

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) THURSDAY THE 8th DAY
JUSTICE MORAWETZ) OF JUNE, 2006

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

**AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR
ARRANGEMENT WITH RESPECT TO CERVUS FINANCIAL GROUP INC.
AND THE OTHER APPLICANTS LISTED ON SCHEDULE "A"**

INITIAL ORDER

THIS APPLICATION, made by Cervus Financial Group Inc. ("Cervus") and the other Applicants listed on Schedule "A" (collectively, the "Applicants") for an order:

- (a) dispensing with service of the notice of application and application record on any interested party;
- (b) declaring that the Applicants are "affiliated debtor companies" within the meaning of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") and that the CCAA applies to each of the Applicants;



- (c) in respect of each of the Applicants, staying all proceedings and remedies taken or that might be taken in respect of such Applicant, any of its Property (as defined herein) or any default by such Applicant without leave of the Court, except as set forth herein;
- (d) authorizing the Applicants to carry on business in a manner consistent with the ordinary course of business and to make certain payments in connection with their respective businesses and the proceedings herein;
- (e) appointing KPMG Inc. as monitor of the Applicants;
- (f) approving and authorizing debtor-in-possession (“DIP”) financing; and
- (g) granting certain other ancillary relief;

was heard this day at 393 University Avenue, Toronto, Ontario.

ON READING (i) the Notice of Application, (ii) the Affidavit of Peter Williams sworn June 8th, 2006 (the “Williams Affidavit”) and the Exhibits thereto, including the projected cash flow statement and the financial statements for the period ending March 31, 2006 of the Applicants (the “Williams Affidavit”), (iii) the consent of KPMG Inc. (the “Monitor”) to act as Monitor as contemplated hereunder, and (iv) the Report of KPMG Inc. as proposed Monitor (the “KPMG Report”), all filed;

ON HEARING the submissions of counsel for the Applicants, the Monitor, Royal Bank of Canada (“RBC”), and Macquarie Bank Limited (“Macquarie Bank”) and on being advised that none of the other persons who might be interested in these proceedings was served with the Notice of Application or the Application Record herein and on being satisfied that circumstances exist that make this Order appropriate.

Service

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record herein be and it is hereby abridged and that this Application is properly returnable today and that further service thereof upon any party is hereby dispensed with.

Application of the CCAA

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are “affiliated debtor companies” within the meaning of the CCAA and that the CCAA applies to each of the Applicants.

Plan of Arrangement

3. **THIS COURT ORDERS** that the Applicants shall have authority to prepare and file, and are hereby authorized and permitted to file, with this Court and submit to the respective creditors of the Applicants one or more plans of compromise or arrangement under the CCAA (collectively, the “Plan”) between, among others, the Applicants or any of them and one or more classes of their respective creditors as the Applicants may deem appropriate on or before the Stay Date (as subsequently defined) or such other time or times as may be allowed by this Court.

Stay of Proceedings

4. **THIS COURT ORDERS** that, until and including July 8, 2006, or such later date as the Court may order (the “Stay Date”, and the period from the date hereof to the Stay Date being referred to as the “Stay Period”), no suit, complaint, action, grievance, arbitration, application, proceeding, enforcement process, right or remedy (judicial or extra-judicial, statutory or non-statutory) shall be commenced, proceeded with or continued (collectively, the “Proceedings”) by any person, firm, corporation, government, administrative or regulatory body, trust or other entity or organization (including, without limitation, any former, existing or future shareholders, creditors, customers, suppliers, employees, retirees, pensioners, regulators, contracting parties, lessors, licensors, co-venturers or partners of any of the Applicants) (collectively, “Persons” and individually a “Person”) against or in respect of any of the Applicants and/or their existing and after acquired property, assets and undertaking including real and personal tangible and intangible property including, without limitation, all cash, cash equivalents, bank accounts, accounts, chattel paper, contract rights, inventory, instruments, documents, securities (whether or not marketable), equipment, fixtures, real property interests, patents, tradenames, trademarks, copyrights, industrial designs, intangibles, commercial

tort claims, causes of action, interests in any mortgage issued by the Applicants, the issued and outstanding capital stock of each subsidiary and affiliate of Cervus and all substitutions, accessions and proceeds of all of the foregoing, wherever located, including insurance or other proceeds, and including, for greater certainty, on all of the existing and after acquired personal property of the Applicants (collectively, the "Property"), which term shall specifically exclude any of the mortgages purchased, and paid for, by Merrill Lynch Canada Inc. ("Merrill") and any proceeds thereof (excluding, for greater certainty, the proceeds ¹⁹⁷ of any mortgages to Merrill, including amounts collected by Cervus Financial Corp. ("CFC") with respect to mortgages serviced by CFC on behalf of Merrill (the "Merrill Assets") and any amounts collected by CFC in servicing the Merrill Assets shall be kept segregated and held in trust by CFC for Merrill in accordance with prior practices, and all Proceedings already commenced against or in respect of the Applicants or any of the Property are hereby stayed and suspended and the continuation thereof is restrained unless the prior written consent of the applicable Applicant and the Monitor is obtained or leave of this Court is granted.

5. **THIS COURT ORDERS** that, during the Stay Period, the right of any Person:
- (a) to commence or continue realization steps or proceedings in respect of any security interest, encumbrance, lien, charge, mortgage or other security held in relation to, or any trust attaching to, any of the Property (including, without limitation, the right of any Person to take any step in asserting or perfecting any right or interest therein or to exercise any right of registration of securities, distress, seizure, repossession, revendication, stoppage in transit, foreclosure or sale); and
 - (b) to assert, enforce or exercise any right, option or remedy available to it arising by law, under any agreement or otherwise (including, without limitation, any right under section 224(1.2) of the *Income Tax Act* (Canada) or substantially similar provision under provincial law (subject to section 11.4 of the CCAA)); any right of dilution, buy-out, divestiture, forced sale, demand, acceleration, termination, suspension, modification, cancellation, set-off or consolidation of accounts; any

right of first refusal; any right to give notice of assignment of a claim; or any right to revoke any qualification or registration), against or in respect of any of the Applicants or any of the Property or arising out of, relating to or triggered by the occurrence of any default or non-performance by or the insolvency of any of the Applicants, the making or filing of these proceedings or any allegation, admission or evidence in these proceedings,

is hereby stayed and restrained unless the prior written consent of the applicable Applicant and the Monitor is obtained or leave of this Court is granted.

6. **THIS COURT ORDERS** that, except in respect of RBC under and in respect of the Warehouse DIP Documents, and the DIP Lender under and in respect of the DIP Documents, (as such terms are hereinafter defined) without otherwise limiting the generality of paragraph 4, cash or cash equivalents placed on deposit by an Applicant with any Person during the Stay Period, whether in an operating account or otherwise and whether for its own account or for the account of any other entity, shall not be applied by such Person in reduction or repayment of amounts owing to such Person as of the date of this Order or which may become due on or before the expiry of the Stay Period or in satisfaction of any interest or charges accruing in respect thereof, provided that nothing in this paragraph 6 shall prevent any financial institution from: (i) reimbursing itself for the amount of any cheques drawn by an Applicant and properly honoured by the financial institution, or (ii) holding the amount of any cheques or other instruments deposited into an Applicant's account until those cheques or other instruments have been honoured by the financial institution on which they have been drawn.
7. **THIS COURT ORDERS** that, during the Stay Period, all Persons having agreements or other arrangements with any of the Applicants or in connection with any of the Property, whether written or oral (including, without limitation, contracts for the supply of raw materials, goods or services to or by any of the Applicants, insurance policies, partnership agreements, joint venture agreements, operating agreements, outsourcing agreements, commercial leases, equipment leases, quotas and licences):

- (a) are hereby restrained from accelerating, terminating, cancelling, suspending, withdrawing, failing to renew or extend on reasonable terms, modifying or otherwise interfering with such agreements or other arrangements or the rights of such Applicant or any other Person thereunder or exercising any other remedy provided for under such agreements or arrangements, including without limitation any licences, permits, quotas, approvals or consents in respect of such Applicant or in connection with such Property, and without limitation to the foregoing, the operation of any provision of any such agreement or other arrangement that purports to accelerate, terminate, cancel, suspend or modify such agreement or arrangement as a result of the occurrence of any default or non-performance by or as a result of the insolvency of, any of the Applicants, the making or filing of these proceedings or any allegation, admission or evidence in these proceedings is hereby stayed and restrained;
- (b) are hereby restrained from modifying, discontinuing or otherwise interfering with the supply of any raw material, good, service, or other benefit by or to such Person thereunder (including, without limitation, any modification of, discontinuance of or interference with any telephone numbers, any directors' and officers' insurance, any form of telecommunications service or any oil, gas, electricity or other utility supply); and
- (c) shall continue to perform and observe the terms and conditions contained in such agreements or other arrangements (including, without limitation, the payment of all sums to be paid in respect of services performed or to be performed by an Applicant),

so long as such Applicant pays the normal prices or charges for such goods and services received after the date of this Order as such prices or charges become due in accordance with present payment practices or as may be hereafter negotiated (other than deposits, stand-by fees or similar items which such Applicant shall not be required to pay), unless the prior written consent of the applicable Applicant and the Monitor is obtained or the leave of this Court is granted.

8. **THIS COURT ORDERS** that, during the Stay Period, no landlord or sublandlord of any of the Applicants shall:

- (a) exercise any right to terminate or accelerate rent due under a lease with such Applicant;
- (b) interfere with the access of quiet possession of real property by such Applicant;
- (c) exercise any right of distraint, or take possession of any premises leased to such Applicant unless those premises have been abandoned by such Applicant;
- (d) interfere with the removal of inventory, chattels and equipment from premises leased by such Applicant; or
- (e) hinder in any way the orderly liquidation of any Property from premises leased by such Applicant,

all subject to paragraph 9 hereof and the obligation, if any, of such Applicant to pay occupation rent, weekly in advance for the period commencing with the date of this Order and while such Applicant enjoys actual occupation of leased premises, at the presently payable rental rate calculated on a *per diem* basis, or otherwise as may be negotiated by such Applicant from time to time.

9. **THIS COURT ORDERS** that notwithstanding paragraphs 4 to 8 hereof:

- (a) in the case of agreements for the supply of raw materials, goods, services, the use of leased or licensed property (but not under financing leases) or other valuable consideration to an Applicant, no Person is prohibited, solely by the terms of this Order, from requiring immediate payment for any goods, services, use of leased or licensed property or other valuable consideration to be provided to such Applicant after the date of this Order;
- (b) no Person is required, solely by the terms of this Order, to make further advances of money or credit to an Applicant;

- (c) no Person is prohibited, solely by the terms of this Order, from commencing or continuing any action, suit or proceeding against any person other than an Applicant who is obligated under a letter of credit or guarantee in relation to an Applicant;
- (d) no Person is prohibited, solely by the terms of this Order, from exercising any right to terminate, amend or claim any accelerated payment under an “eligible financial contract” (as that term is defined in section 11.1 of the CCAA) and, for greater certainty, when an eligible financial contract entered into before the date of this Order is terminated on or after the date of this Order, the setting off of obligations between an Applicant and the Person (as parties thereto) in accordance with the provisions of the eligible financial contract and the CCAA is permitted (but paragraphs 4 to 8 of this Order will apply to restrain any step or proceeding against such Applicant or any of the Property in respect of a claim for any “net termination value” (as defined in section 11.1 of the CCAA) owing to the Person);
- (e) no Person is prohibited, solely by the terms of this Order, from exercising such rights of set-off as are permitted under section 18.1 of the CCAA; and
- (f) the Toronto Stock Exchange is not prohibited, solely by the terms of this Order, from suspending trading in the shares of Cervus trading under the symbol “CFG:TSX”.

10. **THIS COURT ORDERS** that to the extent any rights or obligations, or time or limitation periods (including, without limitation, the time to file grievances), relating to an Applicant or any of the Property may expire or terminate with the passage of time (other than the term of any lease of real property), the term of such rights or obligations or time or limitation periods shall hereby be deemed to be extended by a period equal to the Stay Period and, without limitation to the foregoing, in the event that an Applicant becomes bankrupt or a receiver within the meaning of section 243(2) of the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) is appointed in respect of an Applicant, the period between the date of this Order and the day on which the Stay Period in respect of

such Applicant ends shall not be calculated in determining the 30-day periods referred to in sections 81.1 and 81.2 of the BIA.

11. **THIS COURT ORDERS** that no Person may commence or continue any action, suit or other proceeding against any former, present or future director or officer of an Applicant or any other person by applicable legislation that is deemed to be or is treated similar to a director of an Applicant or that presently or in the future manages the business and affairs of an Applicant (each, a “Director”, and collectively the “Directors”) in respect of any claim against such Director that arose before the commencement of these proceedings and that relates to obligations of such Applicant where such Director is or is alleged to be, under any law, liable in his or her capacity as such for the payment of such obligations until further order of this Court or until the Plan, if one is filed, is sanctioned by the Court or is refused by the creditors or the Court.
12. **THIS COURT ORDERS** that no Person shall commence or continue any proceeding against any of the Directors, employees, legal counsel or financial advisers of the Applicants, or the Monitor, for or in respect of the Restructuring (as defined herein) or the creation and implementation of the Plan without first obtaining leave of this Court, upon seven days’ written notice to the Applicants’, the Monitor’s, the DIP Lender’s and RBC’s counsel of record and to all those referred to in this paragraph whom it is proposed be named in such proceedings.
13. **THIS COURT ORDERS** that from ~~12:01~~^{5:30} o’clock ~~a.m.~~^{p.m.} (Toronto time) on the date of this Order (the “Effective Time”) to the time of the granting of this Order, any act or action taken or notice given by any Person in furtherance of its rights to commence or continue realization or take or enforce any other step or remedy in respect of any of the Applicants, the Directors or the Property, (to the extent such act, action taken or notice given would otherwise be stayed by paragraph 12 if it occurred after the making of this Order) will be deemed not to have been taken or given as the case may be.

Possession of Property and Carrying on Business

14. **THIS COURT ORDERS** that, subject to the terms of this Order, the Applicants shall remain in possession and control of the Property.

15. **THIS COURT ORDERS** that the Applicants shall continue to carry on business, including the business of any person, firm, joint venture or corporation owned by an Applicant, in a manner consistent with ordinary course of business and the commercially reasonable preservation of the Property and their collective businesses, except as otherwise specifically authorized or directed by this Order or any further order in these proceedings.
16. **THIS COURT ORDERS** that, without limiting paragraph 15 hereof, the Applicants are authorized to continue to retain or employ any employees, agents, servants, Directors, solicitors, advisers and consultants who are retained or employed as of the date of this Order, with liberty to retain or employ such further employees, agents, servants, solicitors, auditors, advisers and consultants as the Applicants deem necessary or desirable to carry on their respective businesses, to carry out the terms of this Order or for the purposes of the Plan.
17. **THIS COURT ORDERS** that the Applicants are authorized to complete any outstanding transactions and engage in new transactions with each other, subject to any express provisions of this Order and to the following:
 - (a) until further Order of the Court, the Applicants may continue on and after the date hereof to buy and sell goods and services and allocate, collect and pay costs, including without limitation, head office expenses and shared goods and services, from and to each other in the ordinary course of business on terms consistent with existing arrangements or past practice;
 - (b) each of the Applicants, with the prior approval of the Monitor and the DIP Lender, may (but are not obligated to) make advances to and make payments on behalf of other Applicants to fund their operations and expenses on terms consistent with existing arrangements or past practice, provided that such other Applicant agrees that it will not exercise any rights of set-off in respect of any such advance against any pre-filing claim of such other Applicant;

- (c) Cervus and Cervus Financial Corp. (“CFC”) are authorized to execute the Definitive Agreement substantially in the form attached as Exhibit “D” to the Williams Affidavit and to complete the transactions contemplated thereunder, if approved by the Court, without the requirement for any further steps under the *Business Corporations Act* (Alberta), or the *Business Corporations Act* (Ontario), including, without limitation shareholder approval, and the shareholders shall not be provided with any rights to dissent in respect thereof.

Payment of Creditors

18. **THIS COURT ORDERS** that the Applicants are hereby directed, except as authorized by this Order or required by section 5.3 of the Definitive Agreement when approved, or any further order in these proceedings:
- (a) to make no payments to any Person on account of any amount owing by an Applicant as of the date of this Order;
 - (b) to make no rental or other payments on account of personal property leased or licensed to an Applicant as of the date of this Order, except in respect of and to the extent that such Applicant continues to make use of such property after the date hereof and the lessor or licensor is entitled to require immediate payment for such use pursuant to section 11.3(a) of the CCAA; and
 - (c) to grant no mortgage, charge or other security upon or in respect of any of the Property, other than purchase-money security interests that are created in compliance with the provisions of the *Personal Property Security Act* (Ontario) or other similar provincial or federal legislation if applicable, provided such Applicant obtains the prior consent of RBC, the DIP Lender and the Monitor.
19. **THIS COURT ORDERS** that the Applicants shall, from and after the date of this Order, remit, in accordance with legal requirements, or pay when due:
- (a) any statutory deemed trust amounts in favour of the Crown in Right of Canada or of any Province or Territory thereof or any foreign jurisdiction which are required

to be deducted from employees' wages including, without limitation, amounts in respect of employment insurance, Canada Pension Plan and income taxes;

- (b) amounts accruing and payable by an Applicant in respect of employment insurance, Canada Pension Plan, workers compensation, employer health taxes and similar obligations under the laws of Ontario with respect to employees; and
- (c) all goods and services taxes and all provincial or other applicable sales taxes payable or collectable by an Applicant in connection with the sale of goods and services by such Applicant.

20. **THIS COURT ORDERS** that, from and after the date of this Order, the Applicants shall pay all reasonable costs and expenses incurred by the Applicants in carrying on their respective businesses, in carrying out the provisions of this Order and for the purposes of the Plan and the Restructuring (as defined below), in each case when due and payable, or as required by section 5.3 of the Definitive Agreement when approved, which costs and expenses may include, without limitation:

- (a) the cost of goods, services, use of leased or licensed property or other valuable consideration actually supplied to any of the Applicants after the date of this Order;
- (b) all outstanding and future wages, salaries, commissions, vacation pay, medical, dental and other benefits, reimbursement of business related expenses (including, without limitation, amounts charged by employees to credit cards) and other amounts accruing due to current, former or future employees, officers or directors or individuals that provide or have provided services to an Applicant as individual contractors, but, for greater certainty, excluding any outstanding and future severance pay, termination pay and other like amounts due to current, former or future employees;
- (c) all outstanding and future fees and disbursements of the Monitor and the Monitor's and Applicants' legal counsel, and any financial and other advisers

retained by the Applicants in respect of the Plan, the Restructuring or these proceedings;

- (d) all amounts owing in respect of provincial sales taxes, federal goods and services taxes, income tax source deductions and other analogous withholdings, Canada Pension Plan, and Quebec Pension Plan and employment insurance contributions, employer health taxes, obligations to any workers' compensation authority, obligations in respect of any provincial or federal environmental legislation, gross receipts taxes, and realty or excise or other taxes and all amounts owing to the federal or provincial Crown or a municipality in respect of a Debtor or any of the Property which have priority over security held by RBC and the DIP Lender;
- (e) all outstanding and future premiums on existing or future directors' and officers' liability insurance, including, without limitation, any premiums in connection with any extended reporting period;
- (f) rent and other payments required pursuant to any leases of real property under existing arrangements in respect of the period after the date of this Order while the Applicants are in actual occupation of such real property;
- (g) all expenses and capital expenditures incurred after the date of this Order in the ordinary course of business or necessary for environmental compliance or to preserve the Property or the business of an Applicant, including, without limitation, payments on account of service, maintenance, repairs, insurance and security consistent with the DIP Documents and the Warehouse DIP Documents;
- (h) all outstanding and future premiums payable with respect to existing or future mortgage insurance policies obtained from Canada Mortgage & Housing Corporation or Genworth Financial Mortgage Insurance Company Canada for mortgages originated by CFC; and
- (i) any other amount the payment of which is provided for by the terms of this Order,

provided that, unless provided in subparagraphs (a) to (i) listed above, the Applicants shall only be entitled (but not required) to pay costs and expenses that were incurred before the date of this Order with the prior approval of the Monitor, RBC and the DIP Lender or the approval of the Court.

Restructuring

21. **THIS COURT ORDERS** that, in the event the Definitive Agreement is not approved or does not close, to facilitate the orderly restructuring of their respective businesses and affairs (the “Restructuring”), the Applicants shall have the right to:
- (a) after consultation with the Monitor, permanently or temporarily cease or shut down any of their respective operations or locations (other than the head office of the Applicants which will require no consultation) as they deem appropriate and to make provision for the consequences thereof in the Plan provided that the DIP Lender and RBC are provided with four (4) days’ written notice;
 - (b) pursue all avenues to market and sell (subject to paragraph 21(c)), all or material parts of the Property of the Applicants, in whole or in part, pursuant to a sales process developed by the Applicants in consultation with the Monitor;
 - (c) sell, convey, transfer, assign, lease, or in any other manner dispose of the Property or any part or parts thereof (without compliance with the provisions of Part V of the *Personal Property Security Act* (Ontario), Part III of the *Mortgages Act* (Ontario), the *Bulk Sales Act* (Ontario) and any similar provisions of any other applicable statute):
 - (i) in the ordinary course of business;
 - (ii) otherwise, in consultation with the Monitor, RBC and DIP Lender and subject to approval of the Court;
 - (d) pursue any refinancing of the Applicants or their Property on terms acceptable to the DIP Lender and RBC or with approval of the Court;

- (e) terminate the employment of such of their respective employees or temporarily or permanently lay off such of their respective employees as they deem appropriate and, to the extent any amounts owing in respect thereof are not paid, to make provision for any consequences thereof in the Plan;
 - (f) in consultation with the Monitor, vacate or abandon any leased real property and/or repudiate any lease and ancillary agreements related to any leased premises as they deem appropriate, provided that the applicable Applicant gives the relevant landlord at least seven (7) days' prior written notice, on such terms as may be agreed between the Applicant and such landlord, or failing such agreement, to make provision for any consequences thereof in the Plan provided however that if such abandonment or vacating is material, with the prior approval of the DIP Lender and RBC;
 - (g) in consultation with the Monitor terminate or repudiate such of their respective arrangements or agreements of any nature whatsoever except the Warehouse DIP Documents and the DIP Documents, whether oral or written, as they deem appropriate on such terms as may be agreed between the applicable Applicant and the relevant counter-party, or failing such agreement, to make provision for the consequences thereof in the Plan and, if desirable to the Applicants, to negotiate any new or replacement agreements or arrangements, provided however that if such termination or repudiation is material, with the prior approval of RBC and the DIP Lender; and
 - (h) settle claims of any Person, including customers and suppliers that are in dispute, with the approval of the Monitor.
22. **THIS COURT ORDERS** that any sale of Property made pursuant to paragraph 21(c) and (d) of this Order shall be deemed not to be a sale in bulk and shall be exempt from the application of, and deemed not to be in contravention of, any laws of any Province of Canada prohibiting, restricting or regulating the sale of such Property including, without limitation, the *Bulk Sales Act* (Ontario).

23. **THIS COURT ORDERS** that, if leased premises are vacated or abandoned by an Applicant pursuant to paragraph 21(f), the relevant landlord shall be entitled to take possession of any such leased premises without waiver of, or prejudice to, any claims or rights of such landlord against such Applicant in respect of the vacating or abandoning of such leased premises, and such landlord shall be entitled to notify such Applicant of the basis on which it is taking possession and gain possession of and re-lease any such leased premises to third parties on such terms as any such landlord may determine, subject to such landlord's obligation, if any, to mitigate any damages claimed in connection therewith.
24. **THIS COURT ORDERS** that an Applicant shall provide to any relevant landlord notice of such Applicant's intention to remove any fixtures or leasehold improvements at least seven (7) days prior to the date of intended removal from any leased premises vacated or abandoned by such Applicant. The relevant landlord shall be entitled to have a representative present at the leased premises to observe such removal and, if the landlord disputes such Applicants entitlement to remove any item under the provisions of the lease, such items shall remain on the premises and shall be dealt with as agreed to between any applicable secured creditors, such landlord and such Applicant, or by further order of this Court on five (5) days' notice to such parties. If such Applicant, has otherwise vacated the leased premises, it shall not be considered to be in occupation of such location pending resolution of any such dispute.
25. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c.5 ("PIPEDA"), the Applicants and the Monitor are permitted in the course of these proceedings to disclose personal information of identifiable individuals in their possession or control to stakeholders or prospective investors, financiers, buyers or strategic partners and to their advisers (individually, a "Third Party"), to the extent desirable or required to negotiate and complete the Restructuring or the preparation and implementation of the Plan or a transaction in furtherance thereof, provided that the Persons to whom such personal information is disclosed enter into agreements with the Applicants or the Monitor binding them to maintain and protect the privacy of such information and to limit the use of such

information to the extent necessary to complete the transaction or Restructuring then under negotiation. Upon the completion of the use of personal information for the limited purpose set out herein, the personal information shall be returned to the Applicant or destroyed. In the event that a Third Party acquires personal information as part of the Restructuring or the preparation and implementation of the Plan or a transaction in furtherance thereof, such Third Party shall be entitled to continue to use the personal information, in accordance with the obligations under PIPEDA.

Financing and Banking Services

DIP Loan Agreement and DIP Lender' Charge

26. **THIS COURT ORDERS** that debtor in possession financing substantially in accordance with the terms of the DIP term sheet dated as of June 8, 2006 in the form attached as Exhibit "H" to the Williams Affidavit (the "DIP Loan Agreement") among CFC and Macquarie Bank (the "DIP Lender") for the provision of a debtor in possession facility (the "DIP Facility") is hereby approved.
27. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, each of the Applicants (other than CFC) is hereby deemed to guarantee repayment of all amounts owing by CFC under the DIP Loan Agreement and the DIP Documents (as defined in the next paragraph) and the timely performance of all of ~~Cervus's~~ obligations thereunder. 97
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28. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the Applicants are hereby authorized to execute and deliver such credit agreements, guarantees, security documents and other documents (collectively referred to, with the DIP Loan Agreement, as the "DIP Documents") as may be required by the DIP Lender in connection with the DIP Loan Agreement, and the Applicants are hereby authorized to perform all of their obligations under the DIP Documents.
29. **THIS COURT ORDERS** that all of the Property of the Applicants, but not the Merrill Assets, is hereby charged by a lien, mortgage, hypothec and security interest (such lien, mortgage, hypothec and security interest, together with any lien, mortgage, hypothec or

security interest created by the DIP Documents, the “DIP Lender Charge”) in favour of the DIP Lender as security for all obligations of the Applicants to the DIP Lender with respect to all amounts owing under or in connection with the DIP Documents, as well as security for the obligations of Cervus to pay the break fee contemplated under the provisions of paragraph 8.3 of the Definitive Agreement attached as Exhibit “D” to the Williams Affidavit.

30. **THIS COURT ORDERS** that the DIP Lender Charge shall have the priority provided by paragraphs 56 and 57 of this Order.
31. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the Applicants shall pay to the DIP Lender when due all amounts owing under the DIP Documents and shall perform all of their other obligations to the DIP Lender pursuant to the DIP Loan Agreement, the DIP Documents and this Order.
32. **THIS COURT ORDERS** that the claims of the DIP Lender pursuant to the DIP Documents shall not be compromised or arranged pursuant to the Plan or these proceedings and the DIP Lender shall be treated as an unaffected creditor in these proceedings and in any Plan.
33. **THIS COURT ORDERS** that the DIP Lender may, notwithstanding any other provision of this Order, take such steps from time to time as they may deem necessary or appropriate to register, record or perfect the DIP Lender Charge and the DIP Documents in all jurisdictions where they deem it is appropriate.
34. **THIS COURT ORDERS** that the DIP Lender shall not take any enforcement steps under the DIP Documents or the DIP Lender Charge without providing at least two (2) business days’ written notice (the “Notice Period”) of a default thereunder to CFC and the Monitor. Upon expiry of such Notice Period, the DIP Lender shall be entitled to take any and all steps under the DIP Documents and the DIP Lender Charge and otherwise permitted at law without the requirement of sending any demands, statutory or otherwise, including, without limiting the generality of the foregoing, under section 244 of the BIA, provided that the prior approval of the Court is obtained.

Warehouse DIP Loan Agreement and DIP Lender' Charge

35. **THIS COURT ORDERS** that the warehouse debtor in possession financing substantially in accordance with the terms of the RBC Warehouse DIP term sheet dated as of June 8, 2006 in the form attached as Exhibit "I" to the Williams Affidavit (the "Warehouse DIP Loan Agreement") for the provision of a Warehouse debtor in possession facility (the "Warehouse DIP Facility") is hereby approved.
36. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, each of the Applicants (other than Cervus) is hereby deemed to guarantee repayment of all amounts owing by CFC under the Warehouse DIP Loan Agreement and the Warehouse DIP Documents (as defined in the next paragraph) and the timely performance of all of CFC's obligations thereunder.
37. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the Applicants are hereby authorized to execute and deliver such credit agreements, guarantees, security documents and other documents (collectively referred to, with the Warehouse DIP Loan Agreement, as the "Warehouse DIP Documents") as may be required by RBC in connection with the Warehouse DIP Loan Agreement, and the Applicants are hereby authorized to perform all of their obligations under the Warehouse DIP Documents.
38. **THIS COURT ORDERS** that in addition to all existing security held by RBC (which shall be deemed to secure, among other things, all obligations under the Warehouse DIP Facility), all of the Property of the Applicants, but not the Merrill Assets, including, without limitation, all Property defined as the "Inventory Mortgages" in the Warehouse DIP Loan Agreement and any other mortgages financed by Borrowings thereunder (as defined therein) and all proceeds of any of the foregoing (all of the foregoing being collectively referred to in this Order as the "RBC Collateral) is hereby charged by a lien, mortgage, hypothec and security interest (such lien, mortgage, hypothec and security interest, together with any lien, mortgage, hypothec or security interest created by the Warehouse DIP Documents, (the "Warehouse DIP Charge") in favour of RBC as security

for all obligations of the Applicants to RBC with respect to all amounts owing under or in connection with the Warehouse DIP Documents.

39. **THIS COURT ORDERS** that the Warehouse DIP Charge shall have the priority provided by paragraphs 56 and 57 of this Order.
40. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the Applicants shall pay to RBC when due all amounts owing under the Warehouse DIP Documents and shall perform all of their other obligations to RBC pursuant to the Warehouse DIP Loan Agreement, the Warehouse DIP Documents and this Order.
41. **THIS COURT ORDERS** that the claims of RBC pursuant to the Warehouse DIP Documents shall not be compromised or arranged pursuant to the Plan or these proceedings and RBC shall be treated as an unaffected creditor in these proceedings and in any Plan.
42. **THIS COURT ORDERS** that the RBC may, notwithstanding any other provision of this Order, take such steps from time to time as they may deem necessary or appropriate to register, record or perfect the Warehouse DIP Lender' Charge and the Warehouse DIP Documents in all jurisdictions where they deem it is appropriate.
43. **THIS COURT ORDERS** that RBC shall not take any enforcement steps under the Warehouse DIP Documents or the Warehouse DIP Charge without providing at least two (2) business days' written notice (the "Notice Period") of a default thereunder to Cervus and the Monitor. Upon expiry of such Notice Period, RBC shall be entitled to take any and all steps under the Warehouse DIP Documents and the Warehouse DIP Charge and otherwise permitted at law without the requirement of sending any demands, statutory or otherwise, including, without limiting the generality of the foregoing, under section 244 of the BIA, provided that the prior approval of the Court is obtained.
44. **THIS COURT ORDERS** that the DIP Lender and RBC shall:

- (a) not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under such banking arrangements, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the banking arrangements;
 - (b) be entitled to provide banking arrangements without any liability, whether statutory, contractual, trust, proprietary or otherwise, in respect thereof to any person, corporation or other entity whatsoever, other than the Applicants or their affiliates and RBC and the DIP Lender, pursuant to the terms of the documentation applicable to the banking arrangements; and
 - (c) be, in their capacity as provider of banking arrangements, an unaffected creditor with regard to any claims or expenses it may suffer or incur in connection with the provision of the banking arrangements.
45. **THIS COURT ORDERS** that, without limiting the generality of paragraph 6 hereof, except as otherwise provided in this Order, all banks and financial institutions at which an Applicant maintains a bank account are hereby restrained from stopping, withholding, redirecting or otherwise interfering with any amount in such account(s) or setting off (subject to paragraph 9(e) hereof) or applying such amounts against any indebtedness owing to that bank or financial institution by an Applicant, or from discontinuing, failing to renew on terms no more onerous than those existing prior to these proceedings, altering, interfering with or terminating such banking arrangements.

Directors and Officers Indemnification and Charge

46. **THIS COURT ORDERS** that the Applicants shall indemnify each of the Directors holding office on or after the date hereof and each Person who was or in the future is requested by an Applicant to act, on or after the date hereof, and who is acting or did or does act or is deemed or treated by applicable legislation to be acting or to have acted, on or after the date hereof, as a director, officer or person of a similar position, on or after the date hereof (a "Responsible Person") from and against the following (collectively, "D&O Claims"):

- (a) all costs (including, without limitation, full defence costs), charges, expenses, claims, liabilities and obligations of any nature whatsoever which may arise as a result of any sale of all or part of the Property, the Plan, his or her association with an Applicant as a Director or Responsible Person whether incurred or accruing ~~before or~~⁵¹⁷ after the date of this Order including, without limitation, an amount paid to settle an action or satisfy a judgment in a civil, criminal, administrative or investigative action or proceeding to which such Director or Responsible Person may be made a party by reason of being or having been a Director or Responsible Person (as the case may be), provided that such Director or Responsible Person (i) acted honestly and in good faith with a view to the best interests of such Applicant (as the case may be) and (ii) in the case of a criminal or administrative action or proceeding that is enforced by monetary penalty, such Director or Responsible Person had reasonable grounds for believing his or her conduct was lawful) except to the extent that such Director or Responsible Person has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct; and
- (b) all costs (including without limitation, full defence costs), charges, expenses, claims, liabilities and obligations relating to the failure of an Applicant at any time to make payments of the nature referred to in paragraphs 19 or 20(b), or (e) of this Order or to pay amounts in respect of employee or former employee entitlements to wages, vacation pay, whether incurred or accruing ~~before or~~⁵¹⁷ after the date of this Order and that he or she sustains or incurs by reason of or in relation to his or her association with such Applicant as a Director or Responsible Person (as the case may be) except to the extent that such Director or Responsible Person has actively participated in the breach of any related fiduciary duties or has been grossly negligent or guilty of wilful misconduct, provided that the foregoing shall not constitute a contract of insurance and shall not constitute other valid and collectible insurance as such term may be used in any existing policy of insurance issued in favour of any of the Applicants or any of the Directors or Responsible Persons.

47. **THIS COURT ORDERS** that as security for the obligation of the Applicants to indemnify the Directors and Responsible Persons pursuant to paragraph 48 of this Order, the Directors and Responsible Persons be and they are hereby granted a fixed lien on, mortgage and hypothec of, and security interest in the Property, but not the Merrill Assets, (the “D&O Charge”), having the priority established by paragraphs 56 and 57 of this Order. The D&O Charge shall not constitute or form a trust. The D&O Charge, notwithstanding any language in any applicable policy of insurance to the contrary, shall only apply to the extent that the Directors and Responsible Persons do not have coverage under the provisions of any applicable directors’ and officers’ insurance which shall not be excess insurance to the D&O Charge. In respect of any D&O Claim that is asserted against any of the Directors and Responsible Persons, if the Directors and Responsible Persons against whom the D&O Claim is asserted (collectively, the “Respondent Directors”) do not receive satisfactory confirmation from the applicable insurer within 21 days of delivery of notice of the D&O Claim to the applicable insurer confirming that the applicable insurer will provide coverage for and indemnify the Respondent Directors against the D&O Claim then, without prejudice to the subrogation rights hereinafter referred to, the Applicants shall pay the amount of the D&O Claim as it becomes payable by the Respondent Directors and, failing such payment, the Respondent Directors shall be entitled to enforce the D&O Charge; provided that the Respondent Directors shall reimburse the Applicants to the extent that they subsequently receive insurance proceeds in respect of the D&O Claim paid by the Applicants, and provided further that the Applicants shall, in the event of such payment being made, be subrogated to the rights of the Respondent Directors to pursue recovery thereof from the applicable insurer as if no such payment had been made.

Appointment and Powers of the Monitor

48. **THIS COURT ORDERS THAT** KPMG Inc. is hereby appointed as officer of this Court to monitor the businesses and affairs of the Applicants with the powers and duties set out herein and in the CCAA until discharged by this Court, and that the Monitor shall:
- (a) send notice of the making of this Order, within 10 days after the date hereof, to every known creditor of each Applicant having a claim of more than \$250 against

it advising that such creditor may obtain a copy of this Order on the internet at the website of the Monitor (www.kpmg.ca/cervus (the "Website")) and if such creditor is unable to obtain it by that means, such creditor may request a copy from the Monitor and the Monitor shall so provide it. Such notice shall be sufficient to comply with subsection 11(5) of the CCAA;

- (b) assist the Applicants, to the extent requested by the Applicants, in dealing with their respective creditors and other interested Persons during the Stay Period;
- (c) assist the Applicants, to the extent required by the Applicants, with the preparation of its cash flow projections and any other projections or reports and the development, negotiation and implementation of the Plan;
- (d) advise and assist the Applicants, to the extent required by the Applicants, in reviewing the Applicants' businesses and assessing opportunities for cost reduction, revenue enhancement and operating efficiencies;
- (e) assist the Applicants, to the extent required by the Applicants, with the Restructuring and in their negotiations with their respective creditors and other interested Persons and with the holding and administering of any meetings held to consider the Plan;
- (f) report to the Court on the state of the businesses and financial affairs of the Applicants or developments in these proceedings or any related proceedings at such times as required by the CCAA and at such other times as considered appropriate by the Monitor or as the Court may order;
- (g) report to the Court and interested parties, including but not limited to affected creditors pursuant to the Plan, with respect to the Monitor's assessment of, and recommendation in respect of, the Plan;
- (h) be at liberty to obtain and employ such agents, advisers and other assistants as are reasonably necessary for the purpose of carrying out the terms of this Order, including, without limitation, one or more entities related to or affiliated with the

Monitor (and such related entities shall be entitled to the benefits, protections and privileges of this Order);

- (i) be at liberty to engage legal counsel to the extent the Monitor considers necessary in connection with the exercise of its powers or the discharge of its obligations in these proceedings and any related proceedings, under this Order or under the CCAA;
 - (j) be at liberty to serve as a “foreign representative” of the Applicants in any proceedings outside of Ontario;
 - (k) be at liberty to give any consents or approvals as are contemplated by this Order and, in doing so, the Monitor may give or withhold such consents or approval in its reasonable discretion having regard to, among other things, the preservation and orderly restructuring of the Applicants’ business; and
 - (l) perform such other duties as are required by this Order, the CCAA or the Court from time to time, but shall not otherwise interfere with the business carried on by the Applicants, and the Monitor is not empowered to take possession of the Property nor to manage any of the business or affairs of any of the Applicants.
49. **THIS COURT ORDERS** that the Applicants and their Directors, officers, employees and agents and all other Persons having notice of this Order shall forthwith provide the Monitor with unrestricted access to all of the Property, including, without limitation, the premises, books, records, data (including data in electronic form) and all other financial documents of each the Applicants in connection with the Monitor’s duties and responsibilities hereunder.
50. **THIS COURT ORDERS** that the Monitor may provide creditors and other relevant stakeholders of the Applicants with information in response to reasonable requests made by them in writing addressed to the Monitor and copied to the Applicants’ counsel. The Monitor shall not have any duties or liabilities in respect of such information disseminated by it pursuant to the provisions of this Order or the CCAA, other than as provided in paragraph 48. In the case of information that the Monitor has been advised by

an Applicant is confidential, proprietary or competitive, the Monitor shall not provide such information to any Person without the consent of such Applicants unless otherwise directed by this Court.

51. **THIS COURT ORDERS** that the Monitor shall not be, nor be deemed to be, an employer or a successor employer of the employees of any of the Applicants or a related employer in respect of any of the Applicants within the meaning of any federal, provincial or municipal legislation governing employment, labour relations, pay equity, employment equity, human rights, health and safety or pensions or any other statute, regulation or rule of law or equity for any similar purpose whatsoever and, further, that the Monitor shall not be, nor be deemed to be, in occupation, possession, charge, management or control of the Property or business or affairs of any of the Applicants pursuant to any federal, provincial or municipal legislation, statute, regulation or rule of law or equity which imposes liability on the basis of such status including, without limitation, the *Environmental Protection Act* (Ontario), the *Canadian Environmental Protection Act*, the *Ontario Water Resources Act* or the *Occupational Health and Safety Act* (Ontario) or similar other federal or provincial legislation.
52. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA, elsewhere in this Order or as an officer of the Court, the Monitor shall not incur any liability or obligation as a result of its appointment, the fulfilment of its duties or its carrying out of the provisions of this Order (including, without limitation, with respect to any report or any information provided to claimants), save and except any liability or obligation arising from the gross negligence or wilful misconduct of the Monitor, and no action or other proceedings shall be commenced against the Monitor relating to its appointment or its conduct as Monitor or carrying out the provisions of any order of this Court, except with prior leave of this Court, on at least 7 days' notice to the Monitor and its counsel and upon further order securing, as security for costs, the solicitor and his own client costs of the Monitor, if any, in connection with any such action or proceeding and provided further that the liability of the Monitor hereunder shall not in any event exceed the quantum of the fees and disbursements paid to or incurred by it in connection with this proceeding. Persons related to or affiliated

with the Monitor and their officers, directors, employees and agents shall also have the protections, benefits and privileges afforded to the Monitor pursuant to this paragraph.

53. **THIS COURT ORDERS** that the Applicants shall pay the fees and disbursements of each of the Monitor, the Monitor's legal counsel and the Applicants' legal counsel for work done both before and after the date hereof, whether incurred before or after the making of this Order, and shall provide each with reasonable retainers on account of such fees and disbursements if so requested.
54. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and the Applicants, as security for the professional fees and disbursements incurred both before and after the making of this Order including work done with respect of these proceedings, the Plan and the Sales Process and the Restructuring in accordance with the provisions hereof and as security for any liability of the Monitor as a result of its appointment or the fulfillment of its duties in carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, shall, in addition to the retainers referred to in paragraph 48, be entitled to the benefit of and are hereby granted a lien on, mortgage and hypothec of, and security interest in the Property up to a maximum aggregate amount of \$250,000 (the "Administration Charge"), having the priority established by paragraphs 56 and 57.
55. **THIS COURT ORDERS** that the KPMG Report shall constitute, and shall be deemed to be, the First Report of the Monitor in these proceedings.

Priorities and General Provisions Relating to CCAA Charges

56. **THIS COURT ORDERS** that the priorities of the DIP Lender Charge, the Warehouse DIP Charge, the Administration Charge and the D&O Charge (collectively, the "CCAA Charges"), as between them with respect to any Property to which they apply, but specifically not to the Merrill Assets, shall be as follows:
- (a) with respect to the RBC Collateral:
 - (i) first, the Warehouse DIP Charge;

- (ii) second, the Administration Charge, up to the maximum amount of \$250,000;
 - (iii) third, the DIP Lender Charge; and
 - (iv) fourth, the D&O Charge.
- (b) with respect to all of the Property, other than the RBC Collateral:
- (i) first, the Administration Charge, up to the maximum amount of \$250,000;
 - (ii) second the DIP Lender Charge;
 - (iii) third, the Warehouse DIP Charge; and
 - (iv) fourth, the D&O Charge.

57. **THIS COURT ORDERS** that each of the CCAA Charges shall rank in priority to any and all other liens, charges, security interests, encumbrances or security of whatever nature or kind (the "Encumbrances") affecting any of the Property, but not the Merrill Assets, except the following:

- (a) existing purchase-money security interests registered in accordance with applicable personal property security legislation and recognized under such legislation as being entitled to priority over the security in place as of the date hereof;
- (b) in respect of any real property, existing (i) zoning, use and building bylaws and ordinances, federal, provincial or municipal by-laws and regulations as to the use of such Property, (ii) notices of lease, (iii) subdivision agreements, site plan control agreements, development agreements, servicing agreements and other similar agreements with municipal and other governmental authorities, and (iv) permits, reservations, restrictions, covenants, servitudes, watercourse, rights of water, rights of access or user licenses, easements, rights-of-way and rights in the nature of easements;
- (c) future purchase-money security interests registered in accordance with applicable personal property security legislation and recognized under such legislation as

being entitled to the priority of purchase-money security interests, provided the creation of any such security interests has been permitted pursuant to the terms of the DIP Documents; and

- (d) Encumbrances in respect of the Property of an Applicant arising by operation of law (other than as a result of a default in payment or performance of an obligation by such Applicant) without any grant of a security interest by such Applicant and that are given priority over prior fixed charges by statute law in the event of the bankruptcy of such Applicant.
58. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein or in the DIP Documents, and the Warehouse DIP Documents, the Applicants shall not grant any Encumbrances in or against any Property that rank in priority to, or *pari passu* with, any of the CCAA Charges unless the Applicants obtain the prior written consent of the DIP Lender, RBC and the Monitor and the prior approval of the Court, and any Encumbrances granted by the Applicants contrary to this Order shall be void.
59. **THIS COURT ORDERS** that each of the CCAA Charges shall attach, as of the Effective Time of this Order, to the Property, but not to the Merrill Assets.
60. **THIS COURT ORDERS** that the necessity for giving or obtaining any consent or the failure to comply with any condition precedent, each as referred to in the previous paragraph, is hereby dispensed with and the absence of any such consent or fulfillment of condition precedent shall not cause a breach or default under any such lease licence, permit or contract.
61. **THIS COURT ORDERS** that the DIP Documents, the Warehouse DIP Documents and the CCAA Charges shall be valid and enforceable and not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender, RBC and the other beneficiaries of the CCAA Charges thereunder, as applicable, shall not otherwise be limited or impaired in any way by:
- (i) the pendency of these proceedings and the declaration of insolvency made herein;

- (ii) any application for a bankruptcy order issued pursuant to the BIA in respect of any of the Applicants or any bankruptcy order made pursuant to any such application or any assignment in bankruptcy made or deemed to be made in respect of any of the Applicants; or
- (iii) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing agreement, lease, sub-lease, offer to lease or other arrangement which binds any of the Applicants (a "Third Party Agreement"), and notwithstanding any provision to the contrary in any Third Party Agreement:
 - (i) neither the creation of any of the CCAA Charges nor the execution, delivery, perfection, registration or performance of the DIP Documents or the Warehouse DIP Documents shall create or be deemed to constitute a breach by any of the Applicants of any Third Party Agreement to which it is a party; and
 - (ii) none of the DIP Lender, RBC or the other beneficiaries of the CCAA Charges shall have liability to any Person whatsoever as a result of any breach of any Third Party Agreement caused by or resulting from the creation of the CCAA Charges or the execution, delivery or performance of the DIP Documents or the Warehouse DIP Documents.

62. **THIS COURT ORDERS** that notwithstanding: (i) the pendency of these proceedings and the declaration of insolvency made in these proceedings, (ii) any application for a bankruptcy order issued pursuant to the BIA in respect of any of the Applicants and any bankruptcy order made pursuant to any such application or any assignment in bankruptcy made or deemed to be made in respect of any of the Applicants, and (iii) the provisions of any federal or provincial statute; the DIP Documents, and the Warehouse DIP Documents shall constitute legal, valid and binding obligations of the Applicants enforceable against them in accordance with the terms thereof, and the payments or disposition of Property made by the Applicants pursuant to this Order, the DIP Documents, and the Warehouse DIP Documents and the granting of the CCAA Charges, do not and will not constitute settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions or conduct meriting an oppression remedy under any applicable law.

63. **THIS COURT ORDERS** that the beneficiaries of the CCAA Charges shall not be required to file, register, record or perfect the CCAA Charges and that the CCAA

Charges shall be valid and enforceable as against all Property of the applicable Applicants and against all Persons (including, without limitation, any trustee in bankruptcy, receiver, receiver and manager or interim receiver of any or all of the Applicants) for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the creation of the CCAA Charges hereby, notwithstanding any failure to file, register, record or perfect the CCAA Charges.

General

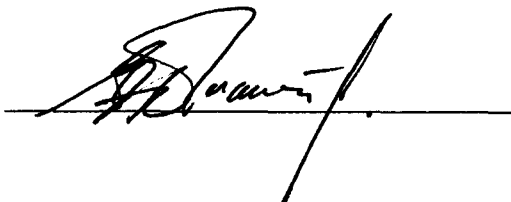
64. **THIS COURT ORDERS** that this Order and the proceedings in this Application leading to the making of this Order, including the contents of any Affidavit filed in this Application, shall not, in and of themselves, constitute or be relied upon in evidence or otherwise as constituting a default or failure to comply by any of the Applicants or any Person owned directly or indirectly by an Applicant under any statute, regulation, licence, permit, contract, permission, covenant, agreement, undertaking or other instrument or requirement.
65. **THIS COURT ORDERS** that, except as otherwise specified herein, the Applicants are at liberty to serve any notice, proof of claim form, proxy, circular or other document in connection with these proceedings by forwarding copies by prepaid ordinary mail, courier, personal delivery or electronic transmission to Persons or other appropriate parties at their respective addresses as last shown on the records of the Applicants and that any such service shall be deemed to be received on the date of delivery if by personal delivery or electronic transmission, on the following business day if delivered by courier, or three business days after mailing if by ordinary mail.
66. **THIS COURT ORDERS** that the Applicants and any party may serve any court materials in these proceedings (including, without limitation, application records, motion records, facts and orders) on all represented parties electronically, by emailing a PDF or other electronic copy of such materials (other than any book of authorities) to counsel's email addresses as recorded on the service list, and posting a copy of the materials to the Website as soon as practicable thereafter, provided that any party shall deliver hard copies of such materials to any other party requesting same as soon as practicable

thereafter and the Monitor shall cause a copy to be posted to their Websites, all as soon as practicable thereafter.

67. **THIS COURT ORDERS** that, unless otherwise provided herein or ordered by this Court, no document, Order or other material need be served on any Person in respect of these proceedings unless such Person has served a Notice of Appearance on the solicitors for the Applicants, the DIP Lender, RBC and the Monitor and has filed such notice with this Court.
68. **THIS COURT ORDERS** that the Applicants, the DIP Lender, RBC or the Monitor may, from time to time, apply to this Court for directions in the discharge of their respective powers, duties and rights hereunder or in respect of the proper execution of this Order on notice only to each other.
69. **THIS COURT ORDERS** that any interested Person may apply to this Court on June 15, 2006 or such later date as this Court may direct, to vary or rescind this Order or seek other relief upon seven (7) days' notice to the Applicants, the DIP Lender, RBC and the Monitor and to any other party likely to be affected by the Order sought or upon such other notice, if any, as this Court may order.
70. **THIS COURT ORDERS** that this Order and any other orders in these proceedings shall have full force and effect in all provinces and territories in Canada.
71. **THIS COURT ORDERS** that the Monitor, with the prior consent of the Applicants, shall be at liberty and is hereby authorized and empowered to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for orders in other jurisdictions which aid and complement this Court in carrying out the terms of this Order and any subsequent orders made in these proceedings and, without limitation to the foregoing, for the purposes of obtaining an order under Chapter 15 of the U.S. Bankruptcy Code, the Monitor shall act and be deemed to be the foreign representative of the Applicants. All courts and administrative bodies of all such jurisdictions are hereby

respectively requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

72. **THIS COURT SEEKS AND REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian Federal Court or administrative body and any Federal or State Court or administrative body in the United States of America and any Court or administrative body in the United Kingdom or elsewhere to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

A handwritten signature in black ink, appearing to be "A. D. ...", is written over a horizontal line.

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

JUN 08 2006

PER/PAR:

A handwritten signature in black ink, appearing to be "A", is written next to the text "PER/PAR:".

SCHEDULE "A"

Cervus Financial Corp.

Cervus Funding Corp.

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

**AND IN THE MATTER OF A PROPOSED PLAN OF COMPROMISE OR ARRANGEMENT WITH RESPECT TO CERVUS FINANCIAL
GROUP INC. AND THE OTHER APPLICANTS LISTED ON SCHEDULE "A"**

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

INITIAL ORDER

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Solicitors for the Applicants