

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CLEARBEACH RESOURCES INC. AND FORBES RESOURCES CORP.**

Applicants

**MOTION RECORD
(Returnable May 28, 2021)**

May 25, 2021

BENNETT JONES LLP
3400 One First Canadian Place
P.O. Box 130
Toronto, ON M5X 1A4

Richard Swan (LSO# 32076A)
Email: swanr@bennettjones.com

Raj Sahni (LSO# 42924U)
Email: sahnir@bennettjones.com

Tel: (416) 863-1200
Fax: (416) 863-1716

Lawyers for the Applicants

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CLEARBEACH RESOURCES INC. AND FORBES RESOURCES CORP.**

Applicants

SERVICE LIST

As at May 21, 2021	
BENNETT JONES LLP 3400 One First Canadian Place P.O. Box 130 Toronto, ON, M5X 1A4 Main: (416) 863-1200 Fax: (416) 863-1716 <i>Counsel to Clearbeach Resources Inc. and Forbes Resources Corp.</i>	Richard B. Swan (416) 777-7479 swanr@bennettjones.com Raj Sahni (416) 777-4804 sahnir@bennettjones.com Joshua Foster (416) 777-7906 fosterj@bennettjones.com
AIRD & BERLIS LLP Brookfield Place 181 Bay St #1800 Toronto, ON M5J 2T9 <i>Counsel to Pace Savings & Credit Union Limited</i>	D. Robb English (416) 865-4748 renglish@airdberlis.com
MINISTRY OF THE ATTORNEY GENERAL 8-720 Bay Street Toronto, ON M7A 2S9	Ananthan Sinnadurai Crown Law Office – Civil (416) 910-8789 ananthan.sinnadurai@ontario.ca

<p>SCOTT PETRIE LLP 200-252 Pall Mall Street London, ON N6A 5P6</p> <p>Fax: (519) 433-7909</p> <p><i>Counsel to Crich Holdings and Buildings Limited</i></p>	<p>Angelo C. D’Ascanio (519) 433-5310 Ext. 247 adascanio@scottpetrie.com</p>
<p>CHAITONS LLP 5000 Yonge Street, 10th Floor Toronto, ON M2N 7E9</p> <p><i>Counsel to CIBC Mortgages Inc.</i></p>	<p>Christopher Staples (416) 218-1147 chris@chaitons.com</p>
<p>LOOPSTRA NIXON LLP Woodbine Place 135 Queens Plate Drive, Suite 600 Toronto, ON M9W 6V7</p> <p><i>Counsel to the Proposed Monitor</i></p>	<p>Graham Phoenix (416) 748-4776 gphoenix@loonix.com</p> <p>Thomas Lambert (416) 748-5145 tlambert@loonix.com</p>
<p>MNP LTD. 1 Dundas Street West Suite 2500 Toronto, ON M5G 1Z3</p> <p><i>The Proposed Monitor</i></p>	<p>Rob Smith rob.smith@mnp.ca</p>
<p>FORD CREDIT CANADA COMPANY 17187 114 Ave, NW Edmonton, AB T5J 5C7</p> <p><i>Secured Party</i></p>	

EMAIL ADDRESS LIST

swanr@bennettjones.com; Sahnir@bennettjones.com; fosterj@bennettjones.com;
renglish@airdberlis.com; ananthan.sinnadurai@ontario.ca; adascanio@scottpetrie.com;
chris@chaitons.com; gphoenix@loonix.com; rob.smith@mnp.ca; tlambert@loonix.com

INDEX

TAB	DESCRIPTION
1	Notice of Motion
2	Affidavit of Jane Lowrie sworn May 25, 2021
A	Exhibit "A" – Affidavit of Jane Lowrie sworn May 17, 2021 (Without Exhibits)
B	Exhibit "B" – Initial Order dated May 20, 2021
C	Exhibit "C" – Settlement Approval Order dated May 20, 2021
3	Draft Amended and Restated Initial Order
4	Blackline of Draft Amended and Restated Initial Order to the Model Order
5	Blackline of Draft Amended and Restated Initial Order to the Initial Order

TAB 1

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CLEARBEACH RESOURCES INC. AND FORBES RESOURCES CORP.**

Applicants

**NOTICE OF MOTION
(Amended and Restated Initial Order)
(Returnable May 28, 2021)**

Clearbeach Resources Inc. (“**Clearbeach**”) and Forbes Resources Corp. (together with Clearbeach, the “**Applicants**”) will make a motion before the Honourable Madam Justice Gilmore of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on Friday, May 28, 2021, at 9:00 a.m. or as soon after that time as the motion can be heard. Please refer to the videoconference details attached at Schedule “A” hereto in order to attend the motion and advise if you intend to join the motion by emailing Joshua Foster at fosterj@bennettjones.com.

PROPOSED METHOD OF HEARING: The motion is to be heard by videoconference due to the COVID-19 pandemic.

THE MOTION IS FOR:

1. An amended and restated initial order (the “**Amended and Restated Initial Order**”) substantially in the form of the draft order attached at Tab 3 of the Applicants’ Motion Record, *inter alia*:

- (a) abridging the time for service of this motion and the Motion Record and dispensing with service on any other person other than those served; and
 - (b) extending the Stay of Proceedings (as defined below) to and including August 19, 2021; and
2. Such further and other relief as the Court deems just;

THE GROUNDS FOR THE MOTION ARE:

Background

3. The Applicants are privately-owned, affiliated companies operating in Ontario's oil and natural gas sector. As the Applicants' operating company, Clearbeach is involved in the exploration, development and production of oil and gas deposits in Ontario;
4. Due to poor financial performance and liquidity issues caused by commodity prices and significant environmental obligations, the Applicants have been unable to satisfy their ordinary course obligations, including those owed to their senior secured creditor, PACE Savings & Credit Union Limited ("**Pace**");
5. In response to an application for the appointment of a receiver brought and later abandoned by Pace (the "**Receivership Proceedings**"), the Applicants commenced proposal proceedings (the "**Proposal Proceedings**") under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"). As a result of the Receivership Proceedings, no proposal was filed in the Proposal Proceedings and the time to do so under the BIA expired;

6. To avoid deemed bankruptcies, address Clearbeach's environmental and stewardship obligations, and obtain the breathing space necessary to explore avenues of restructuring, the Applicants commenced these proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") pursuant to an order (the "**Initial Order**") granted by the Court on May 20, 2021;

7. The Initial Order, among other things:

- (a) took up and continued the Proposal Proceedings under the CCAA and declared that the BIA's proposal provisions shall have no further application to the Applicants;
- (b) appointed MNP Ltd. as monitor of the Applicants (in such capacity, the "**Monitor**");
- (c) granted an initial ten (10) day stay period up to and including May 30, 2021 (the "**Stay of Proceedings**"), staying all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor or the Applicants' directors and officers, or affecting the Applicants' business or the Property (as defined below);
- (d) approved the First Report of Richter Advisory Group Inc. ("**Richter**") in its capacity as proposal trustee in the Proposal Proceedings dated December 11, 2020, the Supplement to the First Report of Richter dated December 16, 2020, and the activities of Richter described therein; and
- (e) granted the following charges over the Applicants' current and future assets, undertakings and property of every nature and kind whatsoever, and wherever situated, including all proceeds thereof (collectively, the "**Property**");

(i) the Administration Charge (as defined in the Initial Order) up to a maximum amount of \$100,000; and

(ii) the Directors' Charge (as defined in the Initial Order) up to a maximum amount of \$100,000;

8. On May 20, 2021, the Applicants also sought and obtained an order (the “**Settlement Approval Order**”), *inter alia*, approving the terms of settlement set out in the Settlement Agreement (the “**Settlement Agreement**”) among the Applicants, Pace, Oil Patch Services Inc., Jarvis Holdings Inc., Brookwood Resources Inc., 1782767 Ontario Inc., Peter Budd, Lagasco Inc. and Jane Lowrie, and sealing the unredacted Settlement Agreement;

Extending the Stay of Proceedings

9. The Stay of Proceedings expires on May 30, 2021. The Applicants are seeking an extension of the Stay of Proceedings to and including August 19, 2021;

10. Since the granting of the Initial Order and the Settlement Approval Order, the Applicants have acted, and continue to act, in good faith and with due diligence to stabilize their business and ensure its continued ordinary course operations, liaise with their stakeholders and attend to Clearbeach's environmental and stewardship obligations, each with the assistance of the Monitor;

11. The proposed extension to the Stay of Proceedings will preserve the *status quo*, provide the Applicants with the breathing room required to consider their restructuring options and allow the Applicants to continue to address Clearbeach's environmental and stewardship obligations;

12. The Applicants are forecast to have sufficient liquidity to fund their obligations and the costs of the CCAA Proceedings through the end of the proposed extension to the Stay of Proceedings;

13. The Applicants are not aware of any creditor that will be materially prejudiced by the proposed extension to the Stay of Proceedings;

14. The Monitor is supportive of the proposed extension to the Stay of Proceedings and believes that it is reasonable and appropriate in the circumstances;

Other Grounds

15. The provisions of the CCAA and the inherent and equitable jurisdiction of the Court;

16. Rules 1.04, 1.05, 2.03, 3.02, 16, 37 and 39 of the Ontario *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended, and section 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended; and

17. Such further and other grounds as counsel may advise and the Court may permit;

DOCUMENTARY EVIDENCE:

18. The following documentary evidence will be used at the hearing of the motion:

- (a) the First Report of the Monitor, to be filed;
- (b) the affidavit of Jane Lowrie sworn May 25, 2021; and
- (c) such further and other evidence as counsel may advise and the Court may permit.

May 25, 2021

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, ON M5X 1A4

Richard Swan (LSO# 32076A)
Email: swanr@bennettjones.com

Raj Sahni (LSO#42942U)
Email: sahnir@bennettjones.com

Lawyers for the Applicants

SCHEDULE "A"

Time: May 28, 2021 09:00 AM America/Toronto

Join Zoom Meeting

<https://us02web.zoom.us/j/81887630166?pwd=U0M1NnUxaFNPUWpDYk1SbTc4SUQ4QT09>

Meeting ID: 818 8763 0166

Passcode: 828393

One tap mobile

+12532158782,,81887630166#,,, *828393# US (Tacoma)

+13017158592,,81887630166#,,, *828393# US (Washington DC)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

+1 646 558 8656 US (New York)

+1 669 900 9128 US (San Jose)

Meeting ID: 818 8763 0166

Passcode: 828393

Find your local number: <https://us02web.zoom.us/u/kt76lcEGb>

**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 CLEARBEACH RESOURCES INC. AND FORBES
RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings Commenced in Toronto

**NOTICE OF MOTION
(Amended and restated initial order)
(Returnable May 28, 2021)**

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Richard Swan (LSO# 32076A)

Raj Sahni (LSO# 42924U)

Tel: 416-863-1200

Fax: 416-863-1716

Lawyers for the Applicants

TAB 2

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CLEARBEACH RESOURCES INC. AND FORBES RESOURCES CORP.**

**AFFIDAVIT OF JANE LOWRIE
(Sworn May 25, 2021)**

I, Jane Lowrie, of the city of London, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the President of Clearbeach Resources Inc. ("**Clearbeach**") and have been since its incorporation in 1989. I am also the sole director of Clearbeach and my son, Scott Lewis, is the sole director of Forbes Resources Corp. ("**Forbes**" and together with Clearbeach, the "**Applicants**"). As such, I have personal knowledge of the matters to which I depose in this affidavit, unless otherwise indicated. Where I have relied on other sources for information, I have so stated and I believe them to be true. Neither the Applicants nor I waive or intend to waive any applicable privilege by any statement herein.

2. I swear this affidavit in support of a motion (the "**Comeback Motion**") by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order (the "**Amended and Restated Initial Order**"), *inter alia*:

- (a) abridging and validating the time for service of this motion and the Motion Record and dispensing with further service thereof; and

(b) extending the Stay of Proceedings (as defined below) to and including August 19, 2021.

3. All references to currency in this affidavit are in Canadian dollars unless otherwise noted.

I. BACKGROUND AND STATUS OF THE CCAA PROCEEDINGS

A. Overview

4. The Applicants are privately-owned, affiliated companies operating in Ontario's oil and natural gas sector. Due to poor financial performance and liquidity issues caused by commodity prices and significant environmental obligations, the Applicants have been unable to satisfy their ordinary course obligations, including those owed to their senior secured creditor, PACE Savings & Credit Union Limited ("**Pace**").

5. In response to an application for the appointment of a receiver brought and later abandoned by Pace (the "**Receivership Proceedings**"), Clearbeach and Forbes commenced proceedings (the "**Proposal Proceedings**") under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") by filing Notices of Intention to Make a Proposal on July 22, 2020 and July 23, 2020, respectively. As a result of the Receivership Proceedings, no proposal was filed in the Proposal Proceedings and the time to do so under the BIA expired.

6. On May 20, 2021, to prevent the immediate deemed bankruptcies of each of Forbes and Clearbeach, provide the breathing space and flexibility necessary to canvass their restructuring options and implement a settlement reached with Pace, the Applicants sought and obtained:

(a) an order (the "**Initial Order**") pursuant to the CCAA, among other things:

- (i) declaring that the Applicants are entities to which the CCAA applies;
 - (ii) authorizing the continuation under the CCAA of the Proposal Proceedings;
 - (iii) appointing MNP Ltd. as monitor of the Applicants under the CCAA (in such capacity, the “**Monitor**”);
 - (iv) staying, for an initial period of not more than ten (10) days (the “**Stay of Proceedings**”), all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor or the Applicants’ directors and officers or affecting the Applicants’ business or the Property (as defined below), except with the written consent of the Applicants and the Monitor, or with leave of this Court;
 - (v) granting the Administration Charge and Directors’ Charge (each as defined in the Initial Order) over the Applicants’ current and future assets, undertakings and property of every nature and kind whatsoever, and wherever situate, including all proceeds thereof; and
 - (vi) approving the First Report of Richter Advisory Group Inc. (“**Richter**”) in its capacity as proposal trustee in the Proposal Proceedings dated December 11, 2020, the Supplement to the First Report of Richter dated December 16, 2020, and the activities of Richter described therein; and
- (b) an order (the “**Settlement Approval Order**”), approving the terms of settlement set out in the Settlement Agreement among the Applicants, PACE Savings & Credit Union Limited, Oil Patch Services Inc., Jarvis Holdings Inc., Brookwood

Resources Inc., 1782767 Ontario Inc., Peter Budd, Lagasco Inc. and I (the “**Settlement Agreement**”), and sealing the unredacted Settlement Agreement.

7. The background to these CCAA proceedings (the “**CCAA Proceedings**”) is more fully set out in my affidavit sworn May 17, 2021 (the “**Lowrie Affidavit**”). A copy of the Lowrie Affidavit (without exhibits) is attached hereto as **Exhibit “A”**. Copies of the Initial Order and the Settlement Approval Order are attached hereto as **Exhibits “B”** and “**C**”, respectively. Copies of all other filings in the CCAA Proceedings are available on the Monitor’s website at: <https://mnpdebt.ca/en/corporate/corporate-engagements/clearbeach-resources-inc>.

B. Status of the CCAA Proceedings

8. Since the granting of the Initial Order, the Applicants have, with the assistance and oversight of the Monitor, acted in good faith and with due diligence to, among other things:

- (a) stabilize and continue Clearbeach’s ordinary course business operations;
- (b) attend to Clearbeach’s environmental and stewardship obligations;
- (c) liaise with their stakeholders regarding the CCAA Proceedings; and
- (d) prepare materials required for the Comeback Motion.

9. Given the limited time between the granting of the Initial Order and the hearing of the Comeback Motion and the Applicants’ previous focus on negotiating the Settlement Agreement, the Applicants have not had an opportunity to consider all of their restructuring options or make definitive decisions with respect to the CCAA Proceedings. Accordingly, the Applicants require additional time to continue discussions with their key stakeholders, including the Ministry of

Natural Resources and Forestry, and evaluate avenues of restructuring with a view to maximizing stakeholder value.

II. RELIEF SOUGHT ON THE COMEBACK MOTION

10. The Stay of Proceedings granted under the Initial Order will expire on May 30, 2021. Pursuant to the Amended and Restated Initial Order, the Applicants are seeking to extend the Stay of Proceedings until and including August 19, 2021.

11. As described in greater detail in the Lowrie Affidavit, each of Forbes and Clearbeach are in default of certain of their pre-filing obligations and but for the Stay of Proceedings, would be facing enforcement action from multiple stakeholders. The Applicants require the Stay of Proceedings to maintain the *status quo* and protect the value of the Applicants' business. It would be detrimental to the Applicants' business if proceedings were commenced or continued or rights and remedies were executed against the Applicants. Absent the Stay of Proceedings, the Applicants will not be able to continue to operate their business, and by extension, address Clearbeach's significant environmental and stewardship obligations.

12. The proposed extension to the Stay of Proceedings is intended to provide the Applicants with the time and breathing room necessary to, among other things:

- (a) consider their restructuring options and explore various strategic alternatives, in consultation with their counsel and the Monitor;
- (b) attend to Clearbeach's environmental and stewardship obligations; and

- (c) continue to operate as a going-concern with minimal disruption in an effort to continuing serving customers who depend on Clearbeach for oil and gas and other related services.

13. I understand that the Monitor is supportive of the proposed extension to the Stay of Proceedings. In its Pre-Filing Report to Court dated May 18, 2021, the Monitor appended a cash flow forecast, which demonstrated that the Applicants are forecast to have sufficient cash to support their ordinary course business operations and the costs of the CCAA Proceedings through to the end of the proposed extension to the Stay of Proceedings.

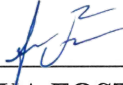
14. In light of the foregoing, I do not believe that any creditor will be materially prejudiced by the proposed extension to the Stay of Proceedings.

III. CONCLUSION

15. In light of the Applicants' financial circumstances, Clearbeach's significant environmental and stewardship obligations and the additional time required to consider and work on their restructuring options, I believe that the relief sought pursuant to the Amended and Restated Initial Order is reasonable and appropriate in the circumstances.

16. I swear this affidavit in support of the of the Applicants' application for the Amended and Restated Initial Order and for no other or improper purpose.

SWORN BEFORE ME over)
videoconference on this 25th day of May,)
2021. The affiant was located in the City of)
London, in the Province of Ontario and the)
Commissioner was located in the City of)
Oakville, in the Province of Ontario. This)
affidavit was commissioned remotely as a)
result of COVID-19 and the declaration was)
administered in accordance with Ontario)
Regulation 431/20.)



JOSHUA FOSTER

A Commissioner for Oaths in and for the
Province of Ontario



JANE LOWRIE

TAB A

THIS IS **EXHIBIT "A"** REFERRED TO IN THE
AFFIDAVIT OF JANE LOWRIE,
SWORN BEFORE ME THIS 25th DAY OF MAY, 2021.



A Commissioner/ for taking Affidavits, etc.

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
CLEARBEACH RESOURCES INC. AND FORBES RESOURCES CORP.**

**AFFIDAVIT OF JANE LOWRIE
(Sworn May 17, 2021)**

I, Jane Lowrie, of the city of London, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the President of Clearbeach Resources Inc. ("**Clearbeach**") and have been since its incorporation in 1989. I am also the sole director of Clearbeach and my son, Scott Lewis, is the sole director of Forbes Resources Corp. ("**Forbes**" and together with Clearbeach, the "**Applicants**"). As such, I have personal knowledge of the matters to which I depose in this affidavit, unless otherwise indicated. Where I have relied on other sources for information, I have so stated and I believe them to be true. Neither the Applicants nor I waive or intend to waive any applicable privilege by any statement herein.

2. I swear this affidavit in support of an application for:

- (a) an order (the "**Initial Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), which, among other things:

- (i) abridges and validates the time for service of this Notice of Application and the Application Record and dispenses with further service thereof;
- (ii) declares that the Applicants are entities to which the CCAA applies;
- (iii) authorizes the continuation under the CCAA of the proceedings under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), commenced by Clearbeach and Forbes pursuant to the Notices of Intention to Make a Proposal filed on July 22, 2020 and July 23, 2020, respectively (together, the “**Proposal Proceedings**”);
- (iv) appoints MNP Ltd. (“**MNP**” or the “**Proposed Monitor**”) as an officer of this Court to monitor the assets, business, and affairs of the Applicants (as appointed, the “**Monitor**”);
- (v) stays, for an initial period of not more than ten (10) days (the “**Stay of Proceedings**”), all proceedings and remedies taken or that might be taken in respect of the Applicants, the Monitor or the Directors and Officers or affecting the Applicants’ business or the Property (each as defined below), except with the written consent of the Applicant and the Monitor, or with leave of this Court; and
- (vi) grants the Administration Charge and Directors’ Charge (each as defined below) over the Applicants’ current and future assets, undertakings and property of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (collectively, the “**Property**”);

(vii) approves the First Report of Richter Advisory Group Inc. (“**Richter**”) in its capacity as proposal trustee in the Proposal Proceedings (in such capacity, the “**Proposal Trustee**”) dated December 11, 2020 attached hereto (without appendices) as **Exhibit “A”**, the Supplement to the First Report of Richter dated December 16, 2020 attached hereto (without appendices) as **Exhibit “B”**, and the activities of Richter described therein; and

(b) an order (the “**Settlement Approval Order**”), approving the terms of settlement set out in the Settlement Agreement among the Applicants, PACE Savings & Credit Union Limited (“**Pace**”), Oil Patch Services Inc. (“**Oil Patch**”), Jarvis Holdings Inc. (“**Jarvis**”), Brookwood Resources Inc., 1782767 Ontario Inc., Peter Budd, Lagasco Inc. (“**Lagasco**”) and I (collectively, the “**Settlement Parties**”), executed in escrow pending the granting of the Settlement Approval Order (the “**Settlement Agreement**”), and sealing the unredacted Settlement Agreement.

3. All references to currency in this affidavit are in Canadian dollars unless otherwise noted.

I. CORPORATE STRUCTURE OF THE APPLICANTS

4. The Applicants are privately-owned affiliated companies operating in Ontario’s oil and natural gas sector and are each incorporated under the Ontario *Business Corporations Act*, R.S.O. 1990, c. B.16. The registered head office of both Forbes and Clearbeach is located in London, Ontario. The corporate profile reports for each of Forbes and Clearbeach are attached hereto as **Exhibits “C”**, and **“D”**, respectively.

5. I am the sole shareholder of Clearbeach and Forbes.

II. THE APPLICANTS' BUSINESS

6. Forbes was initially incorporated with the intention of owning certain onshore oil and natural gas wells. However, since its incorporation, Forbes has been inactive and has not taken ownership of any such wells as a result of funding constraints described in detail below.

7. Clearbeach is the operating company through which the Applicants' business is conducted. Clearbeach is involved in the exploration, development and production of oil and gas deposits in Ontario.

8. Since its inception, Clearbeach has grown through a series of amalgamations, asset purchases and organically through exploration and drilling for new reserves. In 2008, Clearbeach Resources Ltd. amalgamated with Clearwood Resources Inc. and continued as "Clearbeach Resources Inc.". In 2019, Clearbeach amalgamated with ON-Energy Corp., which itself had previously amalgamated with Liberty Oil & Gas Ltd. ("**Liberty**"), and continued as "Clearbeach Resources Inc.".

9. Clearbeach currently owns approximately 402 oil, natural gas, disposal and injection wells in Southwestern Ontario, among other related production facilities, in a geographical area from Goderich to Windsor to Simcoe. These wells allow Clearbeach to produce 257 "barrels of oil equivalent" per day, consisting of approximately 1,000 cubic feet of natural gas and 90 barrels of oil.

10. Currently, Clearbeach does not have any employees. Rather, Clearbeach has contractual arrangements with Lagasco and Eastern Oilfield Services Ltd. ("**Eastern**") pursuant to which personnel and services are provided to Clearbeach in connection with the management, operation

and maintenance of Clearbeach's oil and gas wells and associated infrastructure. All costs are billed on a well and field basis and time spent is tracked hourly by all operators and personnel. Clearbeach's oil and gas wells require continual maintenance by field staff. Among other things, field staff must:

- (a) monitor oil and brine fluid levels, operate and maintain motors, compressors, dehydrators, separators, pipelines, pumps and wellheads, maintain sites and laneways and book shipments to empty the tanks, as needed;
- (b) ensure that the wells are pumping properly to avoid spills;
- (c) maintain the well sites, laneways and associated infrastructure;
- (d) perform a number of routine treatments including hot water treatments, salt treatments, wax treatments and pressure monitoring; and
- (e) schedule and perform service rig work to maintain downhole equipment, put wells back on-stream when they malfunction or have equipment failures, treat wells and plug wells as necessary to ensure wells remain active and productive.

11. The oil and gas wells owned by Clearbeach are predominantly located on private farmland. As compensation for having oil and gas wells situated on their property, individual landowners are paid on a monthly basis a royalty on gross production (generally 12.5%) (the "**Royalty Payments**") and are also compensated for crop losses due to surface facilities. Clearbeach must make the Royalty Payments and surface payments in order to keep its petroleum and natural gas leases in good standing and continue production from each of its oil and gas wells and associated facilities.

12. Due to poor financial performance and liquidity issues caused by challenged commodity prices and significant environmental obligations, Clearbeach has been unable to satisfy the Royalty Payments, pay municipal taxes, service its debt to its senior secured creditor, Pace, or meet certain of its other ordinary course obligations. As set out in detail immediately below, Clearbeach's failure to meet these obligations resulted in enforcement action being taken by Pace, which, in turn, precipitated the Proposal Proceedings.

III. BACKGROUND TO THESE PROCEEDINGS

A. Clearbeach's Indebtedness to Pace

13. Clearbeach is a party to a Variable Rate Business Loan Agreement dated August 7, 2014 and subsequently amended in December 2014, among Pace, as lender, Clearbeach, as borrower, and ON-Energy Corp., Brookwood Resources Inc., and 567322 Ontario Limited, as guarantors (as amended, the "**Clearbeach Loan**"). Among other things, the Clearbeach Loan provides for a non-revolving credit facility in the principal amount of \$6 million to be repaid through monthly blended payments of \$59,651.96 made on the 26th day of each month. The Clearbeach Loan matured on August 26, 2019. As at May 14, 2021, approximately \$4.45 million was outstanding under the Clearbeach Loan, including therein \$1.5 million paid by, and still outstanding to, a third-party guarantor. A copy of the Clearbeach Loan is attached hereto as **Exhibit "E"**.

14. In addition to the Clearbeach Loan, Clearbeach had guaranteed loan obligations of various of its predecessors and now has direct responsibility for certain loans through amalgamation, including under:

- (a) a Variable Rate Business Loan Agreement dated August 4, 2016 and subsequently amended on April 23, 2018, between Liberty, as borrower, and Pace, as lender, pursuant to which a non-revolving credit facility in the principal amount of \$1 million was established in favour of Liberty (the “**Liberty Loan**”);
- (b) a Variable Rate Business Loan Agreement dated December 18, 2017 between ON-Energy Corp., as borrower, Clearbeach and others, as guarantors, and Pace, as lender, pursuant to which a non-revolving credit facility in the principal amount of \$2.5 million was established in favour of ON-Energy Corp. (the “**First ON-Energy Loan**”); and
- (c) a Credit Facility Agreement dated February 15, 2018 and subsequently amended on April 23, 2018, between ON-Energy Corp., as borrower, Clearbeach and Liberty, as guarantors, and Pace, as lender, pursuant to which a non-revolving term loan in the principal amount of \$2 million was established in favour of ON-Energy Corp. (the “**Second ON-Energy Loan**”).

15. Copies of the Liberty Loan, the First ON-Energy Loan and the Second ON-Energy Loan (collectively, the “**Loan Agreements**”) are attached hereto as **Exhibits “F”, “G” and “H”** respectively.

16. The following security (collectively, the “**Clearbeach/Pace Security**”) was granted in respect of the obligations of Clearbeach, Liberty and ON-Energy Corp. under the Loan Agreements:

- (a) Clearbeach granted a security interest in its present and after acquired personal property in favour of Pace pursuant to a Business Loan General Security Agreement dated August 7, 2014;
 - (b) Clearbeach granted a Fixed and Floating Charge Demand Debenture in the amount of \$8 million in favour of Pace (the “**Debenture**”) in respect of, among other things, its existing and future leases, all lands and premises and all of its present and after acquired Oil and Gas Properties (as defined in the Debenture);
 - (c) Liberty granted a security interest in its present and after acquired personal property in favour of Pace pursuant to a Business Loan General Security Agreement dated February 15, 2016;
 - (d) Liberty granted a Fixed and Floating Charge Demand Debenture in the amount of \$1.8 million in favour of Pace in respect of, among other things, its existing and future leases, and all lands and premises;
 - (e) ON-Energy Corp. granted a security interest in its present and after acquired personal property in favour of Pace pursuant to a Business Loan General Security Agreement dated February 15, 2018; and
 - (f) ON-Energy Corp. granted a Fixed and Floating Charge Demand Debenture in the amount of \$2.8 million in favour of Pace in respect of, among other things, its existing and future leases, and all lands and premises.
17. On July 13, 2020, Pace sent a demand letter and an accompanying notice of intention to enforce security under subsection 244(1) of the BIA (together, the “**Clearbeach Demand Letter**”)

to Clearbeach in respect of the Loan Agreements. A copy of the Clearbeach Demand Letter is attached hereto as **Exhibit “I”**.

18. Among other things, the Clearbeach Demand Letter advised that:

- (a) certain events of default had occurred under the Loan Agreements;
- (b) Pace was making formal demand for immediate payment of \$8,951,401.79, together with accruing interest and any and all costs and expenses incurred by Pace (collectively, the “**Clearbeach Indebtedness**”); and
- (c) failing payment of the Clearbeach Indebtedness forthwith, Pace would take whatever steps it considered necessary to collect and recover amounts owing to it, including steps to appoint an interim receiver, receiver or receiver and/or manager of Clearbeach.

B. Forbes’ Indebtedness to Pace

19. Forbes is a party to a Variable Rate Business Loan Agreement dated April 13, 2018, among Forbes, as borrower, Jarvis and I as guarantors, and Pace, as lender (the “**Forbes Loan**”). Among other things, the Forbes Loan provides for a non-revolving credit facility in the principal amount of \$500,000.00. The Forbes Loan matured on June 30, 2018 and was not repaid. As at May 14, 2021, approximately \$534,800 remained outstanding under the Forbes Loan. A copy of the Forbes Loan is attached hereto as **Exhibit “J”**.

20. To secure its obligations under the Forbes Loan, Forbes granted a security interest in favour of Pace in all of its present and after acquired personal property pursuant to a Business Loan

General Security Agreement dated April 13, 2018 (together with the Clearbeach/Pace Security, the “**Pace Security**”).

21. On July 13, 2020, Pace sent a demand letter and an accompanying notice of intention to enforce security under subsection 244(1) of the BIA (together, the “**Forbes Demand Letter**”) to the parties to the Forbes Loan Agreement. A copy of the Forbes Demand Letter is attached hereto as **Exhibit “K”**.

22. Among other things, the Forbes Demand Letter advised that:

- (a) certain events of default had occurred under the Forbes Loan Agreement;
- (b) Pace was making formal demand for immediate payment of \$503,151.84, together with accruing interest and any and all costs and expenses incurred by Pace (collectively, the “**Forbes Indebtedness**” and together with the Clearbeach Indebtedness, the “**Pace Indebtedness**”); and
- (c) failing payment of the Forbes Indebtedness forthwith, Pace would take whatever steps it considered necessary to collect and recover amounts owing to it, including steps to appoint an interim receiver, receiver or receiver and/or manager of Forbes.

23. Forbes entered into the Forbes Loan in connection with financing the purchase of certain assets of Dundee Energy Limited Partnership and its general partner Dundee Oil and Gas Limited (collectively, “**Dundee**”), in the context of a proceeding under the CCAA. Specifically, Pace committed to providing \$23 million in various loans and lines of credit to support the transaction, split among different entities (including Clearbeach, Forbes and ultimately, Lagasco). Forbes

became involved for succession planning purposes. It was contemplated that Forbes would acquire certain onshore assets being purchased by Lagasco from Dundee, immediately post-closing.

24. Shortly before the scheduled closing date for Lagasco to purchase Dundee's assets, Pace's operations were taken over by the Ontario regulator of credit unions, the Deposit Insurance Corporation of Ontario (as it was then known; this regulatory role now falls under the Financial Services Regulatory Authority), Pace then did not maintain its commitment to provide a further \$20 million in financing that was required to close the Dundee purchase transaction. The asset purchase was later completed by Lagasco using financing from a different lender, without Forbes' involvement. As a result, Forbes did not acquire any of Dundee's assets, and at present it does not have any employees, operations or tangible assets.

C. The NOI and Receivership Proceedings

25. Pace brought an application for the appointment of a receiver, originally returnable on July 28, 2020. In response to the Pace receivership application, on July 22, 2020, Clearbeach filed a Notice of Intention to make a proposal pursuant to subsection 50.4(1) of the BIA (the "**Clearbeach NOI**"). On July 23, 2020, Forbes also filed a Notice of Intention to make a proposal pursuant to subsection 50.4(1) of the BIA (the "**Forbes NOI**"). Richter is the Proposal Trustee under the Clearbeach NOI and the Forbes NOI.

26. The Proposal Proceedings were intended to provide Clearbeach and Forbes with the time and stability necessary to consider and develop their restructuring options, including a Court-supervised process for the sale of Clearbeach's and Forbes' businesses. A copy of Clearbeach's certification of filing the Clearbeach NOI is attached hereto as **Exhibit "L"** and a copy of Forbes' certification of filing the Forbes NOI is attached hereto as **Exhibit "M"**.

27. By letter dated August 6, 2020 (the “**August 6 Letter**”), I understand that Pace, through its counsel, advised counsel to Clearbeach, Forbes and the Proposal Trustee that Pace would not support a sale process within the Proposal Proceedings and that any such process should be undertaken by a court-appointed receiver. Accordingly, Pace advised that it would move to terminate the Proposal Proceedings and appoint a receiver. A copy of the August 6 Letter is attached as **Exhibit “N”**.

28. By notice of motion dated August 7, 2020, Pace sought an order, among other things:

- (a) declaring the Stay of Proceedings or and any extension thereof terminated;
- (b) appointing BDO Canada Limited (“**BDO**”) as receiver, without security, of all the assets, undertakings and properties of Clearbeach and Forbes acquired for, or used in relation to a business carried on by one or more of Clearbeach and Forbes, pursuant to subsection 243(1) of the BIA and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the proceedings thereunder, the “**Receivership Proceedings**”); and
- (c) in the alternative, appointing BDO as interim receiver, without security, of all the Property pursuant to subsection 47.1(1) of the BIA.

29. Pursuant to an order dated August 20, 2020 (the “**August 20 Order**”) and an accompanying endorsement of the Honourable Madam Justice Dietrich made on consent (the “**August 20 Endorsement**”), the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), among other things:

- (a) consolidated the Proposal Proceedings and the Receivership Proceedings; and

(b) granted a temporary stay of the Proposal Proceedings.

30. A copy of the August 20 Order, together with the August 20 Endorsement, is attached hereto as **Exhibit “O”**.

31. The stay of the Proposal Proceedings under the August 20 Order was intended to provide the Debtors and Pace with an opportunity to discuss an appropriate path forward while maintaining the *status quo*. These discussions included, among other things, the potential satisfaction of Clearbeach’s significant environmental obligations imposed under the *Oil, Gas and Salt Resources Act*, R.S.O. 1990, c. P. 12, as amended (the “**OGSRA**”), O. Reg. 245/97 thereunder and the *OGSRA Provincial Operating Standards Version 2.0* (the “**Operating Standards**”) and enforced by the Ministry of Natural Resources and Forestry (“**MNR**”).

32. On September 23, 2020, Pace issued a Notice of Abandonment stating that it was abandoning the Receivership Proceedings in their entirety (the “**Notice of Abandonment**”). I later came to understand that Pace determined that it would not have BDO take possession of the Property in the Receivership Proceedings as a result of Clearbeach’s environmental obligations and the limited realizable value of Clearbeach’s assets. A copy of the Notice of Abandonment is attached hereto as **Exhibit “P”**.

33. Since the Notice of Abandonment was issued, Clearbeach, Forbes and Pace have agreed to, sought and obtained nine brief stays of the Proposal Proceedings to prevent the immediate deemed bankruptcies of Clearbeach and Forbes and allow for, among other things, continued discussions between the parties. These brief stays were granted pursuant to several endorsements of the Court issued between October 1, 2020 and April 29, 2021 (collectively, the

“**Endorsements**”). Pursuant to the Endorsements, the current stay of the Proposal Proceedings expires on May 20, 2021. Copies of the Endorsements are attached hereto as **Exhibit “Q”**.

IV. FINANCIAL POSITION OF THE APPLICANTS

34. At present, Clearbeach is the only operating company among the Applicants. As previously noted, Forbes does not have any assets or business operations and its only liability is the Forbes Indebtedness. Accordingly, the following discussion will focus on Clearbeach’s financial position.

35. A copy of Clearbeach’s internally prepared unaudited balance sheet as at March 31, 2021 is attached hereto as **Exhibit “R”**.

A. Assets

36. As at March 31, 2021, Clearbeach had total assets with a book value of approximately \$9.8 million. Clearbeach’s primary assets, as of March 31, 2021 comprised of the following:

Asset Type	Value
Current Assets: \$437,204	
Cash	\$225,758
Accounts Receivable	\$101,383
Prepays and Security Deposits	\$110,063
Non-Current Assets: \$9,402,560	
Land, Buildings and Equipment	\$151,000
Well Bond	\$256,000
Related Party Loans	\$1,007,417
PNG Rights	\$7,731,943

Asset Type	Value
Total	\$9,839,764

B. Liabilities

37. As at March 31, 2021, Clearbeach had total liabilities of approximately \$21.7 million, consisting of the following:

Liability Type	Value
Current Liabilities: \$14,999,234	
Accounts Payables and Accruals	\$3,370,621
Clearbeach Pace Loans (net of guarantee payment)	\$7,534,805
CIBC Mortgage	\$66,803
Crich Loan	\$4,027,005
Non-Current Liabilities: \$6,667,999	
Asset Retirement Obligations	\$6,257,999
Shareholder Loan	\$410,000
Total	\$21,667,233

C. Secured Debt

38. As set out above, Clearbeach's and Forbes' primary funded debt obligations consist of amounts owing under the Loan Agreements and the Forbes Loan advanced by Pace. In addition to these obligations, Clearbeach is also indebted to Crich Holdings and Buildings Limited ("Crich") in the amount of approximately \$8.6 million and Canadian Imperial Bank of Commerce ("CIBC") in the amount of approximately \$66,000. The Crich indebtedness is in respect of loans and

preferred shares supported by a gross overriding royalty and general security agreement in favour of Crich. The CIBC indebtedness is in connection with a mortgage on real property owned by Clearbeach, which is located in Clearville, Ontario.

D. Other Secured Obligations

39. Attached hereto as **Exhibit “S”** are results from searches conducted against the Applicants under the *Personal Property Security Act*, R.S.O. 1990, c. P. 10, as amended (the “**PPSA**”) effective May 3, 2021. In addition to the security granted to Pace and Crich, the PPSA search results disclosed secured obligations of Clearbeach in connection with certain leased vehicles, which have been sold to Eastern. I understand that the PPSA search results also disclose a registration in favour of NRG Corp. I have requested that inquiries be made as to the basis for NRG Corp.’s PPSA registration as I am not currently aware of any indebtedness that Clearbeach may have to NRG Corp.

E. Environmental Obligations

40. As an explorer, developer and producer of oil and gas deposits in Ontario, Clearbeach is subject to a comprehensive scheme of environmental obligations under the OGSRA, the Operating Standards and O. Reg. 245/97. Among other things, these obligations may include:

- (a) the plugging of oil and gas wells that are no longer in use;
- (b) maintaining all work sites in an orderly manner;
- (c) reporting all uncontrolled well flowing, spills, fires or explosions;

- (d) implementing precautions to prevent the wasting, leaking or escaping of oil and gas from natural reservoirs, wells or tanks; and
- (e) certain other reporting and end of life/asset retirement obligations.

41. Clearbeach's compliance with these statutory and regulatory obligations is monitored and enforced by the MNRF. While Clearbeach has historically satisfied its environmental obligations, including its plugging and end of life obligations, it is currently unable to fully do so, and advised the MNRF of this on October 9, 2020.

42. On October 14, 2020 and December 16, 2020, the MNRF issued Inspector's Order I41-20-12920-001 and Inspector's Order I35-20-12935-001 under the OGSRA, respectively (together, the "**Inspector's Orders**"). The Inspector's Orders are in respect of forty-one wells licenced in the names of Clearbeach Resources Inc., ON-Energy Corp. and Liberty, and under the control and management of Clearbeach. In addition to the Inspector's Orders, Clearbeach has several deficiency lists with the MNRF due to certain of its inactive wells and other compliance issues.

43. The deficiencies identified by the MNRF can in some cases be addressed without plugging the wells. The estimated cost to Clearbeach of complying with the Inspector's Orders and the MNRF's current deficiency lists is approximately \$433,000. Clearbeach would like to plug certain of the forty-one wells (three of which have already been plugged), and return others to production and is currently in discussions with the MNRF on these matters. Clearbeach estimates a total future asset retirement obligation of approximately \$12.2 million and intends to plug and remediate wells on an ongoing basis as part of its regular operations once such wells are at the end of their economic life or as required under the OGSRA or the Operating Standards.

F. Royalty Payments and Municipal Tax Obligations

44. In addition to its environmental obligations, Clearbeach has unsecured obligations in the amount of approximately \$2.2 million relating to municipal taxes (\$2 million) and the Royalty Payments (\$200,000). As described above, Clearbeach makes the Royalty Payments to landowners as required pursuant to Clearbeach's contractual arrangements with such landowners as compensation for draining the oil and gas under their properties. Clearbeach has had insufficient funds to make some of the Royalty Payments, resulting in a breach of certain of Clearbeach's lease agreements. Clearbeach currently holds leases on over 1,000 properties, and has remained up to date with payments on most leases. Several landowners have sent letters of default under the leases and are threatening to deny Clearbeach access to certain properties, which would prevent Clearbeach from being able to maintain its wells in accordance with the Operating Standards. Certain municipalities have also threatened enforcement actions for unpaid taxes.

V. CONTINUATION OF THE PROPOSAL PROCEEDINGS UNDER THE CCAA

45. As previously noted, the time to file a proposal in the Proposal Proceedings has elapsed and but for the Endorsements, Clearbeach and Forbes would be deemed bankrupt under the BIA. To permit the Applicants' business to continue operating as a going-concern and allow Clearbeach to meet its ongoing environmental and stewardship obligations while their restructuring options are considered, the Applicants are seeking the breathing space, flexibility and stability afforded by the CCAA. To this end, the Initial Order contemplates the continuation of the Proposal Proceedings under the CCAA.

46. Given the limited realizable value of the Applicants' assets and Clearbeach's significant environmental and stewardship obligations, a deemed bankruptcy in the Proposal Proceedings

would be detrimental to the Applicants' stakeholders. In contrast, a continuation of the Proposal Proceedings under the CCAA will allow the Applicants' to establish a plan for their restructuring that will ensure a going-concern result and the satisfaction of Clearbeach's environmental and stewardship obligations.

47. With the benefit of the flexibility, stability and breathing space provided by the CCAA and the oversight and assistance of the Monitor, the Applicants intend to, among other things:

- (a) continue to operate their business in the ordinary course;
- (b) in consultation with the MNRF, attend to and address Clearbeach's ongoing stewardship obligations, including the Inspector's Orders, in accordance with the OGSRA and the Operating Standards;
- (c) canvass opportunities for the sale of non-material assets and/or a Court-approved sale of the Applicants' business in whole or in part; and
- (d) evaluate the viability of presenting a plan of compromise or arrangement to the Applicants' creditors within the CCAA proceedings.

48. I am advised that the Proposed Monitor supports the Applicants' application to continue the Proposal Proceedings under the CCAA.

VI. RELIEF SOUGHT

A. Stay of Proceedings

49. As set out above, each of Forbes and Clearbeach are in default of certain of their obligations, are facing enforcement action from multiple stakeholders and are currently unable to

satisfy their obligations as they become due. The Applicants require the Stay of Proceedings to maintain the *status quo* and thereby protect the value of the Applicants' business. It would be detrimental to the Applicants' business if proceedings were commenced or continued or rights and remedies were executed against the Applicants. Absent the Stay of Proceedings, the Applicants will not be able to continue to operate their business, and by extension, meet Clearbeach's significant environmental and stewardship obligations.

50. The breathing room afforded by the Stay of Proceedings will permit the Applicants to continue to operate as a going-concern with minimal disruption to their ordinary course business operations. Additionally, the Applicants will be able to explore various strategic alternatives with a view to maximizing stakeholder value, including a sale process.

51. In light of the foregoing, the Stay of Proceedings is in the best interests of the Applicants and their stakeholders. I understand that the Proposed Monitor believes that the Stay of Proceedings is appropriate in the circumstances.

B. Proposed Monitor

52. The proposed Initial Order contemplates that MNP will act as Monitor in the Applicants' CCAA proceedings. I understand that MNP has consented to act as Monitor of the Applicant in the CCAA proceedings if the proposed Initial Order is granted.

53. I understand that a copy of MNP's consent to act as Monitor will be attached to the Pre-Filing Report of MNP to be filed separately with the Court (the "**Pre-Filing Report**").

C. Administration Charge

54. The proposed Initial Order provides for a Court-ordered priority charge over the Property in favour of the Monitor, as well the Monitor's and the Applicants' counsel to secure payment of their respective fees and disbursements incurred in connection with services rendered in respect of the Applicants up to a maximum amount of \$100,000 (the "**Administration Charge**"). The Administration Charge is proposed to rank ahead of and have priority over the Directors' Charge.

55. The Applicants require the expertise, knowledge, and continued participation of the proposed beneficiaries of the Administration Charge during these CCAA proceedings in order to complete a successful restructuring. Each of the beneficiaries of the Administration Charge will have distinct roles in the Applicants' restructuring.

56. The quantum of the Administration Charge was determined by the Applicants, with the assistance of the Proposed Monitor. I believe that the Administration Charge is fair and reasonable in the circumstances. I understand that the Proposed Monitor is also of the view that the Administration Charge is fair and reasonable.

D. Directors' Charge

57. The success of the Applicants' restructuring will only be possible with the continued participation of their respective directors and officers (collectively, the "**Directors and Officers**"). The Directors and Officers have specialized expertise and significant knowledge that cannot be easily replaced, making them essential to the viability of the Applicants' business and the preservation of its value.

58. I am advised by Raj Sahni of Bennett Jones LLP, counsel to the Applicants, and do verily believe that, in certain circumstances, directors and officers can be held liable for the obligations of a company, including obligations of a company owing to government entities, such as unremitted excise, sales, goods and services, and harmonized sales taxes. The Applicants do not maintain insurance policies in respect of the potential liability of the Directors and Officers.

59. The Directors and Officers have expressed their desire for certainty with respect to their potential personal liability if they continue in their current capacities in the proposed CCAA proceedings. Given the potential liabilities and the uncertainty surrounding available indemnities and insurance, the proposed Initial Order contemplates a priority charge in favour of the Directors and Officers up to a maximum amount of \$100,000 (the “**Directors’ Charge**”). The Directors’ Charge would serve as security for the indemnification obligations and potential liabilities the Directors and Officers will face in the CCAA proceedings.

60. The Applicants believe that the Directors’ Charge is fair and reasonable in the circumstances. I understand that the Proposed Monitor is supportive of the Directors’ Charge and its quantum.

E. Cash Flow Forecast

61. With the assistance of the Proposed Monitor, the Applicants have conducted a cash flow analysis to determine the amount required to finance their ordinary course business operations, assuming the Initial Order is granted, over the 13-week period from May 20, 2021, to August 19, 2021 (the “**Cash Flow Forecast**”). I understand that the Cash Flow Forecast will be attached to the pre-filing report of the Monitor.

62. The Cash Flow Forecast demonstrates that if the relief sought under the Initial Order is granted, the Applicants will have sufficient liquidity to meet their ordinary course obligations over the initial period of these proceedings without debtor-in-possession financing.

F. Settlement Approval Order

63. In the course of the Proposal Proceedings, Pace, Clearbeach and Forbes have engaged in discussions regarding, among other things, the Pace Indebtedness, the Pace Security and certain guarantees granted in connection thereto as well as:

- (a) the Receivership Proceedings and the Proposal Proceedings;
- (b) an action commenced by Lagasco and Forbes against Pace in the Ontario Superior Court of Justice under Court File No.: CV-20-00645472-0000 on August 11, 2020 (the “**Lagasco Claim**”); and
- (c) an action Pace commenced against me through the amendment of a Statement of Claim under Court File No.: CV-19-00616388-00CL on February 10, 2021 (the “**Pace/Lowrie Claim**”).

64. These discussions have culminated in the Settlement Agreement. The settlement contemplated by the Settlement Agreement is intended to be a mutually beneficial, cost-effective, full and final settlement of all claims set out in the Lagasco Claim and the Pace/Lowrie Claim and any claims arising out of or in connection therewith. Further, the Settlement Agreement is intended to resolve all of the known and unknown facts and issues in dispute among the Settlement Parties in respect of all of the known and unknown claims that have been or could be commenced or

asserted relating to or arising from the Pace Indebtedness, the Pace Security, the Lagasco Claim, the Pace/Lowrie Claim, the Receivership Application, and the Proposal Proceedings.

65. The principal terms of the Settlement Agreement are as follows:

- (a) the implementation of the Settlement Agreement is conditional upon the granting of the Settlement Approval Order;
- (b) Oil Patch or another entity I may designate (the “**Purchaser**”), shall pay or cause to be paid to Pace the Purchase Price (as defined in the Settlement Agreement) for the purchase of the Pace Indebtedness and the Pace Security, which shall be assigned by Pace to the Purchaser pursuant to an assignment and assumption agreement;
- (c) Pace shall be entitled to retain the estimated aggregate amount of all deposits received and held to date in the accounts of Clearbeach with Pace, free of any claims from Clearbeach or any other party;
- (d) Pace shall transfer all of its right, title and interest in and to any and all shares held by Pace in Tribute Resources Inc. to Clearbeach;
- (e) Pace shall deliver to Clearbeach, Forbes, Lagasco and I, and any affiliates or predecessors of such parties (collectively, the “**Pace Released Parties**”), a release of any and all claims that Pace may have against the Pace Released Parties save and except for certain claims excluded under the Settlement Agreement;

- (f) the Pace Released Parties shall provide to Pace a release of any and all claims that any of them may have against Pace;
- (g) Pace shall provide a consent to the dismissal of the Pace/Lowrie Claim; and
- (h) Lagasco and Forbes shall provide a consent to the discontinuance of the Lagasco Claim.

66. The Applicants believe that the Settlement Agreement is fair and reasonable and in the best interests of the Applicants and its stakeholders given that, among other things:

- (a) it provides a comprehensive and commercially reasonable compromise between the Applicants and Pace in the circumstances;
- (b) it will avoid the potentially extensive and costly litigation of the issues arising from or in connection to the Pace Indebtedness, the Pace Security, the Lagasco Claim and the Pace/Lowrie Claim;
- (c) it will permit the Applicants to focus their efforts on a broad restructuring of their business in the best interests of their stakeholders;
- (d) it will afford the Applicants an opportunity to continue discussions with the MNRF to address Cleabreach's environmental and stewardship obligations; and
- (e) it provides certainty and finality with respect to the issues arising from or in connection to the Pace Indebtedness, the Pace Security, the Lagasco Claim and the Pace/Lowrie Claim.

67. An unexecuted and unredacted copy of the Settlement Agreement is attached hereto as **Confidential Exhibit “A”**. A redacted and unexecuted copy of the Settlement Agreement is attached hereto as **Exhibit “T”**. The unredacted copy of the Settlement Agreement is proposed to be sealed as it contains commercially sensitive and confidential information that if disclosed, could be detrimental to the business and operations of the Applicants and Pace. Additionally, the disclosure of such information will limit the Applicants’ restructuring options and may jeopardize their ability to enter into further settlements with their stakeholders in the course of the CCAA proceedings.

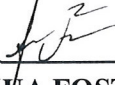
68. I am advised that the Proposed Monitor is supportive of the Settlement Agreement’s approval in the circumstances. In this regard, I understand that the Proposed Monitor will articulate its views on the commercial reasonableness of the Settlement Agreement in the Pre-Filing Report.

VII. CONCLUSION

69. In light of the Applicants’ financial circumstances, Clearbeach’s significant environmental liabilities and the limited realizable value of the Applicants’ assets, I believe that the relief sought pursuant to the Initial Order is reasonable and appropriate in the circumstances. Further, I believe that the relief sought under the Settlement Approval Order is appropriate in the circumstances. Put simply, it offers a comprehensive settlement of all issues related to the Pace Indebtedness, the Pace Security, the Pace/Lowrie Claim and the Lagasco Claim and avoids the extraordinary cost, time and resources that would otherwise be required to resolve such issues to the detriment of the Applicants and their stakeholders.

70. I swear this affidavit in support of the of the Applicants’ application for the Initial Order and the Settlement Approval Order and for no other or improper purpose.

SWORN BEFORE ME over)
videoconference on this 17th day of May,)
2021. The affiant was located in the City of)
London, in the Province of Ontario and the)
Commissioner was located in the City of)
Oakville, in the Province of Ontario. This)
affidavit was commissioned remotely as a)
result of COVID-19 and the declaration was)
administered in accordance with Ontario)
Regulation 431/20.)



JOSHUA FOSTER

A Commissioner for Oaths in and for the
Province of Ontario



JANE LOWRIE

**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 CLEARBEACH RESOURCES INC. AND
FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings Commenced in Toronto

**AFFIDAVIT OF JANE LOWRIE
(Sworn May 17, 2021)**

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

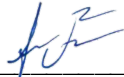
Richard Swan (LSO# 32076A)
Raj Sahni (LSO# 42924U)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

TAB B

THIS IS **EXHIBIT "B"** REFERRED TO IN THE
AFFIDAVIT OF JANE LOWRIE,
SWORN BEFORE ME THIS 25th DAY OF MAY, 2021.



A Commissioner / for taking Affidavits, etc.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THURSDAY, THE 20th
JUSTICE GILMORE) DAY OF MAY, 2021
)



**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 CLEARBEACH RESOURCES INC. AND FORBES RESOURCES
CORP.**

Applicants

INITIAL ORDER

THIS APPLICATION, made by Clearbeach Resources Inc. ("**Clearbeach**") and Forbes Resources Corp. ("**Forbes**") (together, the "**Applicants**") for an initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day via video conference.

ON READING the Application Record of the Applicants, the affidavit of Jane Lowrie sworn May 17, 2021 and the exhibits and confidential exhibits thereto, the Pre-Filing Report of MNP Ltd. ("**MNP**") in its capacity as the proposed monitor of the Applicants under the CCAA (the "**Report**"), filed, and the appendices and confidential appendices thereto, and the consent of MNP to act as the monitor of the Applicants (in such capacity, the "**Monitor**"), and on hearing the submissions of counsel for the Applicants, the Monitor, PACE Savings & Credit Union Limited, Richter Advisory Group Inc. ("**Richter**") in its capacity as the proposal trustee of Clearbeach and Forbes in the Proposal Proceedings (as defined below) (in such capacity, the "**Proposal Trustee**"), no one else appearing although duly served as appears from the affidavit of service of Joshua Foster sworn May 18, 2021;

SERVICE

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

CONTINUANCE UNDER THE CCAA

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that the proposal proceedings (the “**Proposal Proceedings**”) of each of Clearbeach bearing Estate/Court File No.: 35-2659751 and Forbes bearing Estate/Court File No.: 35-2660091 commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), are hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to Clearbeach or Forbes, save that any and all steps, agreements and procedures validly taken, done or entered into by Clearbeach or Forbes during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. **THIS COURT ORDERS** that each of Clearbeach and Forbes shall be deemed not to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

5. **THIS COURT ORDERS** that, subject to further order of this Court, all orders of the Court granted in the Proposal Proceedings shall continue to be in full force and effect, except to the extent modified or spent or to the extent that such orders are inconsistent with the terms of this Order or the CCAA.

PLAN OF ARRANGEMENT

6. **THIS COURT ORDERS** that the Applicants 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

7. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”) and the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are 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 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.

8. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize their existing cash management system currently in place or replace it with another substantially similar 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 Applicants 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 Applicants, 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.

9. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses and satisfy the following obligations, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, employee benefits, pension contributions, vacation pay and expenses (including, without limitation, payroll and benefits processing and servicing 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 fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

10. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this 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 Applicants following the date of this Order.

11. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, 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 which are attributable to or in respect of the carrying on of the Business by the Applicants.

12. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, in accordance with past practice or on the terms pursuant to the lease. 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 or as permitted under any Order made in the Proposal Proceedings, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (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, any Order made in the Proposal Proceedings, or any other Order of this Court.

RESTRUCTURING

14. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$500,000 in the aggregate;

- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of the 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 Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

15. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ 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 the Applicants’ 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 Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they 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 the Applicants’ 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 Applicants 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 Applicants 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 APPLICANTS OR THE PROPERTY

17. **THIS COURT ORDERS** that until and including May 30, 2021, 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 Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

18. **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 Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants 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

19. **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 Applicants (in each case whether written or oral), except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

20. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, insurance, transportation services, utility or other services to the Business or the Applicants, 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 Applicants, and that the Applicants 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

21. **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 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **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 Applicants with respect to any claim against the directors or officers that arose before or arises after the date hereof and that relates to any obligation of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **THIS COURT ORDERS** that the Applicants shall continue to indemnify their current and future directors and officers against obligations and liabilities that they may incur as directors 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 or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Applicants 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 \$100,000.00, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 41 and 43 herein.

25. **THIS COURT ORDERS** that, 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 Applicants' 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 23 of this Order.

APPOINTMENT OF MONITOR

26. **THIS COURT ORDERS** that MNP is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

27. **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 Applicants' 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) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (d) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (e) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (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 Applicants to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) assist the Applicants with respect to the consideration, development and implementation of any restructuring initiatives;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable, including the services or employees of its affiliates, respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business

and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. **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.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants 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 Applicants 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 Applicants may agree.

31. **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.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges and whether incurred prior to, on or after the date hereof, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants in accordance with the payment terms agreed to with such professionals.

33. **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.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants 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 \$100,000.00, 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 and the Proposal Proceedings. The Administration Charge shall have the priority set out in paragraphs 41 and 43 hereof.

DISCHARGE OF RICHTER AS PROPOSAL TRUSTEE

35. **THIS COURT ORDERS** that the Proposal Trustee shall be discharged as proposal trustee of Clearbeach and Forbes, provided however that Richter shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Richter, in its capacity as proposal trustee of Clearbeach and Forbes.

36. **THIS COURT ORDERS AND DECLARES** that Richter is hereby released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Proposal Trustee for each of Clearbeach and Forbes. Without limiting the generality of the foregoing, Richter is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Proposal Proceedings for each of Clearbeach and Forbes.

37. **THIS COURT ORDERS** that Richter and Borden Ladner Gervais LLP (“**BLG**”), shall be entitled to payment of all of their respective fees and disbursements (the “**Richter/BLG Final Accounts**”) up to the date of this Order to the extent of any retainers held by Richter or BLG, and Richter and BLG shall be entitled to use any existing retainers that each of Richter and BLG may have from Clearbeach, for the payment of the Richter/BLG Final Accounts and any balance held by each of Richter or BLG on account of any retainers paid to Richter or BLG shall be remitted to Clearbeach.

38. **THIS COURT ORDERS** that BLG shall be under no obligation to act for Richter from and after the date of this Order.

39. **THIS COURT ORDERS** that nothing contained herein shall have required or require, as applicable, Richter, to occupy or to take control, care, charge, possession or management of any Property that might be environmentally contaminated, might be a pollutant or contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any Environmental Legislation including, without limitation, 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 under any applicable provincial or federal statute.

40. **THIS COURT ORDERS** that the First Report of Richter dated December 11, 2020 and the Supplement to the First Report of Richter dated December 16, 2020 (collectively, the “**First Report**”) and the activities of Richter, as described in the First Report, be and are hereby approved; provided, however that only Richter, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER

41. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors’ Charge (collectively, the “**Charges**”), shall be as follows:

First – Administration Charge up to the maximum amount of \$100,000.00; and

Second – Directors’ Charge up to the maximum amount of \$100,000.00.

42. **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.

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

44. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the applicable Charges (collectively, the “**Chargees**”), or further Order of this Court.

45. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which the Applicants are 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 creation of the Charges; and

- (c) the payments made by the Applicants pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

46. **THIS COURT ORDERS** that the Monitor's obligations under Section 23(1)(a) of the CCAA and the regulations made thereunder are hereby dispensed with.

47. **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 and maintained by the Monitor in accordance with the Protocol with the following URL: <@> (the "**Website**").

48. **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 CCAA proceedings (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness or making any changes to, the Service List.

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants 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 or facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and

that any such service or distribution shall be deemed to be received; (a) if sent by courier, on the next business day following the date of forwarding thereof, (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.

50. **THIS COURT ORDERS** that the Applicants and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' 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).

SEALING

51. **THIS COURT ORDERS** that the confidential appendices to the Report shall be and are hereby sealed, to be kept confidential and shall not form part of the public record pending further order of this Court.

GENERAL

52. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

53. **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 Applicants, the Business or the Property.

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

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

56. **THIS COURT ORDERS** that any interested party (including the Applicants 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 Person(s) likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

58. **THIS COURT ORDERS** that this Order is effective from today's date and is enforceable without the need for entry and filing.



**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 CLEARBEACH RESOURCES INC.
AND FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings commenced in Toronto

INITIAL ORDER

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Richard Swan (LSO# 32076A)

Raj Sahni (LSO# 42924U)

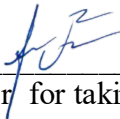
Tel: 416-863-1200

Fax: 416-863-1716

Lawyers for the Applicants

TAB C

THIS IS **EXHIBIT "C"** REFERRED TO IN THE
AFFIDAVIT OF JANE LOWRIE,
SWORN BEFORE ME THIS 25th DAY OF MAY, 2021.



A Commissioner for taking Affidavits, etc.

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THURSDAY, THE 20th
JUSTICE GILMORE) DAY OF MAY, 2021
)



**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 CLEARBEACH RESOURCES INC. AND FORBES RESOURCES
CORP.**

Applicants

ORDER

THIS APPLICATION, made by Clearbeach Resources Inc. and Forbes Resources Corp. (together, the "**Applicants**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*: (i) approving and giving effect to the Settlement Agreement attached to the Affidavit of Jane Lowrie sworn May 17, 2021 (the "**Lowrie Affidavit**") as Confidential Exhibit "A", and all schedules attached thereto (collectively, the "**Settlement Agreement**"), subject in all cases to the terms, conditions and exceptions provided in the Settlement Agreement; and (ii) authorizing and directing the Applicants and MNP Ltd., in its capacity as the court-appointed monitor of the Applicants under the CCAA (the "**Monitor**"), to take any and all steps necessary to give effect to the Settlement Agreement, was heard this day via videoconference as a result of the COVID-19 pandemic;

ON READING the Application Record of the Applicants and the Pre-filing Report of the Monitor, filed (the "**Report**"), and the appendices and confidential appendices thereto, and on hearing the submissions of counsel for the Applicants, the Monitor, and PACE Savings & Credit

Union Limited (“**Pace**”) and such other parties as were present, no one else appearing although duly served as appears from the affidavit of service of Joshua Foster sworn May 18, 2021;

SERVICE

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

DEFINED TERMS

2. **THIS COURT ORDERS** that all capitalized terms used but not defined herein shall have the meanings given to them in the Lowrie Affidavit and the Settlement Agreement.

SETTLEMENT APPROVAL

3. **THIS COURT ORDERS** that the settlement, releases and other matters contemplated by the Settlement Agreement are hereby approved in their entirety, with such minor amendments as the parties to the Settlement Agreement may agree upon in writing, with the consent of the Monitor, and that the parties to the Settlement Agreement are hereby directed and empowered, *nunc pro tunc*, to execute and deliver the Settlement Agreement, and that such execution is approved. The Applicants and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the settlement, releases and other matters contemplated by the Settlement Agreement.

4. **THIS COURT ORDERS** that, pursuant to and in accordance with the terms of the Settlement Agreement, the releases attached as Schedules “B”, “D”, “E”, “F” and “G” to the Settlement Agreement are binding and effective.

5. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these CCAA proceedings;

- (b) the NOI Proceedings and the declarations of insolvency made therein or in connection therewith;
- (c) any applications for any bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) in respect of one or more of any of the Applicants or any of their respective predecessors, successors or heirs (collectively, the “**Identified Parties**”), and any bankruptcy order issued pursuant to any such applications; and
- (d) any subsequent assignment in bankruptcy made in respect of any of the Identified Parties,

the payment to Pace of the Purchase Price shall be binding on any trustee in bankruptcy that is now or that may be appointed in respect of any of the Identified Parties and shall not be void or voidable by creditors of any of the Identified Parties, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA, the CCAA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial laws.

SEALING


6. **THIS COURT ORDERS** that Confidential Exhibit “A” to the Lowrie Affidavit shall be and is hereby sealed, to be kept confidential and shall not form part of the public record pending further order of this Court.

GENERAL

7. **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 Monitor, the Applicants 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 Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this

Order or to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

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



**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 CLEARBEACH RESOURCES INC. AND
FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings commenced in Toronto

ORDER

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4
Richard Swan (LSO# 32076A)
Raj Sahni (LSO# 42924U)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

**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 CLEARBEACH RESOURCES INC. AND
FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings Commenced in Toronto

**AFFIDAVIT OF JANE LOWRIE
(Sworn May 25, 2021)**

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Richard Swan (LSO# 32076A)
Raj Sahni (LSO# 42924U)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

TAB 3

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

THE HONOURABLE) FRIDAY, THE 28th
JUSTICE GILMORE) DAY OF MAY, 2021
)

**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 CLEARBEACH RESOURCES INC. AND FORBES RESOURCES
CORP.**

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Clearbeach Resources Inc. ("**Clearbeach**") and Forbes Resources Corp. ("**Forbes**") (together, the "**Applicants**") for an amended and restated initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day via video conference.

ON READING the affidavits of Jane Lowrie sworn May 17, 2021 and May 25, 2021 and the exhibits and confidential exhibits thereto, the Pre-Filing Report of MNP Ltd. ("**MNP**") dated May 18, 2021 and the First Report of MNP, filed, in its capacity as the monitor (in such capacity, the "**Monitor**") of the Applicants under the CCAA (together, the "**Reports**"), and the appendices and confidential appendices thereto, and the consent of MNP to act as the Monitor of the Applicants, and on hearing the submissions of counsel for the Applicants, the Monitor, PACE Savings & Credit Union Limited, Richter Advisory Group Inc. ("**Richter**") in its capacity as the proposal trustee of Clearbeach and Forbes in the Proposal Proceedings (as defined below) (in such capacity, the "**Proposal Trustee**"), no one else appearing although duly served as appears from the affidavits of service of Joshua Foster sworn May 18, 2021 and May 26, 2021;

SERVICE

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

CONTINUANCE UNDER THE CCAA

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that the proposal proceedings (the “**Proposal Proceedings**”) of each of Clearbeach bearing Estate/Court File No.: 35-2659751 and Forbes bearing Estate/Court File No.: 35-2660091 commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), are hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to Clearbeach or Forbes, save that any and all steps, agreements and procedures validly taken, done or entered into by Clearbeach or Forbes during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. **THIS COURT ORDERS** that each of Clearbeach and Forbes shall be deemed not to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

5. **THIS COURT ORDERS** that, subject to further order of this Court, all orders of the Court granted in the Proposal Proceedings shall continue to be in full force and effect, except to the extent modified or spent or to the extent that such orders are inconsistent with the terms of this Order or the CCAA.

PLAN OF ARRANGEMENT

6. **THIS COURT ORDERS** that the Applicants 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

7. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”) and the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are 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 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.

8. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize their existing cash management system currently in place or replace it with another substantially similar 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 Applicants 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 Applicants, 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.

9. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses and satisfy the following obligations, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, employee benefits, pension contributions, vacation pay and expenses (including, without limitation, payroll and benefits processing and servicing 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 fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

10. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this 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 Applicants following the date of this Order.

11. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, 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 which are attributable to or in respect of the carrying on of the Business by the Applicants.

12. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, in accordance with past practice or on the terms pursuant to the lease. 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 or as permitted under any Order made in the Proposal Proceedings, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (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, any Order made in the Proposal Proceedings, or any other Order of this Court.

RESTRUCTURING

14. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$500,000 in the aggregate;

- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of the 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 Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

15. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ 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 the Applicants’ 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 Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they 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 the Applicants’ 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 Applicants 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 Applicants 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 APPLICANTS OR THE PROPERTY

17. **THIS COURT ORDERS** that until and including August 19, 2021, 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 Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

18. **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 Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants 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

19. **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 Applicants (in each case whether written or oral), except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

20. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, insurance, transportation services, utility or other services to the Business or the Applicants, 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 Applicants, and that the Applicants 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

21. **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 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **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 Applicants with respect to any claim against the directors or officers that arose before or arises after the date hereof and that relates to any obligation of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **THIS COURT ORDERS** that the Applicants shall continue to indemnify their current and future directors and officers against obligations and liabilities that they may incur as directors 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 or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Applicants 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 \$100,000.00, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 41 and 43 herein.

25. **THIS COURT ORDERS** that, 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 Applicants' 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 23 of this Order.

APPOINTMENT OF MONITOR

26. **THIS COURT ORDERS** that MNP is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

27. **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 Applicants' 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) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (d) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (e) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (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 Applicants to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (g) assist the Applicants with respect to the consideration, development and implementation of any restructuring initiatives;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable, including the services or employees of its affiliates, respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business

and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. **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.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants 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 Applicants 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 Applicants may agree.

31. **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.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges and whether incurred prior to, on or after the date hereof, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants in accordance with the payment terms agreed to with such professionals.

33. **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.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants 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 \$100,000.00, 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 and the Proposal Proceedings. The Administration Charge shall have the priority set out in paragraphs 41 and 43 hereof.

DISCHARGE OF RICHTER AS PROPOSAL TRUSTEE

35. **THIS COURT ORDERS** that the Proposal Trustee shall be discharged as proposal trustee of Clearbeach and Forbes, provided however that Richter shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Richter, in its capacity as proposal trustee of Clearbeach and Forbes.

36. **THIS COURT ORDERS AND DECLARES** that Richter is hereby released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Proposal Trustee for each of Clearbeach and Forbes. Without limiting the generality of the foregoing, Richter is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Proposal Proceedings for each of Clearbeach and Forbes.

37. **THIS COURT ORDERS** that Richter and Borden Ladner Gervais LLP (“**BLG**”), shall be entitled to payment of all of their respective fees and disbursements (the “**Richter/BLG Final Accounts**”) up to the date of this Order to the extent of any retainers held by Richter or BLG, and Richter and BLG shall be entitled to use any existing retainers that each of Richter and BLG may have from Clearbeach, for the payment of the Richter/BLG Final Accounts and any balance held by each of Richter or BLG on account of any retainers paid to Richter or BLG shall be remitted to Clearbeach.

38. **THIS COURT ORDERS** that BLG shall be under no obligation to act for Richter from and after the date of this Order.

39. **THIS COURT ORDERS** that nothing contained herein shall have required or require, as applicable, Richter, to occupy or to take control, care, charge, possession or management of any Property that might be environmentally contaminated, might be a pollutant or contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any Environmental Legislation including, without limitation, 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 under any applicable provincial or federal statute.

40. **THIS COURT ORDERS** that the First Report of Richter dated December 11, 2020 and the Supplement to the First Report of Richter dated December 16, 2020 (collectively, the “**First Report**”) and the activities of Richter, as described in the First Report, be and are hereby approved; provided, however that only Richter, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER

41. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors’ Charge (collectively, the “**Charges**”), shall be as follows:

First – Administration Charge up to the maximum amount of \$100,000.00; and

Second – Directors’ Charge up to the maximum amount of \$100,000.00.

42. **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.

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

44. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the applicable Charges (collectively, the “**Chargees**”), or further Order of this Court.

45. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which the Applicants are 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 creation of the Charges; and

- (c) the payments made by the Applicants pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

46. **THIS COURT ORDERS** that the Monitor's obligations under Section 23(1)(a) of the CCAA and the regulations made thereunder are hereby dispensed with.

47. **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 and maintained by the Monitor in accordance with the Protocol with the following URL: <https://mnpdebt.ca/en/corporate/corporate-engagements/clearbeach-resources-inc> (the "**Website**").

48. **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 CCAA proceedings (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness or making any changes to, the Service List.

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants 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 or facsimile or other electronic transmission to the Applicants' creditors or other

interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution shall be deemed to be received; (a) if sent by courier, on the next business day following the date of forwarding thereof, (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.

50. **THIS COURT ORDERS** that the Applicants and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' 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).

SEALING

51. **THIS COURT ORDERS** that the confidential appendices to the Report shall be and are hereby sealed, to be kept confidential and shall not form part of the public record pending further order of this Court.

GENERAL

52. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

53. **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 Applicants, the Business or the Property.

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

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

56. **THIS COURT ORDERS** that any interested party (including the Applicants 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 Person(s) likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

57. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order and is enforceable without the need for entry and filing.

**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 CLEARBEACH RESOURCES INC.
AND FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings commenced in Toronto

AMENDED AND RESTATED INITIAL ORDER

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Richard Swan (LSO# 32076A)

Raj Sahni (LSO# 42924U)

Tel: 416-863-1200

Fax: 416-863-1716

Lawyers for the Applicants

TAB 4

Court File No. —: CV-21-00662483-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE
JUSTICE —GILMORE

) ~~WEEKDAY~~FRIDAY, THE #28th
) DAY OF ~~MONTH~~MAY, ~~20YR~~2021
)
)

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 ~~[APPLICANT'S NAME]~~ (the "Applicant") CLEARBEACH
RESOURCES INC. AND FORBES RESOURCES CORP.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by ~~the Applicant~~, Clearbeach Resources Inc.
("Clearbeach") and Forbes Resources Corp. ("Forbes") (together, the "Applicants") for an
amended and restated initial order pursuant to the Companies' Creditors Arrangement Act,
R.S.C. 1985, c. C-36, as amended (the "CCAA"), was heard this day ~~at 330 University~~
~~Avenue, Toronto, Ontario~~ via video conference.

ON READING the affidavits of ~~[NAME]~~ Jane Lowrie sworn ~~[DATE]~~ May 17, 2021
and May 25, 2021 and the ~~Exhibits~~ exhibits and confidential exhibits thereto, ~~and on being~~
~~advised that the secured creditors who are likely to be affected by the charges created herein~~
~~were given notice~~ the Pre-Filing Report of MNP Ltd. ("MNP") dated May 18, 2021 and the
First Report of MNP, filed, in its capacity as the monitor (in such capacity, the "Monitor")
of the Applicants under the CCAA (together, the "Reports"), and the appendices and
confidential appendices thereto, and the consent of MNP to act as the Monitor of the

Applicants, and on hearing the submissions of counsel for ~~[NAMES]~~the Applicants, the Monitor, PACE Savings & Credit Union Limited, Richter Advisory Group Inc. (“Richter”) in its capacity as the proposal trustee of Clearbeach and Forbes in the Proposal Proceedings (as defined below) (in such capacity, the “Proposal Trustee”), no one else appearing ~~for [NAME]~~¹ although duly served as appears from the ~~affidavit~~affidavits of service of ~~[NAME]~~Joshua Foster sworn ~~[DATE]~~May 18, 2021 and ~~on reading the consent of [MONITOR’S NAME] to act as the Monitor~~May 26, 2021;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application ~~and~~² the Application Record and the Reports is hereby abridged, to the extent necessary, and validated² so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

CONTINUANCE UNDER THE CCAA

2. **THIS COURT ORDERS AND DECLARES** that the ~~Applicant is a company~~Applicants are companies to which the CCAA applies.

3. THIS COURT ORDERS AND DECLARES that the proposal proceedings (the “Proposal Proceedings”) of each of Clearbeach bearing Estate/Court File No.: 35-2659751 and Forbes bearing Estate/Court File No.: 35-2660091 commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “BIA”), are hereby

¹~~Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

²~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to Clearbeach or Forbes, save that any and all steps, agreements and procedures validly taken, done or entered into by Clearbeach or Forbes during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. THIS COURT ORDERS that each of Clearbeach and Forbes shall be deemed not to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

5. THIS COURT ORDERS that, subject to further order of this Court, all orders of the Court granted in the Proposal Proceedings shall continue to be in full force and effect, except to the extent modified or spent or to the extent that such orders are inconsistent with the terms of this Order or the CCAA.

PLAN OF ARRANGEMENT

6. ~~3.~~ THIS COURT ORDERS that the Applicants 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

7. ~~4.~~ THIS COURT ORDERS that the Applicants shall remain in possession and control of ~~its~~their 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,~~ and the Applicants shall continue to carry on business in a manner consistent with the preservation of ~~its~~their business (the "Business") and Property. The Applicants ~~is~~ are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively ~~is~~, "Assistants") currently retained or employed by ~~it~~them, with liberty to retain such further Assistants as ~~it~~ they deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

8. ~~5.~~ **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize their ~~central~~ existing cash management system³ 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 Applicants 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 Applicants, 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.}]

9. ~~6.~~ **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses and satisfy the following obligations, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, employee and benefits, pension ~~benefits~~ contributions, vacation pay and expenses (including, without limitation, payroll and benefits processing and servicing 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

³ ~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross border and inter company transfers of cash.~~

- (b) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

10. ~~7.~~ **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this 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 Applicants following the date of this Order.

11. ~~8.~~ **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) ~~Quebec Pension Plan, and (iv)~~ income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, 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 which are attributable to or in respect of the carrying on of the Business by the Applicants.

12. ~~9.~~ **THIS COURT ORDERS** that until a real property lease is disclaimed ~~for resiliated~~⁴ in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants 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)~~ accordance with past practice or on the terms pursuant to the lease. 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. ~~10.~~ **THIS COURT ORDERS** that, except as specifically permitted herein or as permitted under any Order made in the Proposal Proceedings, the Applicants ~~is~~ are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of ~~its~~ their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~ the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business or pursuant to this Order, any Order made in the Proposal Proceedings, or any other Order of this Court.

⁴ ~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

RESTRUCTURING

14. ~~11.~~ **THIS COURT ORDERS** that the Applicants 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 of ~~its~~their business or operations, ~~and to dispose of redundant or non-material assets not exceeding \$•250,000 in any one transaction or \$•500,000 in the aggregate~~⁵;
- (b) ~~terminate the employment of such of its~~their employees or temporarily lay off such of ~~its~~their employees as ~~it~~they deems appropriate~~}; and~~;
- (c) pursue all avenues of refinancing of ~~its~~the 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 Applicants to proceed with an orderly restructuring of the Business (the "Restructuring").

15. ~~12.~~ **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicants'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 Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days' notice to such landlord and any such secured creditors. If the ~~Applicant disclaims [or resiliates]~~Applicants

⁵ ~~Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.~~

disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, ~~it~~they 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~~Applicants' claim to the fixtures in dispute.

16. ~~13.~~ **THIS COURT ORDERS** that 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 Applicants and the Monitor 24 hours² 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 Applicants 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 APPLICANTS S OR THE PROPERTY

17. ~~14.~~ **THIS COURT ORDERS** that until and including ~~{DATE—MAX. 30 DAYS}~~August 19, 2021, 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 Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

18. ~~15.~~ **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 Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and

suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants ~~is~~ 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

19. ~~16.~~ **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 ~~Applicant~~ Applicants (in each case whether written or oral), except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

20. ~~17.~~ **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, insurance, transportation services, utility or other services to the Business or the Applicants, 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 Applicants, and that the Applicants shall be entitled to the continued use of ~~its~~ 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

21. ~~18.~~ **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 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.⁶

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. ~~19.~~ **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 Applicants with respect to any claim against the directors or officers that arose before or arises after the date hereof and that relates to any obligations of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. ~~20.~~ **THIS COURT ORDERS** that the Applicants shall continue to indemnify ~~its~~their current and future directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings,⁷

⁶ ~~This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).~~

⁷ ~~The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.~~

except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. ~~21.~~ **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**")⁸ on the Property, which charge shall not exceed an aggregate amount of \$~~100,000.00~~, as security for the indemnity provided in paragraph ~~20~~23 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~38~~41 and ~~40~~43 herein.

25. ~~22.~~ **THIS COURT ORDERS** that, 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~~Applicants' 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~~23 of this Order.

APPOINTMENT OF MONITOR

26. ~~23.~~ **THIS COURT ORDERS** that ~~[MONITOR'S NAME]~~MNP is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and ~~its~~their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

⁸~~Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.~~

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

- (a) monitor the ~~Applicant's~~Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

~~(c) —assist the Applicant, to the extent required by the Applicant, in its dissemination, to the DIP Lender and its counsel on a [TIME INTERVAL] basis of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;~~

(c) ~~(d)~~ advise the Applicants in ~~its~~their preparation of the Applicants's cash flow statements ~~and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~

(d) ~~(e)~~ advise the Applicants in ~~its~~their development of the Plan and any amendments to the Plan;

(e) ~~(f)~~ assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(f) ~~(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,~~Applicants to the extent that is necessary to adequately assess the ~~Applicant's~~Applicants' business and financial affairs or to perform its duties arising under this Order;

(g) assist the Applicants with respect to the consideration, development and implementation of any restructuring initiatives;

(h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable, including the services or employees of its affiliates, respecting the exercise of its powers and performance of its obligations under this Order; and

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

28. ~~25.~~ **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. ~~26.~~ **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.

30. ~~27.~~ **THIS COURT ORDERS** that ~~that~~ the Monitor shall provide any creditor of the ~~Applicant and the DIP Lender~~ Applicants with information provided by the Applicants 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 Applicants 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 Applicants may agree.

31. ~~28.~~ **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.

32. ~~29.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges and whether incurred prior to, on or after the date hereof, by the Applicants as part of the costs of these proceedings. The Applicants ~~is~~ are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the ~~Applicant on a [TIME INTERVAL] basis and, in addition,~~ Applicants in accordance with the ~~Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of \$● [-, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time~~ payment terms agreed to with such professionals.

33. ~~30.~~ **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.

34. ~~31.~~ **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, ~~if any,~~ and ~~the Applicant's~~ counsel to the Applicants 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 \$●100,000.00, 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 and the Proposal Proceedings. The Administration Charge shall have the priority set out in paragraphs ~~{38}~~41 and ~~{40}~~43 hereof.

DIP FINANCING

~~32. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from [DIP LENDER'S NAME] (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$● unless permitted by further Order of this Court.~~

~~33. — THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed.~~

~~34. — THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the 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.~~

DISCHARGE OF RICHTER AS PROPOSAL TRUSTEE

~~35. THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's~~

~~Charge shall have the priority set out in paragraphs [38] and [40] hereof.~~ THIS COURT ORDERS that the Proposal Trustee shall be discharged as proposal trustee of Clearbeach and Forbes, provided however that Richter shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Richter, in its capacity as proposal trustee of Clearbeach and Forbes.

36. THIS COURT ORDERS AND DECLARES that Richter is hereby released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Proposal Trustee for each of Clearbeach and Forbes. Without limiting the generality of the foregoing, Richter is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Proposal Proceedings for each of Clearbeach and Forbes.

37. THIS COURT ORDERS that Richter and Borden Ladner Gervais LLP (“BLG”), shall be entitled to payment of all of their respective fees and disbursements (the “Richter/BLG Final Accounts”) up to the date of this Order to the extent of any retainers held by Richter or BLG, and Richter and BLG shall be entitled to use any existing retainers that each of Richter and BLG may have from Clearbeach, for the payment of the Richter/BLG Final Accounts and any balance held by each of Richter or BLG on account of any retainers paid to Richter or BLG shall be remitted to Clearbeach.

38. THIS COURT ORDERS that BLG shall be under no obligation to act for Richter from and after the date of this Order.

~~36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:~~ THIS COURT ORDERS that nothing contained herein shall have required or require, as applicable, Richter, to occupy or to take control, care, charge, possession or management of any Property that might be environmentally contaminated, might be a pollutant or contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any Environmental Legislation including, without

limitation, 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 under any applicable provincial or federal statute.

- (a) ~~the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;~~
- (b) ~~upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon 90 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 DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and~~
- (c) ~~the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.~~

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

40. THIS COURT ORDERS that the First Report of Richter dated December 11, 2020 and the Supplement to the First Report of Richter dated December 16, 2020 (collectively,

the "First Report") and the activities of Richter, as described in the First Report, be and are hereby approved; provided, however that only Richter, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER

41. ~~38.~~ **THIS COURT ORDERS** that the priorities of the ~~Directors' Charge, the Administration Charge and the DIP Lender's~~Directors' Charge, ~~as among them~~ (collectively, the "Charges"), shall be as follows⁹:

First ~~=~~ Administration Charge (up to the maximum amount of \$~~●~~)100,000.00; and

Second ~~DIP Lender's Charge; and~~

~~Third~~ = Directors' Charge (up to the maximum amount of \$~~●~~)100,000.00.

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

43. ~~40.~~ **THIS COURT ORDERS** that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge~~ (all as constituted and defined herein)Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security

⁹~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

44. ~~41.~~ THIS COURT ORDERS that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants 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 DIP Lender's Charge~~ Charges, unless the Applicants also obtains the prior written consent of the Monitor, ~~the DIP Lender~~ and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~ applicable Charges (collectively, the "Charges"), or further Order of this Court.

45. ~~42.~~ THIS COURT ORDERS that the ~~Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge~~ Charges shall not be rendered invalid or unenforceable and the rights and remedies of the ~~chargees entitled to the benefit of the Charges (collectively, the "Charges") and/or the DIP Lender thereunder~~ shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicants, 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 Commitment Letter or the Definitive Documents~~ shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which ~~it is~~ the Applicants are a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the ~~Applicant~~

~~entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents;~~ and

- (c) the payments made by the Applicants pursuant to this Order, ~~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.

~~43. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicant's interest in such real property leases.~~

SERVICE AND NOTICE

~~44. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in [newspapers specified by the Court] a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with~~ 's obligations under Section 23(1)(a) of the CCAA and the regulations made thereunder are hereby dispensed with.

~~45. 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/>~~ <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 and maintained by the Monitor in accordance with the Protocol with the following URL ~~_____~~: <https://mnpdebt.ca/en/corporate/corporate-engagements/clearbeach-resources-inc> (the “Website”).

48. 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 CCAA proceedings (the “Service List”). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness or making any changes to, the Service List.

49. ~~46.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants 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 or facsimile or other electronic transmission to the ~~Applicant's~~ Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution ~~by courier, personal delivery or facsimile transmission~~ shall be deemed to be received; (a) if sent by courier, on the next business day following the date of forwarding thereof, ~~or~~ (b) if delivered by personal delivery or facsimile transmission or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.

50. THIS COURT ORDERS that the Applicants and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' 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).

SEALING

51. THIS COURT ORDERS that the confidential appendices to the Report shall be and are hereby sealed, to be kept confidential and shall not form part of the public record pending further order of this Court.

GENERAL

52. ~~47.~~ THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions ~~in~~concerning the discharge of ~~its~~their respective powers and duties ~~hereunder~~under this Order or the interpretation or application of this Order.

53. ~~48.~~ 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 Applicants, the Business or the Property.

54. ~~49.~~ 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 or any other foreign jurisdiction, to give effect to this Order and to assist the Applicants, 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 Applicants 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 Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

55. ~~50.~~ THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and ~~is~~are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in

carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

56. ~~51.~~ **THIS COURT ORDERS** that any interested party (including the Applicants 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~~ Person(s) likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

57. ~~52.~~ **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order and is enforceable without the need for entry and filing.



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CLEARBEACH R
AND FORBES RESOURCES CORP.

Court File No.: C

ONTARIO
SUPERIOR COURT OF
(COMMERCIAL

Proceedings commenced

AMENDED AND RESTATED

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Richard Swan (LSO# 32076A)
Raj Sahni (LSO# 42924U)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants

Document comparison by Workshare 10.0 on Tuesday, May 25, 2021 9:11:18 AM

Input:	
Document 1 ID	file:///C:/Users/fosterj/AppData/Local/Temp/Workshare/wmtemp5ed8\intitial-order-CCAA-EN (18).DOC
Description	intitial-order-CCAA-EN (18)
Document 2 ID	file:///C:/Users/fosterj/AppData/Local/Temp/Workshare/wmtemp5ed8\Amended and Restated Initial Order2.DOCX
Description	Amended and Restated Initial Order2
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	382
Deletions	291
Moved from	5
Moved to	5
Style changes	0
Format changes	0
Total changes	683

TAB 5

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE) THURSDAY, THE 28th
JUSTICE GILMORE) DAY OF MAY, 2021
)

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 CLEARBEACH RESOURCES INC. AND FORBES RESOURCES
CORP.

Applicants

AMENDED AND RESTATED INITIAL ORDER

THIS APPLICATION, made by Clearbeach Resources Inc. ("Clearbeach") and Forbes Resources Corp. ("Forbes") (together, the "Applicants") for an amended and restated initial order pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), was heard this day via video conference.

ON READING the ~~Application Record of the Applicants, the affidavit~~affidavits of Jane Lowrie sworn May 17, 2021 and May 25, 2021 and the exhibits and confidential exhibits thereto, the Pre-Filing Report of MNP Ltd. ("MNP") dated May 18, 2021 and the First Report of MNP, filed, in its capacity as the ~~proposed~~ monitor (in such capacity, the "Monitor") of the Applicants under the CCAA (together, the "Reports"), ~~filed,~~ and the appendices and confidential appendices thereto, and the consent of MNP to act as the ~~the~~ Monitor of the Applicants (in such capacity, the "Monitor"), and on hearing the submissions of counsel for the Applicants, the Monitor, PACE Savings & Credit Union Limited, Richter Advisory Group Inc. ("**Richter**") in its capacity as the proposal trustee of Clearbeach and Forbes in the Proposal Proceedings (as defined below) (in such capacity, the "**Proposal Trustee**"), no one else

appearing although duly served as appears from the affidavits of service of Joshua Foster sworn May 18, 2021 and May 26, 2021;

SERVICE

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

CONTINUANCE UNDER THE CCAA

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

3. **THIS COURT ORDERS AND DECLARES** that the proposal proceedings (the “**Proposal Proceedings**”) of each of Clearbeach bearing Estate/Court File No.: 35-2659751 and Forbes bearing Estate/Court File No.: 35-2660091 commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”), are hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to Clearbeach or Forbes, save that any and all steps, agreements and procedures validly taken, done or entered into by Clearbeach or Forbes during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings.

4. **THIS COURT ORDERS** that each of Clearbeach and Forbes shall be deemed not to have made an assignment based on its failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

5. **THIS COURT ORDERS** that, subject to further order of this Court, all orders of the Court granted in the Proposal Proceedings shall continue to be in full force and effect, except to the extent modified or spent or to the extent that such orders are inconsistent with the terms of this Order or the CCAA.

PLAN OF ARRANGEMENT

6. **THIS COURT ORDERS** that the Applicants 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

7. **THIS COURT ORDERS** that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”) and the Applicants shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The Applicants are 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 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.

8. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize their existing cash management system currently in place or replace it with another substantially similar 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 Applicants 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 Applicants, 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.

9. **THIS COURT ORDERS** that the Applicants shall be entitled but not required to pay the following expenses and satisfy the following obligations, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, employee benefits, pension contributions, vacation pay and expenses (including, without limitation, payroll and benefits processing and servicing 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 fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

10. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this 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 Applicants following the date of this Order.

11. **THIS COURT ORDERS** that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be

deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, and (iii) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, 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 which are attributable to or in respect of the carrying on of the Business by the Applicants.

12. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, in accordance with past practice or on the terms pursuant to the lease. 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 or as permitted under any Order made in the Proposal Proceedings, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (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, any Order made in the Proposal Proceedings, or any other Order of this Court.

RESTRUCTURING

14. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$250,000 in any one transaction or \$500,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and
- (c) pursue all avenues of refinancing of the 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 Applicants to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

15. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants’ 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 the Applicants’ 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 Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days’ notice to such landlord and any such secured creditors. If the Applicants disclaim the lease governing such leased premises in accordance with Section 32 of the CCAA, they 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 the Applicants' 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 Applicants 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 Applicants 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 APPLICANTS OR THE PROPERTY

17. **THIS COURT ORDERS** that until and including ~~May 30~~August 19, 2021, 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 Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

18. **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 Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants 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

19. **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 Applicants (in each case whether written or oral), except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

20. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll and benefits services, insurance, transportation services, utility or other services to the Business or the Applicants, 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 Applicants, and that the Applicants 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

21. **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 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 Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

22. **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 Applicants with respect to any claim against the directors or officers that arose before or arises after the date hereof and that relates to any obligation of the Applicants 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 Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

23. **THIS COURT ORDERS** that the Applicants shall continue to indemnify their current and future directors and officers against obligations and liabilities that they may incur as directors 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 or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

24. **THIS COURT ORDERS** that the directors and officers of the Applicants 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 \$100,000.00, as security for the indemnity provided in paragraph 23 of this Order. The Directors' Charge shall have the priority set out in paragraphs 41 and 43 herein.

25. **THIS COURT ORDERS** that, 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 Applicants' 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 23 of this Order.

APPOINTMENT OF MONITOR

26. **THIS COURT ORDERS** that MNP is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants 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.

27. **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 Applicants' 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) advise the Applicants in their preparation of the Applicants' cash flow statements;
- (d) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (e) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (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 Applicants to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

- (g) assist the Applicants with respect to the consideration, development and implementation of any restructuring initiatives;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable, including the services or employees of its affiliates, respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

28. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

29. **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.

30. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants 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 Applicants 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 Applicants may agree.

31. **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.

32. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges and whether incurred prior to, on or after the date hereof, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants in accordance with the payment terms agreed to with such professionals.

33. **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.

34. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants 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 \$100,000.00, 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 and the Proposal Proceedings. The Administration Charge shall have the priority set out in paragraphs 41 and 43 hereof.

DISCHARGE OF RICHTER AS PROPOSAL TRUSTEE

35. **THIS COURT ORDERS** that the Proposal Trustee shall be discharged as proposal trustee of Clearbeach and Forbes, provided however that Richter shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Richter, in its capacity as proposal trustee of Clearbeach and Forbes.

36. **THIS COURT ORDERS AND DECLARES** that Richter is hereby released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Proposal Trustee for each of Clearbeach and Forbes. Without limiting the generality of the foregoing, Richter is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the Proposal Proceedings for each of Clearbeach and Forbes.

37. **THIS COURT ORDERS** that Richter and Borden Ladner Gervais LLP (“**BLG**”), shall be entitled to payment of all of their respective fees and disbursements (the “**Richter/BLG Final Accounts**”) up to the date of this Order to the extent of any retainers held by Richter or BLG, and Richter and BLG shall be entitled to use any existing retainers that each of Richter and BLG may have from Clearbeach, for the payment of the Richter/BLG Final Accounts and any balance held by each of Richter or BLG on account of any retainers paid to Richter or BLG shall be remitted to Clearbeach.

38. **THIS COURT ORDERS** that BLG shall be under no obligation to act for Richter from and after the date of this Order.

39. **THIS COURT ORDERS** that nothing contained herein shall have required or require, as applicable, Richter, to occupy or to take control, care, charge, possession or management of any

Property that might be environmentally contaminated, might be a pollutant or contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any Environmental Legislation including, without limitation, 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 under any applicable provincial or federal statute.

40. **THIS COURT ORDERS** that the First Report of Richter dated December 11, 2020 and the Supplement to the First Report of Richter dated December 16, 2020 (collectively, the “**First Report**”) and the activities of Richter, as described in the First Report, be and are hereby approved; provided, however that only Richter, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

VALIDITY AND PRIORITY OF THE CHARGES CREATED BY THIS ORDER

41. **THIS COURT ORDERS** that the priorities of the Administration Charge and the Directors’ Charge (collectively, the “**Charges**”), shall be as follows:

First – Administration Charge up to the maximum amount of \$100,000.00; and

Second – Directors’ Charge up to the maximum amount of \$100,000.00.

42. **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.

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

44. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants also obtain the prior written consent of the Monitor and the beneficiaries of the applicable Charges (collectively, the “**Chargees**”), or further Order of this Court.

45. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which the Applicants are 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 creation of the Charges; and
- (c) the payments made by the Applicants pursuant to this Order and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

SERVICE AND NOTICE

46. **THIS COURT ORDERS** that the Monitor's obligations under Section 23(1)(a) of the CCAA and the regulations made thereunder are hereby dispensed with.

47. **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 and maintained by the Monitor in accordance with the Protocol with the following URL: <https://mnpdebt.ca/en/corporate/corporate-engagements/clearbeach-resources-inc> (the "**Website**").

48. **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 CCAA proceedings (the "**Service List**"). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness or making any changes to, the Service List.

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants 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 or facsimile or other electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution shall be deemed to be received; (a) if sent by courier, on the

next business day following the date of forwarding thereof, (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.

50. **THIS COURT ORDERS** that the Applicants and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' 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).

SEALING

51. **THIS COURT ORDERS** that the confidential appendices to the Report shall be and are hereby sealed, to be kept confidential and shall not form part of the public record pending further order of this Court.

GENERAL

52. **THIS COURT ORDERS** that the Applicants or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

53. **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 Applicants, the Business or the Property.

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

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

56. **THIS COURT ORDERS** that any interested party (including the Applicants 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 Person(s) likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

~~58. **THIS COURT ORDERS** that this Order is effective from today's date~~ and is enforceable without the need for entry and filing.

**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 CLEARBEACH RESOURCES INC.
AND FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings commenced in Toronto

AMENDED AND RESTATED INITIAL ORDER

BENNETT JONES LLP

One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Richard Swan (LSO# 32076A)

Raj Sahni (LSO# 42924U)

Tel: 416-863-1200

Fax: 416-863-1716

Lawyers for the Applicants

Document comparison by Workshare 10.0 on Tuesday, May 25, 2021 9:06:31 AM

Input:	
Document 1 ID	file:///C:/Users/fosterj/AppData/Local/Temp/Workshare/wmtemp5ed8/CCAA Initial Order1.DOCX
Description	CCAA Initial Order1
Document 2 ID	file:///C:/Users/fosterj/AppData/Local/Temp/Workshare/wmtemp5ed8/Amended and Restated Initial Order1.DOCX
Description	Amended and Restated Initial Order1
Rendering set	Standard

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
<u>Moved to</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:

	Count
Insertions	17
Deletions	12
Moved from	1
Moved to	1
Style changes	0
Format changes	0
Total changes	31

**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 CLEARBEACH RESOURCES INC. AND
FORBES RESOURCES CORP.**

Court File No.: CV-21-00662483-00CL

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

Proceedings Commenced in Toronto

**MOTION RECORD
(Returnable May 28, 2021)**

BENNETT JONES LLP
One First Canadian Place
Suite 3400, P.O. Box 130
Toronto, Ontario
M5X 1A4

Richard Swan (LSO# 32076A)
Raj Sahni (LSO# 42924U)

Tel: 416-863-1200
Fax: 416-863-1716

Lawyers for the Applicants