Party's entitlement to remove any such fixture under the provisions of the applicable Lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such Landlord and the applicable CCAA Party, or by further Order of this Court upon application by the Monitor on at least two (2) days notice to such Landlord and any such secured creditors. If a CCAA Party disclaims the Lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such Lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the

disclaimer of the Lease shall be without prejudice to such CCAA Party's claim to the fixtures in dispute.

16. **THIS COURT ORDERS** that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the Landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the CCAA Parties and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, 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 CCAA Parties in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE CCAA PARTIES OR THE PROPERTY**

17. **THIS COURT ORDERS** that until and including January 31, 2025, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the CCAA Parties or the Monitor (or their respective employees, agents and representatives acting in such capacity), or affecting the Business or the Property, except with the prior written consent of the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the CCAA Parties or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

18. **THIS COURT ORDERS** that, to the extent any prescription, time or limitation relating to any Proceeding against or in respect of any CCAA Party that is stayed pursuant to this Order may expire, the term of such prescription, time or limitation period shall hereby be deemed to be extended by a period equal to the Stay Period.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

19. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the CCAA Parties or the Monitor (or their respective employees, agents and representatives acting in



such capacity), or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the CCAA Parties to carry on any business which the CCAA Parties are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH RIGHTS**

20. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the CCAA Parties, except with the prior written consent of the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant CCAA Parties shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of the insolvency of the CCAA Parties, the commencement of the within proceedings, or any related recognition proceedings, or this Order.

21. **THIS COURT ORDERS** that, no Person shall be entitled to set off any amounts that: (i) are or may become due to the CCAA Parties in respect of obligations arising prior to the date hereof with any amounts that are or may become due from the CCAA Parties in respect of obligations arising on or after the date of this Order; or (ii) are or may become due from the CCAA Parties in respect of obligations arising prior to the date hereof with any amounts that are or may become due to the CCAA Parties in respect of obligations arising on or after the date of this Order, in each case without the consent of the Monitor, or leave of this Court, provided that nothing in this Order shall prejudice any arguments any Person may make in seeking leave of the Court or following the granting of such leave.

### **CONTINUATION OF SERVICES**

22. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the CCAA Parties or statutory or regulatory mandates for the supply of goods, intellectual property, and/or services, including, without limitation, all computer software,

communication and other data services, centralized banking services, cash management services, payroll and benefit services, insurance, transportation services, utility or other services to the Business or the CCAA Parties, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the CCAA Parties, and that the CCAA Parties shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the CCAA Parties in accordance with normal payment practices of the CCAA Parties or such other practices as may be agreed upon by the supplier or service provider and the applicable CCAA Parties and the Monitor, or as may be ordered by this Court.

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

23. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration, in each case, 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 CCAA Parties. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

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

24. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the CCAA Parties with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the CCAA Parties 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 CCAA Parties, if one is filed, is sanctioned by this Court or is refused by the creditors of the CCAA Parties or this Court.

## SECURITIES FILINGS

25. **THIS COURT ORDERS** that the decision by the CCAA Parties to incur no further expenses for the duration of the Stay Period in relation to any filings (including financial statements), disclosures, core or non-core documents, and press releases (collectively, the “**Securities Filings**”) that may be required by any federal, provincial or other law respecting securities or capital markets in Canada, or by the rules and regulations of a stock exchange, including, without limitation, the *Securities Act* (Ontario), R.S.O., c. S.5 and comparable statutes enacted by other provinces of Canada, the TSX Company Manual and other rules, regulations and policies of the Toronto Stock Exchange and (collectively, the “**Securities Provisions**”), is hereby authorized, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have of a nature described in Section 11.1(2) of the CCAA as a consequence of the CCAA Parties failing to make Securities Filings required by the Securities Provisions.

26. **THIS COURT ORDERS** that none of the directors, officers, employees, or other representatives of the CCAA Parties nor the Monitor (or its employees, agents and representatives acting in such capacity) shall have any personal liability for any failure by the CCAA Parties to make any Securities Filings required by the Securities Provisions during the Stay Period, provided that nothing in this paragraph shall prohibit any securities regulator or stock exchange from taking any action or exercising any discretion that it may have against the directors, officers, employees and other representatives of the CCAA Parties of a nature described in section 11.1(2) of the CCAA as a consequence of such failure by the CCAA Parties. For greater certainty, nothing in this Order is intended to or shall encroach on the jurisdiction of any securities regulatory authorities (the “**Regulators**”) in the matter of regulating the conduct of market participants and to issue or maintain cease trader orders if and when required pursuant to applicable securities law. Further, nothing in this Order shall constitute or be construed as an admission by the Regulators that the Court has jurisdiction over matters that are within the exclusive jurisdiction of the Regulators under the Securities Provisions.

## APPOINTMENT OF MONITOR

27. **THIS COURT ORDERS** that FTI is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the CCAA

Parties with the powers and obligations set out in the CCAA or set forth herein and that the CCAA Parties and their shareholders, partners, members, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the CCAA Parties 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.

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

- (a) monitor the CCAA Parties' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) provide the DIP Agent and its counsel with such financial and other information as agreed to with the DIP Agent, which may be used in these proceedings, including reporting on a basis to be agreed with the DIP Agent;
- (d) assist the CCAA Parties in their preparation of the CCAA Parties' cash flow statements and reporting required by the DIP Agent, which information shall be reviewed with the Monitor and delivered to the DIP Agent and its counsel on a periodic basis, or as otherwise agreed to by the DIP Agent;
- (e) 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 CCAA Parties, to the extent that is necessary to adequately assess the CCAA Parties' business and financial affairs or to perform its duties arising under this Order;
- (f) advise the CCAA Parties in their development of the Plan and any amendments to the Plan;
- (g) assist the CCAA Parties, to the extent required by the CCAA Parties, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

- (h) be at liberty to engage independent legal counsel, advisors, or such other persons, or utilize the services of employees of its affiliates, as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) act as representative (the “**Foreign Representative**”) in respect of the within proceedings for the purposes of having these proceedings recognized in a jurisdiction outside of Canada, including acting as a Foreign Representative of the CCAA Parties to apply to the United States Bankruptcy Court for relief pursuant to chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1532, as amended (the “**Bankruptcy Code**”); and
- (j) perform such other duties as are required by this Order or by this Court from time to time.

29. **THIS COURT ORDERS** that in addition to the powers outlined in paragraphs 27 and 28 and subject to further Orders of the Court, the Monitor is hereby authorized and empowered, but not required, for and on behalf of and in the name of the CCAA Parties and their respective boards of directors (and not in its personal capacity), as the Monitor considers necessary or desirable, in consultation with the DIP Agent, to:

- (a) conduct and control the financial affairs and operations of the CCAA Parties and carry on business of any of the CCAA Parties, including, without limitation:
  - (i) controlling the CCAA Parties’ receipts and disbursements;
  - (ii) executing banking and other transactions and executing any documents or taking any other action that is necessary or appropriate for the purpose of the exercise of this power;
  - (iii) executing such documents as may be necessary in connection with any proceedings before this Court or pursuant to any Order of this Court;

- (iv) taking any action or steps that any of the CCAA Parties can take pursuant to the CCAA, this Order or further Order of this Court, including making distributions or payments;
- (v) negotiating and entering into agreements with respect to the Business or the Property;
- (vi) applying to the Court for any orders which may be necessary or appropriate in order to convey the Property of any CCAA Party to a purchaser or purchasers thereof;
- (vii) exercising any shareholder, partner, member or other rights and privileges available to any of the CCAA Parties for and on behalf and in the name of any of them;
- (viii) exercise any powers which may be properly exercised by any board of directors of the CCAA Parties;
- (ix) settling, extending or compromising any indebtedness owing to or by the CCAA Parties;
- (x) initiating, prosecuting and continuing the prosecution of any and all proceedings and defending all proceedings now pending or hereafter instituted with respect to the CCAA Parties, the Business, the Property or the Monitor and to settle or compromise any such proceeding;
- (xi) exercising any rights of the CCAA Parties;
- (xii) applying for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and in the name of the CCAA Parties;
- (xiii) taking any and all corporate governance actions for the CCAA Parties;
- (xiv) providing instruction and direction to the Assistants of the CCAA Parties;

- (b) preserve, protect and exercise control over the Business or Property, or any parts thereof, including, without limitation, to:
  - (i) receive, collect and exercise control over all proceeds of sale of any of the Property;
  - (ii) exercise all remedies of the CCAA Parties in collecting monies owed or hereafter owing to the CCAA Parties and to enforce any security held by the CCAA Parties;
  - (iii) execute, assign, issue and endorse documents of whatever nature in respect of any of the Property for any purpose pursuant to this Order;
- (c) conduct investigations from time to time, including, without limitation, examining under oath any Person reasonably thought to have knowledge relating to any of the CCAA Parties, the Business or the Property and compelling any such Person to produce any books, records, accountings, correspondence or documents or papers, electronically stored otherwise, in that Person's possession, custody, control or power relating to the CCAA Parties, the Business or the Property; and
- (d) take any steps, enter into any agreements, execute any documents, incur any obligations or take any other action necessary, useful or incidental to the exercise of any of the aforesaid powers,

and in each case where the Monitor takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons, including the CCAA Parties, and without interference from any other Person.

30. **THE COURT ORDERS** that the Monitor shall, subject to the Cash Management System, be authorized and empowered, but not required, to operate and control, for and on behalf of and in the name of the CCAA Parties, all of the CCAA Parties' existing accounts at any financial institution (each an "**Account**" and, collectively, the "**Accounts**") in such manner as the Monitor, in its sole discretion, deems necessary or appropriate, including, without limitation, to:

- (a) exercise control over the funds credited to or deposited in the Accounts;
- (b) effect any disbursement from the Accounts permitted by this Order or any other Order of this Court;
- (c) give instructions from time to time with respect to the Accounts and the funds credited or deposited therein, including to transfer the funds credited to or deposited in such Accounts to such other account or accounts as the Monitor may direct; and
- (d) add or remove Persons having signing authority with respect to any Account or to direct the closing of any Account.

31. **THE COURT ORDERS** that the CCAA Parties and their directors, officers, employees and agents, accountants, auditors and all other Persons having notice of this Order shall cooperate with the Monitor in discharging its duties and forthwith provide the Monitor with unrestricted access to all of the Business and Property, including, without limitation, the premises, books, records, data, including data in electronic form, and all other documents of the CCAA Parties.

32. **THIS COURT ORDERS** that neither the Monitor nor any employee, representative or agent of the Monitor shall be deemed to: (i) be a director, officer, employee or trustee of the CCAA Parties, (ii) be a legal representative or Person to whom section 150(3) of the *Income Tax Act* (Canada) applies; (iii) assume any obligation of the CCAA Parties or any one of them; or (iv) assume any fiduciary duty towards the CCAA Parties or any other Person, including any creditor or shareholder of the CCAA Parties.

33. **THIS COURT ORDERS** that the Monitor shall not be liable for any employee-related liabilities in respect of the employees of the CCAA Parties, including any successor employer liabilities as provided for in Section 11.8(1) of the CCAA. Nothing in this Order shall cause the Monitor to be liable for any employee-related liabilities in respect of the employees of the CCAA Parties, including wages, severance pay, termination pay, vacation pay, and pension or benefits amounts.



34. **THIS COURT ORDERS** that by fulfilling its obligations hereunder the Monitor shall not be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

35. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

36. **THIS COURT ORDERS** that that the Monitor shall provide any creditor of the CCAA Parties with information provided by the CCAA Parties 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 CCAA Parties is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor may agree.

37. **THIS COURT ORDERS** that, 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.

38. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, including in its capacity as Foreign Representative, and counsel to the Pre-Filing Agent, the Pre-Filing Lenders, the DIP Agent and the DIP Lenders shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or subsequent to the date of this Order, by the CCAA Parties, as part of the costs of these proceedings. The CCAA Parties are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, including in its capacity as Foreign Representative, and counsel to the Pre-Filing Agent, Pre-Filing Lenders, DIP Agent and DIP Lenders on such terms as the parties may agree.

39. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

#### **ADMINISTRATION CHARGE**

40. **THIS COURT ORDERS** that the Monitor (whether in its capacity as Monitor or Foreign Representative) and counsel to the Monitor and Foreign Representative shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of US\$2,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 48 and 50 hereof.

#### **DIP FINANCING**

41. **THIS COURT ORDERS** that on or after the date of this Order, Chesswood Group Limited is hereby authorized and empowered to borrow from the DIP Lenders in accordance with and subject to the terms of the DIP Term Sheet (each a “**DIP Borrowing**” and, collectively, the “**DIP Borrowings**”), provided that (i) such DIP Borrowings shall not, individually or in the aggregate, exceed US\$65,000,000, until further Order of the Court, (ii) between the date of this Order and the entry of the Final Recognition Order (as defined in the DIP Term Sheet) such DIP Borrowings shall not, individually or in the aggregate exceed US\$18,500,000, and (iii) such DIP

Borrowings shall be on terms and subject to the conditions, and accrue interest at the rates, set out in the DIP Term Sheet,

42. **THIS COURT ORDERS** that the Monitor, for and on behalf of and in the name of the CCAA Parties, is authorized to execute and deliver the DIP Term Sheet and such credit agreements, security documents, guarantees, and other definitive documents (collectively, the “**Definitive Documents**”) as may be required by the DIP Agent or the DIP Financing Majority Lenders (as defined in the DIP Term Sheet) in connection with the DIP Facility and the DIP Term Sheet, and the Monitor is authorized, for and on behalf of and in the name of the CCAA Parties, to pay and perform all of the obligations of the CCAA Parties under the DIP Term Sheet and any Definitive Documents as and when the same become due and are to be performed notwithstanding any other provisions of this Order.

43. **THIS COURT ORDERS** that the DIP Agent shall be entitled to the benefit of and is hereby granted a charge, for and on behalf of the DIP Lenders (the “**DIP Charge**”) on the Property of each of the CCAA Parties, which DIP Charge shall not secure any obligation that exists before this Order is made. The DIP Charge shall have the priority set out in paragraphs 48 to 50 hereof.

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

- (a) the DIP Agent may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the DIP Term Sheet, Definitive Documents or the DIP Charge, then upon five (5) business days’ notice to the CCAA Parties and the Monitor, the DIP Agent may exercise any and all rights and remedies against the CCAA Parties or the Property pursuant to the DIP Term Sheet, Definitive Documents and DIP Charge, including without limitation, to cease making advances to the CCAA Parties and, subject to further Order of this Court, set off and/or consolidate any amounts owing by the DIP Lenders to any of the CCAA Parties against the obligations of the CCAA Parties to the DIP Lenders under the DIP Term Sheet, Definitive Documents or DIP 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 CCAA Parties or the Property and the appointment of a trustee in bankruptcy of the CCAA Parties; and
- (c) the foregoing rights and remedies of the DIP Agent shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the CCAA Parties or the Property.

45. **THIS COURT ORDERS** that no action, inaction or acquiescence by the DIP Lenders, including, without limitation, funding the CCAA Parties' ongoing operations under the DIP Term Sheet and this Order, shall be deemed to be or shall be considered as evidence of any alleged consent by the DIP Lenders to a charge against any of their Collateral (as defined in the DIP Term Sheet) pursuant to the CCAA other than the Charges (as defined below), and the DIP Lenders should not be subject to any other charges on their Collateral, including any surcharges or any limitation on the scope of their Collateral.

46. **THIS COURT ORDERS** that the DIP Agent and DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the CCAA Parties under the CCAA, or any proposal filed by the CCAA Parties under the *Bankruptcy and Insolvency Act* (the "BIA") with respect to any DIP Borrowings.

47. **THIS COURT ORDERS** that this Order is subject to provisional execution and that if any of the provisions of this Order in connection with the DIP Term Sheet, the Definitive Documents or the DIP Charge shall subsequently be stayed, modified, varied, amended, reversed or vacated in whole or in part (a "**Variation**"), such Variation shall not in any way impair, limited or lessen the priority, protections, rights or remedies of the DIP Agent and DIP Lenders, whether under this Order (as made prior to the Variation), the DIP Term Sheet, the Definitive Documents or the DIP Charge with respect to any advances made or obligations incurred prior to the DIP Agent receiving notice of the Variation, and the DIP Agent and DIP Lenders shall be entitled to rely on this Order as issued (including, without limitation, the DIP Charge) for all advances so made and other obligations set out in the DIP Term Sheet or the Definitive Documents.

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

48. **THIS COURT ORDERS** that the priorities of the Administration Charge and the DIP Charge (collectively, the “**Charges**”), as among them, shall be as follows:

First – Administration Charge (to the maximum amount of US\$2,000,000); and

Second – DIP Charge;

49. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

50. **THIS COURT ORDERS** that each of the Charges (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts (including deemed or contractual trusts), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

51. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the CCAA Parties shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, without the prior written consent of the Monitor, the DIP Agent and the beneficiaries of the Charges (collectively, the “**Chargees**”), or further Order of this Court.

52. **THIS COURT ORDERS** that the DIP Term Sheet, the Definitive Documents and the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees, the DIP Agent and/or the DIP Lenders thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) or receivership order(s) issued pursuant to the BIA or otherwise, or any bankruptcy order or receivership order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative

covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the CCAA Parties, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the CCAA Parties of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the CCAA Parties entering into the DIP Term Sheet, the creation of the Charges, the DIP Borrowings, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the CCAA Parties pursuant to this Order, the DIP Term Sheet or the Definitive Documents, including the DIP Borrowings, 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.

53. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the CCAA Parties’ interests in such real property leases.

#### **SERVICE AND NOTICE**

54. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in The Globe and Mail 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 (including by electronic message to the email addresses as last shown in the CCAA Parties’ books and records), a notice to all known creditors who have a claim against the CCAA Parties of more than \$1000, and (C) prepare a list showing the names and addresses of such 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, provided that the Monitor shall not make the names and addresses of individuals who are creditors publicly available, unless otherwise ordered by the Court.

55. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL <http://cfcanada.fticonsulting.com/Chesswood> (the “**Monitor’s Website**”).

56. **THIS COURT ORDERS** that the Monitor shall create, maintain and update, as necessary, a list of all Persons appearing in person or by counsel in these proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website, provided that the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

57. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol or the CCAA and the regulations thereunder is not practicable, the CCAA Parties and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or electronic message to the CCAA Parties’ creditors or other interested parties at their respective addresses as last shown in the books and records of the CCAA Parties and that any such service or distribution shall be deemed to be received on the earlier of (i) the date of forwarding thereof, if sent by electronic message on or before 5:00 p.m. prevailing Eastern Time (or on the next business day following the date of forwarding thereof if sent on a non-business day); (ii) the next business day following the date of forwarding thereof, if sent by courier, personal delivery,

facsimile transmission or electronic message sent after 5:00 p.m. prevailing Eastern Time; or (iii) on the third (3<sup>rd</sup>) business day following the date of forwarding thereof, if sent by ordinary mail.

58. **THE COURT ORDERS** that the CCAA Parties and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, including any notices, or other correspondence, by forwarding copies thereof by electronic message to the CCAA Parties' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

#### **GENERAL**

59. **THIS COURT ORDERS** that the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of its powers and duties hereunder.

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

61. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the CCAA Parties, the Foreign Representative, 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 CCAA Parties, the Foreign Representative 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 CCAA Parties, the Foreign Representative and the Monitor and their respective agents in carrying out the terms of this Order.

62. **THIS COURT ORDERS** that each of the CCAA Parties 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.

63. **THIS COURT ORDERS** that any interested party (including the CCAA Parties and the Monitor) may apply to this Court to vary or amend this Order on not less than five (5) calendar days' notice to the Service List and 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.

64. **THIS COURT ORDERS** that the Initial Order is hereby amended and restated by this Order.

65. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. prevailing Eastern Time on the date of this Order without the need for entry or filing.

A handwritten signature in black ink, appearing to read "Kinmel J.", is positioned in the lower right quadrant of the page. The signature is written in a cursive, slightly slanted style.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CHESSWOOD GROUP LIMITED, et al.

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

Proceeding Commenced at Toronto

**AMENDED AND RESTATED INITIAL ORDER**

**BLAKE, CASSELS & GRAYDON LLP**  
199 Bay Street  
Suite 4000, Commerce Court West  
Toronto, Ontario M5L 1A9

**Kelly Bourassa**, LSO #43062R  
Tel: 403-260-9697  
Email: [kelly.bourassa@blakes.com](mailto:kelly.bourassa@blakes.com)

**Milly Chow**, LSO #35411D  
Tel: 416-863-2594  
Email: [milly.chow@blakes.com](mailto:milly.chow@blakes.com)

**Jake Harris**, LSO #85481T  
Tel: 416-863-2523  
Email: [jake.harris@blakes.com](mailto:jake.harris@blakes.com)

Lawyers for the Applicant