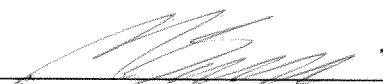


This is Exhibit " J " referred to  
in the Affidavit of Brenda Bissell  
sworn before me herein  
this 12<sup>th</sup> day of April, 2011.



---

A Commissioner for taking Affidavits, etc.

*Michael David Saccucci, a Commissioner, etc.,  
Province of Ontario, while a Student-at-Law.  
Expires July 6, 2013.*

**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 NELSON FINANCIAL GROUP LTD.**

**MOTION RECORD  
OF THE INTERIM OPERATING OFFICER  
Plan Filing, Meeting Order and Stay Extension  
(Motion returnable February 22, 2011)**

February 11, 2011

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Officer and for the Representative Counsel  
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**TO: THIS HONOURABLE COURT**

**AND TO: THE ATTACHED SERVICE LIST**

**SERVICE LIST**

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Special Counsel to Representative Counsel

Court and the Monitor respectfully requests that, if necessary, this Honourable Court seal the Opinion pending further Order of this Honourable Court.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. the Sixth Report; and
2. such further and other material as counsel may advise and this Honourable Court may permit.

August 23, 2010

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Counsel for David Baker



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| <b>A.</b> | <b>Plan of Arrangement of Nelson Financial Group Ltd.</b>                |
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# **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 NELSON FINANCIAL GROUP LTD.**

**NOTICE OF MOTION  
OF THE INTERIM OPERATING OFFICER  
Plan Filing, Meeting Order and Stay Extension  
(Motion returnable February 22, 2011)**

**Sherry Townsend**, in her capacity as the Interim Operating Officer of Nelson Financial Group Ltd. appointed by this Court (the "IOO"), will make a motion before a judge of the Ontario Superior Court of Justice sitting on the Commercial List on February 22, 2011 at 10:00 a.m. or as soon after that time as the motion can be heard at 330 University Avenue, in the City of Toronto.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**THE MOTION IS FOR** an Order substantially in the form attached hereto as Schedule "A" granting, *inter alia*, the following relief:

1. An Order accepting for filing the Plan of Compromise and Arrangement in respect of Nelson Financial Group Ltd. (the "Applicant") dated

February 11, 2011 and directing the Applicant to seek acceptance and sanctioning of the Plan;

2. an Order directing that a meeting of the Creditors of the Applicant be called to be held on March 26, 2011 to consider and approve the Plan as such may be amended in accordance with its terms by the Applicant, together with such directions as are required for the proper conduct of such meeting;
3. an Order scheduling a sanction hearing, if the Plan should be approved by the requisite majorities of Creditors at the Meeting, on April 1, 2011 or such other and later date as the Court may approve;
4. an Order extending the Stay Termination Date under the Initial Order to May 31, 2011; and,
5. such further and other relief as this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION ARE:**

- a) The terms of the Initial Order;
- b) The Applicant under the direction of the IOO has been proceeding diligently and in good faith with the preparation of the Plan, the cash flow position of the Applicant remains positive and the Creditors who are Noteholders of the Applicant have been and are actively engaged in the development of the Plan and are supportive of the restructuring efforts;

- c) The Plan provides for the exchange of the Proven Claim of each Proven Creditor for a Capital Recovery Debenture, Special Shares and Common Shares of the Applicant;
- d) The Plan provides an immediate payout option by way of a cash pool of \$2,500,000 for the full satisfaction of Claims electing this option by payment at the rate of 25 cents on the dollar of the Proven Claim amount, provided that if more than \$10,000,000 of Proven Claims elect this option such Claims shall only be permitted to exercise the option on a pro rata basis;
- e) The Plan further provides for the filing of Articles of Reorganization under section 186 of the Ontario *Business Corporations Act* to change the name of the Applicant to Provider Capital Group Inc., to cancel all of the currently issued and the authorized share capital of the Applicant, to authorize new Special Shares and new Common Shares to be issued under the Plan and to put in place a board of directors of the Applicant comprised of persons selected and designated by the Meeting of Creditors;
- f) The Plan further provides that, following the implementation of the Plan if approved, the only shares outstanding in the capital stock of the Applicant will be shares issued to eligible Creditors in proportion to their Proven Claims;
- g) The Applicant, the Interim Operating Officer and the Representative Counsel are of the opinion that the Plan proposed is fair and reasonable,

that the Plan should be accepted for filing and that the Plan should be presented to the Creditors for their approval at a meeting to be convened for that purpose;

- h) Sections 4 and 6 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- i) Rules 1.04, 3.02 and 37 of the *Rules of Civil Procedure*; and,
- j) Such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- a) The Notice of Motion and draft Order herein;
- b) The Initial Order made by Madam Justice Pepall on March 23, 2010;
- c) The Representative Counsel Order made by Madam Justice Pepall on June 15, 2010;
- d) The Order appointing the Interim Operating Officer made by Madam Justice Pepall on November 22, 2010;
- e) The First Report of the Interim Operating Officer dated February 11, 2011;

- f) The Plan of Compromise and Arrangement of the Applicant dated February 11, 2011; and,
- g) Such further and other material as counsel may advise and this Honourable Court may permit.

February 11, 2011

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Special Counsel for the Interim Operating  
Officer and for the Representative Counsel  
for the Noteholders of the Applicant

TO: **THIS HONOURABLE COURT**

AND TO: **THE ATTACHED SERVICE LIST**



# **TAB 2**

**Schedule "A"**

**Draft Order**

File No. CV-10-8630-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**THE HONOURABLE**                         )                 **DAY, THE**  
   )  
**JUSTICE**                                     )                 **DAY OF FEBRUARY, 2011**

**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 NELSON FINANCIAL GROUP LTD.**

**ORDER  
(Plan Filing, Creditor Meeting and Stay Extension)**

**THIS MOTION**, made by the Interim Operating Officer of the Applicant, Nelson Financial Group Ltd., seeking the relief set out in the Notice of Motion dated February 10, 2010, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion and the Motion Record and the First Report dated February 18, 2011 of Sherry Townsend in her capacity as Interim Operating Officer appointed by the Order of this Court made November 22, 2010 (the "IOO"), and on hearing the submissions of counsel for the IOO on behalf of Nelson Financial Group Ltd.

(the "Applicant"), the Representative Counsel and the Monitor, no other persons appearing although duly served;

**Service**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record in respect of this Motion be and its is hereby abridged and that the service of the Notice of Motion and Motion Record herein as affected by the Applicant is hereby validated in all respects.

**Plan of Compromise and Arrangement**

2. **THIS COURT ORDERS** that the Plan of Compromise and Arrangement in respect of Nelson Financial Group Ltd. dated February 11, 2011 in the form attached as Schedule "A" hereto (the "Plan") is hereby accepted for filing and the Applicant shall seek acceptance and sanctioning of the Plan, subject to such amendments as may advised and permitted in accordance with the terms of the Plan, in the manner set forth herein.

3. **THIS COURT ORDERS** that, except where otherwise defined, capitalized terms in this Order have the meanings assigned to such in the Plan.

**The Meeting of Creditors**

4. **THIS COURT ORDERS** that the Applicant is hereby authorized to call, hold and conduct a meeting of the Eligible Voting Creditors for the purpose of considering, and if deemed advisable, passing, with or without variation, a resolution to approve the Plan in respect of the Applicant (the "Meeting").

5. **THIS COURT ORDERS** that on or before February 28, 2011, the Applicant shall send or have sent by prepaid post to each Eligible Voting Creditor who has filed a

proof of claim in accordance with the Claims Procedure Order to the address set forth on the proof of claim filed by the Eligible Voting Creditor or whose Claim is deemed to be a Proven Claim by the terms of the Claims Procedure Order at the last known address for such creditor as shown on the records of the Applicant; (a) a Notice of Meeting in the form attached as Schedule "B" hereto; (b) a copy of this Order (without attachments); (c) a copy of the Plan; (d) a Report of the IOO describing the Plan and the business and future plans of the Applicant; and (e) forms of proxy and voting letter substantially in the forms attached as Schedules to the Plan.

6. **THIS COURT ORDERS** that the Meeting of Creditors of Nelson Financial Group Ltd. shall be held on Saturday, March 26, 2011 (the "Meeting Date") at 11:00 a.m. (Toronto time) at the Ajax Convention Centre, 550 Beck Crescent, Ajax, Ontario and the Applicant is hereby authorized, with the consent of the meeting, to adjourn the Meeting to such time and place as it deems necessary or desirable.

7. **THIS COURT ORDERS** that the Applicant be and is hereby authorized to modify, amend or supplement the Plan by way of a supplementary or amended plan of compromise and arrangement at any time or from time to time prior to the Meeting or at the Meeting, in which case any such supplementary plan of compromise and arrangement shall, for all purposes, be and is deemed to be a part of and incorporated into the Plan.

8. **THIS COURT ORDERS** that the Representative Counsel shall preside as the chairperson of the Meeting (the "Chair") and shall decide all matters relating to the rules and procedures at, and the conduct of, the Meeting.

9. **THIS COURT ORDERS** that, for the purposes of voting to approve the Plan, there shall be one class of Eligible Voting Creditors of the Applicant as set forth in the Plan.

10. **THIS COURT ORDERS** that Eligible Voting Creditors of the Applicant shall be entitled to attend and vote at the Meeting in respect of the Applicant's Eligible Voting Creditors in person, by proxy, or by voting letter.

11. **THIS COURT ORDERS** that the Chair be and is hereby authorized to accept and rely upon proxies and voting letters substantially in the form of such attached as Schedules "C" and "D" to the Plan or in such other form as the Chair determines to be functionally and substantively identical and acceptable.

12. **THIS COURT ORDERS** that the only persons entitled to attend the Meeting are (a) the Eligible Voting Creditors of the Applicant, including proxy holders and the legal counsel for any such creditor; (b) the IOO; (c) the Representative Counsel and the Special Counsel; (d) the Monitor; (e) the Applicant and their respective authorized representatives, officers, directors and legal counsel.

13. **THIS COURT ORDERS** that the quorum required at the Meeting in respect of the Applicant shall be any one Eligible Voting Creditor of the Applicant present in person, by voting letter or by proxy.

14. **THIS COURT ORDERS** that the amount of the Proven Claim that each Eligible Voting Creditor is entitled to vote at the Meeting shall be as established in accordance with the Claims Procedure Order.

15. **THIS COURT ORDERS** that, subject to further Order of the Court, where the Claim of an Eligible Voting Creditor has not become a Proven Claim by the Meeting Date, that Eligible Voting Creditor's Claim, for the purpose of voting on the Plan only, shall be in the amount of 50% of the Claim set out in the proof of claim filed by the Eligible Voting Creditor pursuant to the Claims Procedure Order.

16. **THIS COURT ORDERS** that the Chair shall direct a vote with respect to a resolution to approve the Plan as amended and under consideration at the Meeting and containing such other related provisions as the Applicant may consider appropriate.

17. **THIS COURT ORDERS** that, following the vote to approve the Plan, the Chair shall tally the vote and determine whether the Plan under consideration has been accepted by the majority required by section 6 of the *Companies' Creditors Arrangement Act* (Canada).

18. **THIS COURT ORDERS** that, if the Plan is accepted by the required majority of Eligible Voting Creditors, the Chair shall then call for nominations for persons to be designated as the directors of the Applicant in the Articles of Reorganization and the Chair shall then conduct an election by the Meeting to select five (5) persons to be so designated.

19. **THIS COURT ORDERS** that, if the Plan is accepted by the required majority of Eligible Voting Creditors, the Applicant shall bring a Motion seeking an Order sanctioning the Plan and, if so sanctioned, directing the filing of the Articles of Reorganization pursuant to s.186 of the Ontario *Business Corporations Act* shall be returnable on Friday, April 1, 2011, or such earlier or later date as the Court may order.

**Stay Extension**

20. **THIS COURT ORDERS** that the Stay Period, as defined in the Initial Order dated March 23, 2010 be and is hereby extended to May 31, 2011.

**Further and Other Orders**

21. **THIS COURT ORDERS** that the Applicant, the IOO or the Representative Counsel may, from time to time, apply to this Court for directions in the discharge of their powers and duties under or in respect of the proper execution of this Order, including without limitation the holding of the Meeting or any adjournment thereof.

**Approval of IOO's First Report**

22. **THIS COURT ORDERS** that the First Report of the IOO dated February 18, 2011 and the activities of the IOO described therein be and are the same are hereby approved.

---

**TAB A**



**Schedule "A"**

**Plan of Arrangement**

**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 NELSON FINANCIAL GROUP LTD.**

**PLAN OF COMPROMISE AND ARRANGEMENT OF  
NELSON FINANCIAL GROUP LTD.**

**FEBRUARY 11, 2011  
(Amended February 24, 2011)**

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**PLAN OF COMPROMISE AND ARRANGEMENT OF  
NELSON FINANCIAL GROUP LTD.**

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

**FEBRUARY 10, 2010**

**ARTICLE 1  
DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

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

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

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

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

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

**“Applicant”** means Nelson Financial Group Ltd.;

**“Articles of Reorganization”** means the Articles of Reorganization to be filed under and subject to the terms and conditions of this Plan, cancelling all issued and outstanding shares of the Applicant, authorizing the new share capital of the Applicant, changing the name of the Applicant to Provider Capital Group Inc. and substantially in the form annexed as Schedule “B” to this Plan;

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

- (a) federal, provincial, territorial, state, municipal or local governmental body (whether administrative, legislative, executive or otherwise), both domestic and foreign;
- (b) agency, authority, commission, instrumentality, regulatory body, court, or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, including any Taxing Authority;
- (c) court, arbitrator, commission or body exercising judicial, quasi-judicial, administrative or similar functions; or

- (d) other body or entity created under the authority of or otherwise subject to the jurisdiction of any of the foregoing, including any stock or other securities exchange, in each case having jurisdiction over such Person, transaction or event;

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

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

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

“**Capital Recovery Debenture**” means the Debenture to be issued by the Applicant in implementation of this Plan on the terms of and substantially in the form of that attached hereto as Schedule “C”;

“**Cash Exit Option**” means the option available to all Proven Creditors to elect to take a payment of 25 cents on the dollar in full satisfaction of their Proven Claim on and subject to the terms and conditions of Section 4.2 of this Plan;

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

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

“**CCAA Proceedings**” means the proceedings commenced by the Applicant under the CCAA on January 29, 2010 in the CCAA Court, Court File No. CV-10-8630-00CL;

“**Charges**” has the meaning given to it in paragraph 32 of the Initial Order as amended by the Orders of June 15, 2010 appointing the Representative Counsel and Order of November 22, 2010 appointing the Interim Operating Officer;

“**Claim**” means any right or claim of any Person that may be asserted or made in whole or in part against the Applicant, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, legal or equitable, secured or unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right or claim is executory or anticipatory in nature including, without limitation, any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future together with any other rights or claims of any kind that, if unsecured, would be a debt provable in bankruptcy within the meaning of the BIA if the Applicant were bankrupt, and for greater certainty, includes, without limitation (i) any Tax

Claim, (ii) any claims by any Person for obligations or indebtedness owing by the Applicant in respect of any Equity Claim, and (iii) any Subsequent Claim;

“**Claims Bar Date**” means 4:00 p.m. (Toronto Time) on September 15, 2010, or such other date as may be ordered by the CCAA Court;

“**Claims Procedure Order**” means the Order of the Honourable Madam Justice Pepall dated July 27, 2010, as may be amended, restated or varied by subsequent Orders of the CCAA Court;

“**Common Share**” means a common share to be issued upon the Implementation of this Plan as authorized pursuant to the Articles of Reorganization;

“**Convenience Class**” means the Creditors who are unsecured creditors in respect of the provision of goods or services to the Applicant with Proven Claims of \$1,000.00 or who elect to waive any amount of their Proven Claim in excess of \$1,000.00 and receive payment under Section 4.1 of this Plan;

“**Creditor**” means, subject to the Claims Procedure Order and Section 8.4 of this Plan, any holder of an Affected Claim, in that capacity;

“**Creditors’ Meeting**” means the meeting of Proven Creditors called for the purposes of considering and voting in respect of this Plan, which has been set by the Creditors’ Meeting Order and, subject to such Order, to take place at 10:00 a.m. (Toronto Time) on March 26, 2011 and any postponements, adjournments or amendments thereof;

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

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

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

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



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

**“Derivative Right”** means any right or cause of action in law or in equity held by a Creditor in respect of or derived from a Proven Claim including without limitation any right of the Creditor to recover damages for fraudulent misrepresentation, negligent misrepresentation, conversion, breach of statutory duty or any other wrongful act, against any associate or affiliate of the Applicant or any employee or third party owing fiduciary or other duties at law to the Applicant or to any associate or affiliate of the Applicant, and any right to trace advances made by the Creditor and included in the Proven Claim to or investments made in the Applicant into amounts, property, rights or things held by, held in trust for or owing from any associate or affiliate of the Applicant to the Creditor, provided that in each case the relationship of or to the associate or affiliate of the Applicant and of the Creditor to any such shall be determined as at the Filing Date;

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

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

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

**“Eligible Voting Creditor”** means a Creditor having a Proven Claim or a Disputed Claim but shall not include any Creditor in respect of an Equity Claim;

**“Equity Claim”** has the meaning set out in the CCAA and includes any Claim as a Creditor in respect of any shares of the Debtor issued and outstanding on or before the Filing Date and subject to the Order of the Honourable Madame Justice Pepall dated November 16, 2010;

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

**“Filing Date”** means March 23, 2010, being the date of the Initial Order;

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

which shall be a date that occurs after all Disputed Claims have been finally determined in accordance with the Claims Procedure Order;

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

“**Initial Distribution Date**” means a Business Day to be chosen by the Applicant, on which initial distributions of Common Shares and of New Special Shares are to be made on account of Proven Claims;

“**Initial Order**” means the Order granted by the CCAA Court in the CCAA Proceedings on March 23, 2010, as amended, restated, varied or extended from time to time by subsequent Orders of the CCAA Court;

“**Interim Operating Officer**” means the Interim Operating Officer, Ms. Sherry Townsend, appointed by the CCAA Court pursuant to the Order of the Honourable Madame Justice Pepall made on November 22, 2010 and any successor Interim Operating Officer hereafter appointed by the CCAA Court;

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

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

“**Litigation Trust**” means the trust established under the terms of the Declaration of Trust annexed to this Plan as Schedule “D” providing for the enforcement the Derivative Rights for the benefit of all Participating Creditors upon such Declaration of Trust being executed by the Applicant upon the implementation of the Plan;

“**Monitor**” means A. John Page & Associates Inc., in its capacity as the monitor of the Applicant in the CCAA Proceedings, and not in its corporate or personal capacity;

“**Monitor’s Website**” means the website maintained by the Monitor located at the following address: <http://www.ajohnpage.com/html/files.html>;

“**New Special Share**” means the New Special Share to be issued by the Applicant upon the implementation of this Plan and having the rights as authorized under the terms of the Articles of Reorganization;

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

“**Notice of Revision or Disallowance**” means a written notice, substantially in the form attached as Schedule “5” to the Claims Procedure Order, delivered to a Creditor advising that the Monitor has revised or disallowed all or part of such Creditor’s Filed Claim (as defined in the Claims

Procedure Order) for the purposes of voting and/or distribution and providing the reasons for the revision or disallowance;

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

**“Participating Creditor”** means a Creditor who shall have elected to take benefits under the Plan and who shall have executed and delivered to the Applicant the Receipt, Release and Assignment required pursuant to Section 8.2 of this Plan;

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

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

**“Plan Implementation Date”** means a Business Day, as determined by the Applicant, once all conditions precedent to the implementation of this Plan set out in Section 6.2 have been satisfied or waived;

**“Plan Termination Date”** means that date being 90 days after the date of the granting of the Sanction Order;

**“Permitted Liens”** means any Lien arising or granted in relation to any of the Applicant’s property, assets and undertaking as a result of a borrowing transaction authorized by the by-laws of the Applicant, approved in accordance with the requirements of the Capital Recovery Debentures then outstanding, approved by special resolution of the voting shareholders of the Applicant or otherwise arising in the ordinary course of the operation of the business of the Applicant by operation of any law of general application;

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

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

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

**“Proven Claim”** means the Claim of a Creditor, as finally determined in accordance with the Claims Procedure Order or any other order of the CCAA Court but for greater certainty shall not include any Equity Claim;

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

**“Receipt, Release and Assignment”** means the receipt, release and assignment required to be executed and delivered by all Creditors receiving distributions under this Plan in accordance with Section 8.2 of this Plan and in the form of Schedule “D”;

**“Representative Counsel”** means Douglas Turner, Q.C. in his capacity as Representative Counsel for the Noteholders of the Applicant pursuant to his appointment by the CCAA Court under the Order of the Honorable Madame Justice Pepall made on June 15, 2010 as amended by the Order made on November 22, 2010 and as such may be amended by further orders of the Court and such shall also include Richard B. Jones in his capacity as Special Counsel to the Representative Counsel as appointed pursuant to the Court Order of June 15, 2010 and such shall include any successor or replacement performing the same or similar functions as may be appointed by Order of the CCAA Court from time to time;

**“Representative Counsel’s Certificate”** has the meaning attributed to it in section 6.3 hereof;

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

**“Sanction Order”** means an Order sanctioning this Plan, ordering the filing of the Articles of Reorganization and giving all necessary directions regarding the implementation of this Plan, which shall include the provisions set forth in Sections 6.1, 8.1 and 8.5 of this Plan;

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

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

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

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

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

## **1.2 Article and Section Reference**

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

## **1.3 Extended Meanings**

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

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

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

## **1.5 Inclusive Meaning**

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

## **1.6 Currency**

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

## **1.7 Statutory References**

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

## **1.8 Successors and Assigns**

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

## **1.9 Governing Law**

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

## **1.10 Severability of Plan Provisions**

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

## **1.11 Timing Generally**

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

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

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

### **1.13 Schedules**

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

- Schedule "A" - Form of Representative Counsel's Certificate
- Schedule "B" - Articles of Reorganization
- Schedule "C" - Form of Capital Recovery Debenture
- Schedule "D" - Form of Receipt, Release and Assignment
- Schedule "E" - Declaration of Trust – Litigation Trust
- Schedule "F" - Form of Proxy
- Schedule "G" - Form of Voting Letter

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

### **2.1 Purpose**

The purpose of this Plan is to provide for a compromise and arrangement of all Affected Claims against the Applicant in order to enable the business of the Applicant to continue as a going concern, in the expectation that a greater benefit will be derived by the Applicant and its stakeholders from the continued operation of the business of the Applicant and the distributions under the Plan than would result from the sale or forced liquidation of its assets.

### **2.2 Intended Effect of the Plan**

The effect of the Plan is that each Creditor holding a Proven Claim will receive a Capital Recovery Debenture in the principal amount of \$25.00, New Special Share with a stated capital and redemption value of \$25.00 and one Common Share with a stated capital of \$1.00 in full satisfaction of each \$100.00 of such Proven Claim. The value of the consideration being provided to Creditors under the Plan is determined by the Applicant to be the stated capital of the Shares and is less than the amount of the Proven Claims. Subject to a capped pool of funds,

Proven Claims may elect to receive payment of 25% of the amount of the Proven Claim as an alternative and in full satisfaction of all rights and Claims against the Applicant and under this Plan. Convenience Class Proven Claims and Excluded Claims will be paid in full.

All Equity Claims will be discharged by the Plan and receive nothing under it. Under the Articles of Reorganization, all of the common shares, Series A Preferred Shares and Series B Preferred Shares previously issued by the Applicant and outstanding on to the Filing Date will be cancelled and of no further force or effect as against the Applicant. After the Implementation of the Plan, all of the Proven Claims of Affected Creditors will be satisfied in full by the issuance of Common Shares and New Special Shares, such shares issued in Implementation of the Plan will be the only share capital of the Applicant then issued and outstanding, and all other Claims will be discharged and released.

### **2.3 Releases**

The Plan provides for the release of Claims that Affected Creditors may have against the former director of the Applicant, Marc Boutet, that arose before the Filing Date and that relate to the obligations of the Applicant where he is by law liable solely in his capacity as a director for the payment of such obligations. This limited release does not affect or include any claims that relate to the contractual rights of any Creditor or that are based on allegations of misrepresentations made by Mr. Boutet or by any person other than the Applicant for which he is responsible as a matter of law to Creditors or any wrongful or oppressive conduct that he or persons for whom he is responsible may have committed. Otherwise, the Plan does not affect any claims that any of the Affected Creditors, including any persons holding Equity Claims, has or may have had as of the Filing Date against Mr. Boutet or any person or corporation other than the Applicant.

## **ARTICLE 3 CLASSIFICATION OF CLAIMS**

### **3.1 Classification of Claims**

For the purposes of considering and voting on this Plan and receiving a distribution hereunder, all Proven Claims shall be grouped into a single class and all Equity Claims shall be in a separate class. The Equity Claims shall not be entitled to vote on this Plan or to receive any distribution hereunder.

### **3.2 Affected Persons**

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

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

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



- (a) Claims for goods or services provided to the Applicant on or after the Filing Date;
- (b) Claims of the nature secured by the Administration Charge;
- (c) Crown Claims; and
- (d) Secured Claims, to the extent that they are Proven Claims.

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

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

### **3.5 Crown Claims**

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

## **ARTICLE 4 TREATMENT OF CREDITORS**

### **4.1 Treatment of Convenience Class**

Proven Claims in the Convenience Class shall be paid by the Applicant upon the Implementation Date the lesser of the amount of the Proven Claim or a maximum of \$1,000.00 in full satisfaction of the Proven Claim.

### **4.2 Cash Exit Option**

During the period from the passing of the resolution of Creditors approving the Plan until ten (10) days after the Sanction Date, any Proven Creditor shall have the option to elect in writing to take a payment of 25 cents on the dollar of such Creditor's Proven Claim in full satisfaction of all but not less than all of such Claim and of all rights and entitlements under this Plan. The Applicant shall satisfy Cash Exit Options only to the extent of a maximum of \$10,000,000 of Proven Claims. If more than \$10,000,000 of Proven Claims elect to take the Cash Exit Option, such electing Claims shall only be satisfied *pro rata* and the remaining balance of each Proven Claim shall continue as a Proven Claim under this Plan. Creditors electing and receiving a Cash Exit Option distribution under the Plan shall not participate thereafter in any benefits under this Plan in respect of the Proven Claim so satisfied including, without limitation, any rights under or future distributions from the Litigation Trust.

### **4.3 Treatment of Proven Claims**

In full and final satisfaction of its Proven Claims, the Applicant shall on the Implementation Date issue and deliver to each Proven Creditor:

- (a) a Capital Recovery Debenture in the principal amount of \$25.00 for each \$100.00 of the amount of the Proven Claim of the Proven Creditor, provided that a Proven Creditor shall have the right to elect in writing to receive on the Plan Implementation Date a New Special Share in the place of each \$25.00 of principal amount of Capital Recovery Debenture that it would otherwise have been entitled to receive;
- (b) One (1) New Special Share from treasury with a redemption value and stated capital of \$25.00 for each \$100.00 of the amount of the Proven Claim of the Proven Creditor, rounded to the nearest integral number of hundreds of dollars, and such share shall be issued as a fully paid and non-assessible share and otherwise on and subject to the terms and conditions of the Articles of Reorganization; and
- (c) One (1) Common Share from treasury for each \$100.00 of the amount of the Proven Claim of the Proven Creditor, rounded to the nearest integral number of hundreds of dollars, issued with a stated capital of \$1.00 and as a fully paid and non-assessible share and otherwise on and subject to the terms and conditions of the Articles of Reorganization.

#### **4.4 Excluded Claims**

All Excluded Claims shall be paid by the Applicant in accordance with and subject to the terms of Sections 3.3, 3.4 and 3.5 hereof.

### **ARTICLE 5 CREDITORS' MEETING**

#### **5.1 Creditors' Meeting and Conduct**

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

#### **5.2 Voting by Creditors**

Each Eligible Voting Creditor shall be entitled to cast a single vote on this Plan at the Creditors' Meeting which vote shall be tabulated in the aggregate dollar amount of such Creditor's Proven Claim and Disputed Claim, if any. The Chair of the Creditors' Meeting shall keep a separate record and tabulation of the votes cast by each Eligible Voting Creditor and of any votes cast in respect of Disputed Claims. The Chair shall report the result of the vote and the tabulation of votes by numbers of Creditors voting to approve or reject the Plan and by the amount of Proven Claims and Disputed Claims voting to approve or reject the Plan to the Creditors' Meeting and to the CCAA Court. If the vote on the approval or rejection of the Plan by Eligible Voting Creditors is decided by the votes in respect of the Disputed Claims, the Applicant shall seek an order for an expedited determination of any material Disputed Claims and an appropriate deferral of the application for the Sanction Order and any other applicable dates in the Plan. The fact that a

Disputed Claim is allowed for voting purposes shall not preclude the Applicant and the Representative Counsel from disputing the Disputed Claim for distribution purposes.

### **5.3 Acceptance of Plan**

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

## **ARTICLE 6 CONDITIONS OF PLAN IMPLEMENTATION**

### **6.1 Sanction Order**

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

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

- (i) any defaults or events of default arising as a result of the insolvency of the Applicant prior to the Plan Implementation Date;
  - (ii) any change of control of the Applicant arising from implementation of the Plan;
  - (iii) the fact that the Applicant has sought or obtained relief under the CCAA or that this Plan has been implemented by the Applicant;
  - (iv) the effect on the Applicant of the completion of any of the transactions contemplated by this Plan;
  - (v) any compromises or arrangements effected pursuant to this Plan; or
  - (vi) any other event(s) which occurred on or prior to the Plan Implementation Date which would have entitled any Person to enforce rights and remedies, subject to any express provisions to the contrary in any agreements entered into with the Applicant after the Filing Date. For greater certainty, nothing in this paragraph shall waive any obligations of the Applicant in respect of any Excluded Claim;
- (d) the Articles of Reorganization, including the cancellation of all previously outstanding shares in the capital stock of the Applicant, shall be approved and ordered to be filed in accordance with section 186 of the *Business Corporations Act*;
- (e) the Court declares that the issued and outstanding shares in the capital stock of the Applicant as of the Filing date have no economic value and the holders of such shares have no economic interest in the Applicant or under the Plan;
- (f) the commencement or prosecution, whether directly, indirectly, derivatively or otherwise, of any demands, claims, actions, counterclaims, suits, judgment, or other remedy or recovery with respect to any Claim released, discharged or terminated pursuant to this Plan shall be permanently enjoined;
- (g) the releases effected by this Plan shall be approved, and declared to be binding and effective as of the Plan Implementation Date upon all Creditors and all other Persons affected by this Plan and shall enure to the benefit of all such Persons; and
- (h) all Charges established by the Initial Order or any other Order of the CCAA Court, shall be terminated, released and discharged effective on the Plan Implementation Date, save and except insofar as the Administration Charge has attached to the Administration Charge Reserve established by the Monitor, the Representative Counsel, the Interim Operating Officer and the Applicant pursuant to Section 1.1 herein.

## 6.2 Conditions of Plan Implementation

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

- (a) this Plan shall have been approved by the required majorities of Creditors entitled to vote at the Creditors' Meeting;
- (b) the CCAA Court shall have approved the Plan and ordered the filing of Articles of Reorganization in relation to the Applicant under the *Business Corporations Act* (Ontario), and in particular s.186 thereof, providing for the issuance of the New Special Shares and Common Shares in accordance with the Plan, the cancellation of all Existing Preferred Shares and common shares;
- (c) the Sanction Order shall have been granted by the CCAA Court in a form acceptable to the Applicant and shall be in full force and effect and not reversed, stayed, varied, modified or amended;
- (d) all applicable appeal periods in respect of the Sanction Order shall have expired and in the event of an appeal or application for leave to appeal, final determination shall have been made by the applicable appellate court;
- (e) all approvals, orders, determinations or consents required pursuant to Applicable Law (including approvals under the *Investment Canada Act* and the *Competition Act*, if applicable,) shall have been obtained on terms and conditions satisfactory to the Applicant, acting reasonably, and shall remain in full force and effect on the Plan Implementation Date;
- (f) all necessary corporate action and proceedings of the Applicant shall have been taken to approve this Plan and to enable the Applicant to execute, deliver and perform its obligations under the Capital Recovery Debentures, the shares, agreements, documents and other instructions to be executed and delivered by it pursuant to this Plan;
- (g) all agreements, resolutions, documents and other instruments, which are necessary to be executed and delivered by any director or officer of the Applicant in order to implement this Plan and perform their obligations under this Plan shall have been executed and delivered; and
- (h) the Representative Counsel shall file the Representative Counsel's Certificate with the CCAA Court and deliver a copy thereof to the Applicant.

Except for the conditions set out in 6.2(a), (b), (c) and (h), each of the conditions set out in this Section 6.2 may be waived in whole or in part by the Applicant by written notice to the Representative Counsel and to the Monitor. If a condition set out above has not been satisfied or waived in accordance with this Section 6.2 on or before the date of the Plan Termination Date, this Plan shall automatically terminate, in which case the Applicant shall not be under any further obligation to implement this Plan.

### **6.3 Representative Counsel's Certificate**

Upon written notice from the Applicant or the IOO (or respective counsel on their behalf) to the Representative Counsel that the conditions set out in Section 6.2, other than condition 6.2(h), have been satisfied or waived, the Representative Counsel shall, as soon as possible following receipt of such written notice, deliver to the Applicant and file with the CCAA Court a certificate which states that all conditions precedent set out in Section 6.2 have been satisfied or waived and in substantially the form of the Representative Counsel's Certificate.

## **ARTICLE 7 IMPLEMENTATION OF THE PLAN**

### **7.1 Articles of Reorganization**

Upon the granting of the Sanction Order, the Applicant shall file the Articles of Reorganization in accordance with the terms of the Sanction Order and the Interim Operating Officer shall be authorized to take all steps necessary on behalf of the Applicant to do so. On the Plan Implementation Date, the Applicant shall issue the New Special Shares and Common Shares to the Proven Creditors in accordance with its obligations under the Plan. As Disputed Claims are determined, any resulting additional Proven Claims shall be forthwith arranged by the issuance of further New Special Shares and Common Shares in accordance with the Plan. When all Disputed Claims have been determined and satisfied in accordance with the Plan, the Applicant shall give notice to the Monitor and to the Representative Counsel of the Final Distribution Date.

### **7.2 Effectuating Documents**

The Interim Operating Officer or such officers as shall be elected or appointed and designated by the board of directors of the Applicant put in place under the Articles of Reorganization shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures and other agreements or documents, and take such other actions, as may be necessary or appropriate, to effectuate and further evidence the terms and conditions of this Plan. The secretary or assistant secretary of the Applicant shall be authorized to certify or attest to any of the foregoing actions documents or things.

### **7.3 Administration Charge**

On the Plan Implementation Date, (i) all outstanding, invoiced obligations, liabilities, fees and disbursements of the type secured by the Administration Charge shall be fully paid by the Applicant, and (ii) a reserve for any uninvoiced amounts of the type secured by the Administration Charge as of the Plan Implementation Date (together with an estimated amount for future accruals) shall be fully funded by the Applicant ("Administration Charge Reserve"). The amount of the Administration Charge Reserve shall be agreed to by the Monitor, the Representative Counsel, the Interim Operating Officer and the Applicant, acting reasonably, and the Administration Charge Reserve shall be administered by the Representative Counsel. Subject to Section 6.1(h), upon payment of the amounts secured by the Administration Charge, or the funding of the Administration Charge Reserve, the Administration Charge shall be and be deemed to be discharged from the assets of the Applicant and attach to the Administration Charge Reserve, if applicable. On the date of the Final Distribution, to the extent that the

Administration Charge Reserve exceeds the actual costs paid or payable from the Administration Charge Reserve, the excess amount shall be returned to the Applicant.

#### **7.4 Discharge of Monitor and Representative Counsel**

When all distributions in accordance with the Plan have been made by the Applicant, the Monitor and the Representative Counsel shall be discharged.

### **ARTICLE 8 PROVISIONS GOVERNING DISTRIBUTIONS**

#### **8.1 Distributions on Proven Claims**

On the Initial Distribution Date, Proven Creditors will be entitled to receive distributions in accordance with Section 4.1, 4.2 and 4.3 hereof, provided, however, that with respect to a Creditor that is the holder of both a Proven Claim and a Disputed Claim, the Applicant may elect, in its sole discretion, to withhold distribution on such Creditor's Proven Claim on the Initial Distribution Date and make a single distribution to such Proven Creditor on the Final Distribution Date.

#### **8.2 Required Delivery to Receive Distribution**

To be entitled to receive a distribution under the Plan, a Proven Creditor must execute and deliver against delivery of its distribution a Receipt, Release and Assignment containing a receipt for the distribution, a release of all Claims and an assignment to the Applicant, in trust, of all of its Derivative Rights. The Receipt, Release and Assignment shall be substantially in the form of the Receipt, Release and Assignment annexed as Schedule "D" to this Plan.

#### **8.3 Distributions by the Applicant**

All distributions to be made under this Plan to a Proven Creditor shall be sent by regular mail to such Proven Creditor to the address provided by the Creditor on its Receipt, Release and Assignment delivered to the Applicant under the requirement of Section 8.2 of the Plan or such other address as the Proven Creditor may from time to time notify the Applicant in accordance with Section 12.7 of this Plan.

#### **8.4 Interest on Affected Claims**

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

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

The Applicant and the Monitor shall not be obligated to deliver any distributions under this Plan to any transferee or assignee of an Affected Claim unless a Proof of Assignment has been

delivered to the Monitor and the Applicant no later than five Business Days prior to the Initial Distribution Date or Final Distribution Date, as applicable to such assigned Affected Claim.

### **8.6 Undeliverable and Unclaimed Distributions**

If any delivery or distribution to be made pursuant to Sections 4.2, 4.3 and 8.1 of this Plan is not made because the Proven Creditor refuses or neglects to execute and return to the Applicant an executed Receipt, Release and Assignment required under Section 8.2 within 180 days following the Sanction Date or the delivery or distribution is returned as undeliverable and remains unclaimed by the Proven Creditor for 90 days thereafter, the Claim of the Proven Creditor with respect to such undelivered or unclaimed distribution shall be discharged and forever barred, notwithstanding any federal or provincial laws to the contrary, and any Common Shares and New Special Shares issued the Proven Creditor or allocable to the undeliverable or unclaimed distribution, shall be cancelled by the Applicant. Nothing contained in this Plan shall require the Applicant to attempt to locate any holder of any undeliverable or unclaimed distributions.

### **8.7 Tax Matters**

- (a) **Allocation of Distributions.** All distributions made pursuant to this Plan in respect of a Proven Claim shall be applied first in consideration of the outstanding principal amount of such Proven Claim, and secondly in consideration of the accrued and unpaid interest and penalties, if any, which form part of such Proven Claim. Notwithstanding any other provision of this Plan, including subsection (b) below, each Proven Creditor that is to receive a distribution pursuant to this Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed by any Authorized Authority on account of such distribution.

The Applicant has determined that the aggregate fair value of its assets and undertaking on a going-concern basis is such that the attributed fair market value of the distributions made by it under this Plan amounts to not more than fifty one percent (51%) of the aggregate of the Proven Claims. The Applicant will reflect that value in its books of account and will make its income tax and other filings on that basis.

- (b) **Withholding Rights.** All distributions hereunder shall be subject to any withholding and reporting requirements imposed by any Applicable Law or any Taxing Authority and the Applicant shall deduct, withhold and remit from any distributions hereunder payable to a Proven Creditor or to any Person on behalf of any Proven Creditor, such amounts as the Applicant determines that it is required to deduct and withhold with respect to such payment under the ITA or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or succeeded. To the extent that amounts are so withheld, such withheld amounts shall be treated for all purposes as having been paid to the Proven Creditor in respect of which such deduction and withholding was made, provided that such withheld amounts are actually remitted to the appropriate Taxing Authority. The Applicant shall have no liability with respect to any claim



arising from any failure to make withholdings from any distribution on account of a Proven Claim.

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

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

The Applicant reserves the right to file any variation or modification of, or amendment or supplement to, this Plan by way of a supplementary or amended and restated plan or plans of compromise or arrangement or both filed with the CCAA Court at any time or from time to time prior to the commencement of the Creditors' Meeting, provided that the Applicant obtains the prior consent of the Monitor to any such variation, modification, amendment or supplement. Any such supplementary or amended and restated plan or plans of compromise or arrangement or both shall, for all purposes, be deemed to be a part of and incorporated into this Plan. Any such variation, modification, amendment or supplement shall be posted on the Monitor's Website on the day on which it is filed with the CCAA Court and notice will be provided to the CCAA Proceedings service list. Creditors are advised to check the Monitor's Website regularly. Creditors who wish to receive written notice of any variation, modification, amendment or supplement to the Plan should contact the Monitor in the manner set out in Section 12.7 of this Plan. Creditors in attendance at the Creditors' Meeting will also be advised of any amendment made to the Plan.

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

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

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

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

### **10.1 Implementation**

On the Plan Implementation Date, subject to the satisfaction or waiver of the conditions contained in Section 6.2 of this Plan, the Applicant shall file the Articles of Reorganization in accordance with the terms of the Sanction Order and shall then proceed to issue the Capital Recovery Debentures, the New Special Shares and the Common Shares in accordance with the terms of this Plan in order to implement it. Upon the filing of the Articles of Reorganization and the authorization and issuance of the Shares, this Plan shall be binding upon all Creditors in accordance with the terms of this Plan and the Sanction Order.

### **10.2 Effect of the Plan Generally**

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

### **10.3 Compromise Effective for All Purposes**

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

### **10.4 Contracts**

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

### **10.5 Plan Releases**

On the Plan Implementation Date:

- (a) The Applicant shall be forever released from all Affected Claims;
- (b) In consideration of the performance by the Applicant of the Plan, each Creditor of the Applicant shall be deemed to have released, subject to section 5.1(2) of the CCAA, the former director of the Applicant, Marc Boutet, and his heirs, successors and assigns from any claims that relate to the obligations of the Applicant where he is by law liable solely by reason of and in his capacity as a director for the payment of such obligations;

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

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

Any and all proceedings, including, without limitation, suits, actions, extra-judicial proceedings, enforcement processes or other remedies commenced, taken or proceeded with or that may be commenced, taken or proceeded with by any Person having a Claim, and by any employees, shareholders, customers, suppliers, contractors, lenders, equipment lessors, licensors, licensees, sub-licensors, sub-licensees, governments of any nation, province, state or municipality or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, or by any other Person, firm, corporation or entity wherever situate or domiciled, against or in respect of the Applicant or in respect of any property, assets, rights, concessions and undertaking wherever located, whether held by the Applicant, in whole or in part, directly or indirectly, as principal, agent or nominee, beneficially or otherwise, whether pursuant to the BIA or otherwise, shall be permanently stayed as reflected in the Sanction Order.

#### **10.7 Exculpation**

None of (i) the Applicant; (ii) the Monitor; (iii) the Representative Counsel; (iv) the Special Counsel to the Representaive Counsel; (v) the Interim Operating Officer; and (vi) any of their respective directors, officers, employees, agents, professional advisors (including legal counsel) or successors and assigns, shall have or incur any liability to any holder of a Claim or Equity Claim in the Applicant, or other party in interest, or any of their respective members, officers, directors, employees, professional advisors (including legal counsel) or agents or any of their successors and assigns, for any act or omission in connection with, related to, or arising out of the CCAA Proceedings, the pursuit of the approval, implementation or administration of the Plan, or the property to be distributed under the Plan, including the negotiation and solicitation of support for the approval of the Plan, except for wilful misconduct or gross negligence, and, in all respects, all such persons and each other their respective members, officers, directors, employees, professional advisors (including legal counsel) or agents shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

## **10.8 Waiver of Defaults**

From and after the Plan Implementation Date, and subject to any express provisions to the contrary in any amending agreement entered into with the Applicant after the Filing Date, all Persons shall be deemed to have waived any and all defaults of the Applicant then existing or previously committed by the Applicant or caused by the Applicant or any of the provisions hereof or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, express or implied, in every contract, agreement, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease, personal property lease or other agreement, written or oral, any amendments or supplements thereto, existing between such Person and the Applicant. Any and all notices of default, acceleration of payments and demands for payments under any instrument, or other notices, including without limitation, any notices of intention to proceed to enforce security, arising from any of such aforesaid defaults shall be deemed to have been rescinded and withdrawn. For greater certainty, nothing in this paragraph shall waive any obligations of the Applicant in respect of any Excluded Claim.

## **10.9 Consents and Releases**

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

## **10.10 Deeming Provisions**

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

# **ARTICLE 11 POST IMPLEMENTATION MATTERS**

## **11.1 Lending, Financing and Disclosure**

From and after the Plan Implementation Date and for as long as any of the Capital Recovery Debentures are outstanding, and without limiting the representations, warranties or covenants contained in the Capital Recovery Debentures, the Applicant covenants to and in favour of the Proven Creditors as follows:

- (a) the Applicant shall prepare or cause to be prepared annual audited financial statements, which shall be distributed to all Creditors who receive New Special Shares and Common Shares under this Plan;
- (b) the Applicant shall prepare or cause to be prepared unaudited interim financial statements, on a quarterly basis, which shall be distributed by email or posting on the website of the Applicant to all Creditors who receive New Special Shares and Common Shares upon Implementation; and

- (c) the Applicant shall not grant, create, assume or suffer to exist any Lien affecting any of its property, assets or undertaking, except for a Permitted Lien.

## **11.2 Derivative Rights and the Litigation Trust**

From and after the Plan Implementation Date, the Trustees from time to time under the Litigation Trust shall have the exclusive authority and capacity to assert and enforce the Derivative Rights or any of them assigned to the Litigation Trust by each Participating Creditors.

## **ARTICLE 12 GENERAL PROVISIONS**

### **12.1 Different Capacities**

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

### **12.2 Further Assurances**

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

### **12.3 Set-Off**

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

### **12.4 Paramountcy**

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

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

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

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

## **12.6 Preservation of Rights of Action**

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

## **12.7 Notices**

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

- (a) if to the Applicant, the Interim Operating Officer or the Representative Counsel:

Nelson Financial Group Ltd.  
900 Dillingham Road  
Pickering, Ontario L1W 1Z6

Attention: Ms. Sherry Townsend  
Interim Operating Officer

Fax: (905) 839-1761  
E-mail: stownsend@providercapitalgroup.com

with a copy to:

Richard B. Jones  
Barrister & Solicitor  
100 Yonge Street, Suite 1201  
Toronto, Ontario  
M5C 2W1

Fax: (416) 863-0092  
Email: richard.jones@sympatico.ca

and a copy to:

Douglas Turner Q.C.  
Barrister & Solicitor  
63 Albert Street, P.O. Box 760  
Uxbridge, Ontario L9P 1E5

Fax: (905) 852-6197  
E-mail: doug@pdturner.com

(b) if to a Creditor:

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

(c) if to the Monitor:

A. John Page & Associates Inc.  
100 Richmond Street West, Suite 447  
Toronto, Ontario M5H 3K6

Attention: John Page  
Fax: (416) 364-4894  
E-mail: [ajpage@ajohnpage.com](mailto:ajpage@ajohnpage.com)

with a copy to:

Thornton Grout Finnigan LLP  
Barristers & Solicitors  
Suite 3200, Canadian Pacific Tower  
100 Wellington Street West, P.O. Box 329  
Toronto-Dominion Centre  
Toronto, Ontario M5K 1K7

Attention: James H. Grout  
Fax: (416) 304-1313  
E-mail: [jgrout@tgf.ca](mailto:jgrout@tgf.ca)

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

**EXECUTED** at Pickering, Ontario as of this 11<sup>th</sup> day of February, 2011

**NELSON FINANCIAL GROUP LTD.**

Per: \_\_\_\_\_  
Sherry Townsend  
Interim Operating Officer



**SCHEDULE "A"**

**FORM OF REPRESENTATIVE COUNSEL'S CERTIFICATE**

Court File No. CV-10-8630-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT  
OF NELSON FINANCIAL GROUP LTD.**

**REPRESENTATIVE COUNSEL'S CERTIFICATE**

**RECITALS**

- A. Pursuant to the order of this Honourable Court dated March 23, 2010 (the "Initial Order") Nelson Financial Group Ltd. ("the Applicant") filed for and obtained protection from its creditors under the *Companies' Creditors Arrangement Act* R.S.C. 1985, c. C-36, as amended.
- B. The Applicant has filed a Plan of Compromise and Arrangement under the CCAA dated February , 2011 (the "Plan"), which Plan has been approved by the Creditors and the Court; and
- C. Unless otherwise indicated herein, initially capitalized terms used herein have the meaning set out in the Plan.

**THE REPRESENTATIVE COUNSEL HEREBY CERTIFIES** that it has been advised by the Applicant and the Interim Operating Officer in accordance with Section 6.3 of the Plan that the conditions precedent set out in Section 6.2 of the Plan, other than the delivery of this certificate, have been satisfied or waived in accordance with the Plan on , 2010 and that accordingly, the Plan Implementation Date is , 2011.

**DATED** at Toronto, Ontario, this day of , 2011.

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**DOUGLAS TURNER, Q.C.** in his capacity as the Representative Counsel for the Noteholders of Nelson Financial Group Ltd. and not in his personal capacity

**SCHEDULE "B"**  
**ARTICLES OF REORGANIZATION**

Text for Articles of Reorganization

Page 1

1. NELSON FINANCIAL GROUP LTD.
2. PROVIDER CAPITAL GROUP INC.
3. 1990 Sept 4
4. 2011 March
- 5.

1. The issued and outstanding Class A common shares, Class B common shares, Series A Preferred Shares and Series B Preferred Shares are cancelled and of no further force or effect.

[Page 1A through 1D]

2. The classes and shares that the Corporation is authorized to issue from and after the date of filing of these Articles of Reorganization shall be as follows:
  - a) The Corporation is authorized to issue an unlimited number of Common Shares and 50,000 New Special Shares;
  - b) The rights, privileges, restrictions and conditions attaching to the Common Shares shall include the following: Payment of Dividends: The holders of the Common Shares shall be entitled to receive dividends if, as and when declared by the Board of Directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the Board of Directors may from time to time determine. Subject to the rights of the holders of any other class of shares of the Corporation entitled to receive dividends in priority to or rateably with the holders of the Common Shares, the Board of Directors may in their sole discretion declare dividends on the Common Shares to the exclusion of any other class of shares in the Corporation.
    - (i) Participation upon Liquidation, Dissolution or Winding-Up: In the event of the Liquidation, Dissolution or Winding-Up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs, the holders of the Common Shares shall, subject to the rights of the holders of any other class of shares of the Corporation entitled to receive the asset for the Corporation upon such a distribution in priority to or rateably with the holders of the Common Shares, be entitled to participate rateably in any distribution of the assets of the Corporation.

- (ii) Voting Rights: The holders of the Common Shares shall be entitled to receive notice of and to attend all annual and special meetings of the shareholders of the Corporation and to one vote in respect of each Common Share held at all such meetings.
- c) The rights, privileges, restrictions and conditions attaching to the New Special Shares are as follows:
  - (i) The New Special Shares authorized to be issued shall consist of 50,000 shares.
  - (ii) Except as required by the *Business Corporations Act*, the holders of the New Special Shares shall not be entitled to receive notice of or to attend any meeting of shareholders of the Corporation except for a meeting at which the holders of the New Special Shares are entitled to vote separately as a class.
  - (iii) The holders of the New Special Shares, in priority to the holders of the Common Shares and all other shares ranking junior to the New Special Shares, shall be entitled to receive and the Corporation shall pay thereon, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends, fixed preferential cumulative cash dividends at the rate of Six (6%) percent per annum on the Redemption Price (as hereinafter defined) per share. The holders of the New Special Shares shall not be entitled to any dividends other than or in excess of the preferential cumulative cash dividends hereinbefore provided.
  - (iv) Except with the consent in writing of the holders of all of the New Special Shares outstanding, no dividend shall at any time be declared and paid on or set apart for payment on the Common Shares or on any other shares ranking junior to the New Special Shares in any financial year unless and until the approved preferential cumulative cash dividends on all of the New Special Shares outstanding have been declared and paid or set apart for payment.
  - (v) Redemption
    - (a) Subject to the *Business Corporations Act*, the Corporation may redeem or purchase the New Special Shares in accordance with the following terms and conditions. In these share provisions, "Redemption Price" shall be equal to Twenty Five (\$25.00) dollars per share. The "Redemption Amount" for each New Special Share shall be the Redemption Price, together with all cumulative dividends which shall have accrued thereon but shall be unpaid or undeclared and which shall be treated as accruing to the date of such redemption.

- (b) The Corporation may redeem all or from time to time any of the outstanding New Special Shares on payment to the holders thereof of the Redemption Amount. If less than all of the outstanding shares are to be redeemed, the shares to be redeemed shall be selected by lot or, disregarding fractions, *pro rata* to the number of shares registered in the name of each shareholder or in such other manner as the directors may determine with the written consent of all of the holders of the New Special Shares.
- (c) At least thirty (30) days before any redemption date, the Corporation shall give written notice of redemption to each holder of the shares to be redeemed. The notice shall set out the Redemption Amount, the redemption date, the place of redemption and the number of shares to be redeemed. Accidental failure to give such notice shall not affect the validity of any redemption.
- (d) On or after the redemption date, the Corporation shall cause the Redemption Amount to be paid over to the order of the holders of the shares to be redeemed, on surrender of the certificates representing such shares at the redemption place. Such shares shall thereupon be redeemed. From and after the redemption date, the holders of the shares called for redemption shall cease to be entitled to any rights of shareholders in respect thereof except to receive the Redemption Amount, unless it is not paid or deposited in accordance with (in which case their rights shall remain unimpaired).
- (e) The Corporation may at any time deposit the Redemption Amount of any New Special Shares called for redemption with any Canadian chartered bank or trust company or solicitors of the Corporation named in the Notice of Redemption or in a subsequent notice to the holders of the shares in respect of which the deposit is made, in a special account for the holders of such shares. On the date of deposit, or redemption date if later, the shares in respect of which such deposit is made shall be redeemed and from and after such date the rights of their holders shall be limited to severally receiving out of the monies so deposited, without interest, the Redemption Amount of their redeemed shares upon surrender to such bank, trust company or solicitors, as the case may be, of the certificates representing such shares. Any interest earned on any such deposit belongs to the Corporation.

In the event of the liquidation, dissolution or winding up of the Corporation or any distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, the holders of the New Special Shares shall be entitled to receive the Redemption Amount of such shares and shall not share further in any final distribution.

Page 2

6. Provider Capital Group Inc.

[Description of office to right of signature line] – “Interim Operating Officer”

[Down a few lines – to be added to form]:

“Attachment: Order of Superior Court of Justice in Court File No. 10-8630-00CL made on April  
\*, 2011”

[Add Page Numbers 1A etc.]

[Last Page (execution page) is numbered page 2]

**SCHEDULE "C"**  
**FORM OF CAPITAL RECOVERY DEBENTURE**

**PROVIDER CAPITAL GROUP INC.**

**CAPITAL RECOVERY DEBENTURE**

**\$ ,000.00**

**April , 2011**

**ARTICLE 1 - PROMISE TO PAY**

- 1.1 **Promise to Pay. Provider Capital Group Inc.** (the "**Corporation**") for value received hereby acknowledges itself indebted to and promises to pay to or to the order of \_\_\_\_\_ (the "**Creditor**") and any subsequent Holder of this Debenture at Pickering, Ontario, the principal amount of [25% of *Proven Claim Amount*] (\$[•]) (the "**Principal Amount**"), in lawful money of Canada, without interest, until payment in full of all amounts owing to the Holder hereunder in accordance with its terms.

This Debenture is one of a Series of Capital Recovery Debentures issued by the Corporation in the aggregate Principal Amount of not more than Ten Million (\$10,000,000.00) Dollars as part of the Implementation of the Plan of Arrangement of the Corporation. All of the Debentures in the Series shall rank in all respects *parri passu*. The rights to enforce any default under the Debenture is subject to the prior consent, waiver and amendment of and by certain majorities of the Holders of Debentures in the Series as provided in Article 7.

This Debenture is issued on and shall be subject to the following terms and conditions:

**ARTICLE 2 - INTERPRETATION**

2.1 **Definitions.** In this Debenture, capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Plan. Unless there is something in the subject matter or context inconsistent therewith:

- (a) "**Applicable Law**" means, in respect of any Person, property, transaction or event, all applicable laws, statutes, rules, by-laws and regulations, and all applicable official directives, orders, judgments and decrees of Governmental Bodies;
- (b) "**Business Day**" means any day, other than Saturday, Sunday or any statutory holiday in Toronto, Ontario;
- (c) "**Corporation**" means the party described as such in Article 1 hereof, its successors and permitted assigns;