Court File No. CV-11-9532-00CL

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 CRYSTALLEX INTERNATIONAL CORPORATION

RESPONDING MOTION RECORD OF COMPUTERSHARE TRUST COMPANY OF CANADA IN ITS CAPACITY AS TRUSTEE FOR THE HOLDERS OF CRYSTALLEX SENIOR 9.375% SENIOR NOTES DUE DECEMBER 23, 2011 AND THE AD HOC COMMITTEE OF BENEFICIAL OWNERS OF THE SENIOR NOTES

(Returnable November 18, 2021)

October 29, 2021

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RESPONDING AFFIDAVIT OF SCOTT REID
(SWORN OCTOBER 29, 2021)

I, Scott Reid, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

I. INTRODUCTION

1. I am the President and Chief Investment Officer of Stornoway Portfolio Management Inc. ("**Stornoway**"), investment manager to Stornoway Recovery Fund LP and Ravensource Fund.

2. Stornoway is a participant in an *ad hoc* committee (the "**Noteholder Committee**") of beneficial holders of the $100,000,000 (principal amount) of senior 9.375% notes due December 2011 (the "**Notes**") issued by Crystallex International Corporation ("**Crystallex**"). Participants in the Noteholder Committee beneficially own in excess of 66 2/3% of the principal amount of the Notes. The replacement trustee under the trust indenture that governs the Notes is Computershare Trust Company of Canada (the "**Trustee**" and with the Noteholder Committee, the "**Noteholders**"). The Notes constitute substantially all of Crystallex's pre-filing indebtedness.

3. I have personally participated in the Noteholder Committee since very early on in these *Companies' Creditors Arrangement Act* ("**CCAA**") proceedings, which commenced in December 2011. I have personal knowledge of the matters set out below, except where stated to be on information and belief and where so stated I believe it to be true and have identified the source of my information.

4. I swear this Affidavit in response to Crystallex's motions seeking to, among other things: (i) extend the CCAA stay for approximately one year; (ii) seal Crystallex's statement of actual receipts and disbursements compared to the forecasted amounts for the period April 2021 to September 2021; (iii) seal Crystallex's cash flow forecast for the period October 2021 to November 2022; and (iv) seal the Remaining Redacted Financial Information (as defined below) in the 35th and 36th Reports of the Monitor.

5. On October 8, 2021, the Court directed that Crystallex's motions be heard on November 18, 2021, together with the remaining issue to be determined on the Noteholders' cross-motion served May 28, 2021, namely whether the percentage of contingent value rights ("**CVRs**") held by two of Crystallex's management directors should be unsealed (the "**CVR Info**").

6. I previously swore affidavits dated May 28, 2021, and July 19, 2021 (the "**May 28 Affidavit**" and the "**July 19 Affidavit**", respectively), that provided background information on the case and addressed the Noteholders' concerns with respect to the disclosure of cash flow and other financial information, among other issues. The Noteholders continue to rely on these prior affidavits, and I have endeavoured not to repeat their content herein, except to summarize or highlight certain points that remain germane to the outstanding issues in dispute or to provide relevant context. As relates to the unsealing of the CVR Info, I have not repeated my evidence herein but have excerpted my main specific prior evidence on this issue at Schedule "A" hereto for ease of reference.

7. I do not, and do not intend to, waive any applicable privilege by any statement made in this affidavit.

8. Unless otherwise specified, all amounts referenced herein are in U.S. dollars.

9. Capitalized terms used herein and not otherwise defined have the meaning given to them in the Affidavit of Robert Fung sworn October 25, 2021 (the "**October Fung Affidavit**").

II. OVERVIEW

10. The Noteholders are Crystallex's largest creditors, holding a Court-ordered irrevocable proven claim of $188,198,233.18 as at December 31, 2015. Together with ongoing contractual interest accrual and expense reimbursement entitlements over the past six years, I believe Crystallex currently owes the Noteholders approximately $328 million. Early in this case, Crystallex told the courts that it wanted to pay the claims of the Noteholders in full with interest and a premium.

11. I believe it is important to emphasize that all the Noteholders seek (and have ever sought) is the type of baseline public financial and other disclosure that has been provided in every other CCAA case I have been involved in—nothing more and nothing less. As discussed in greater detail below, the piecemeal public disclosure the Noteholders have now received following 18 months of litigation—including the new revelation that Crystallex has apparently already spent nearly half of the $180 million of settlement cash it received from Venezuela in 2018—has only reinforced my belief that full, fair and timely public disclosure to creditors in this case is required to accomplish the Noteholders' objective of staying fully informed so they are able to participate in this case as necessary to protect and advance their interests.

12. The following summarizes the Noteholders' positions in respect of the relief sought by Crystallex at the November 18 hearing:

    (a) **CCAA stay extension should be three months, not a year**: Given the lack of consensus among stakeholders in this case, Crystallex's governance structure and conflicts, the significant amounts being spent by Crystallex, and the uncertainty of how unfolding events in the U.S. enforcement process and in Venezuela will impact Crystallex, a standard stay extension of three months is appropriate to ensure that Crystallex is required to keep its stakeholders up to date on these ever-changing developments, including how much cash it is spending, and demonstrate that it is acting in good faith and with due diligence having regard to the then prevailing circumstances.

(b) **Crystallex's cash balance, cash flow reconciliation and cash flow forecast should be publicly disclosed on a quarterly basis and at the same time it is disclosed to the Court, not sealed and disclosed to stakeholders when the information is six months to one year stale as Crystallex is proposing**: As alluded to above and discussed in greater detail in my prior affidavits and below, I believe timely public disclosure of Crystallex's actual cash flow, cash flow reconciliation, and cash flow forecast, together with any other germane financial information, is critical for the Noteholders to understand, evaluate and participate in these proceedings. I do not believe that disclosure of this type of baseline financial information would cause any harm to Crystallex. Further, I do not believe it is fair for the Court to receive significant redacted information which is not available to Crystallex's creditors on a public basis at the same time, as it results in the Court being asked to make decisions without the benefit of hearing the informed input of affected creditors, and the Court making decisions based on information I and other non-insider stakeholders are not privy to.

(c) **Crystallex should be required to provide cash flow disclosure to the Court and stakeholders consistent with the cash flow template it has used in the case to date**: Mr. Fung deposed in paragraph 139 of the October Fung Affidavit that Crystallex has unilaterally decided to file only aggregate cash flow reporting going forward. The Court should reject this attempt to reduce disclosure to stakeholders and the Court, and require Crystallex to provide its cash flow reporting on the same template it has been using to date. Given the very significant sums of money being spent by Crystallex, it is critical that creditors have an understanding of how those funds are being spent.

III. STORNOWAY

13. As a Toronto-based investment manager that specializes in distressed investments and corporate bonds, Stornoway is a frequent participant in CCAA and other Canadian restructuring proceedings. As a stakeholder in these types of proceedings, I rely on being able to access regular public reporting from the debtor and the monitor (or other court officer) regarding the restructuring initiatives being pursued and financial and business

information in respect of the debtor, including as relates to its assets and liabilities, capital structure, cash balance, expenditures and liquidity.

14. Access to this type of information is very important for Stornoway, which manages its funds' investments on behalf of third-party investors. Among other things, Stornoway uses the publicly available information in CCAA and similar proceedings to:

(a) continuously monitor the value of our funds' investments;

(b) take investment decisions (*e.g.* to buy or sell investments);

(c) make appropriate disclosure to our investors regarding the status and value of the funds' investments;

(d) consider and respond to motions brought by the debtor or other parties in a case;

(e) evaluate a debtor or other stakeholder's proposed course of action in a case (to pursue a particular sale transaction, for instance); and

(f) take strategic decisions and actions in a case, such as to support or oppose a transaction or other relief sought, or to proactively seek relief from the supervising court, such as proposing a plan of arrangement.

15. Being able to access and analyze ongoing disclosure regarding a debtor's business, restructuring and financial affairs is a critical component of Stornoway's efforts to protect and maximize the value of its funds' investments in companies that are in public restructuring proceedings.

16. In this case, Crystallex's failure to make routine public disclosure to its stakeholders has impaired Stornoway's ability to fully participate in the CCAA proceedings in order to protect and advance its rights and interests. This is particularly concerning to me given that the parties who hold four of Crystallex's five board seats—and have all of the information—hold economic interests (*i.e.*, the CVRs) that incentivize them to seek to limit the Noteholders' and other creditors' recoveries for their own gain, as well as to take

decisions that prioritize their economic interests over the interests of the Noteholders and other creditors. I discuss this dynamic in greater detail below.

IV. BACKGROUND TO THE CCAA DISCLOSURE MOTIONS

A. Case Overview

17. Some of the context that informs Stornoway's and the other Noteholders' views of the case and their desire for appropriate public financial disclosure are as follows (many of these points are discussed in greater detail in my prior affidavits and are summarized herein for ease of reference):

(a) I firmly believe that Crystallex, which has benefited from CCAA protection for nearly a decade and owes hundreds of millions to its creditors, has a duty to make ongoing and fair public disclosure of its business and financial affairs to its stakeholders. I believe that disclosure of this information to stakeholders is part of the fundamental balancing of interests in a CCAA case: if creditors are to be stayed, then in return they are entitled to timely, full and frank disclosure from the debtor.

(b) Crystallex has elected not to pursue a CCAA plan of arrangement or other restructuring transaction that would allow it to emerge from these proceedings, has advised the Noteholder Committee it has no intention of proposing a CCAA plan, and refused to even meet with the Noteholders and the Monitor to discuss the CCAA plan delivered by the Noteholders in 2019. Rather, Crystallex has elected to remain in CCAA indefinitely, presumably to continue to benefit from the CCAA stay and the other protections the CCAA process affords it, but without providing the usual financial disclosure I am accustomed to receiving as a creditor in a public insolvency proceeding.

(c) In addition to being owed principal and interest, the DIP lender, Tenor, is entitled to 88.242% of the CVRs, a junior entitlement to a percentage of the net arbitration proceeds remaining, if any, following repayment in full of specified priority obligations, including the amounts owing to the Noteholders and other creditors in full. Tenor (which appoints two of Crystallex's five directors and has various other

governance rights) has transferred a *still undisclosed* percentage of the CVRs to Crystallex's two management directors, Robert Fung and Marc Oppenheimer. The result is that four of Crystallex's five directors have an interest in the CVRs. Given that the value of the CVRs is a function of the residual value remaining, if any, following payment in full of creditors, the Noteholders believe these directors have a significant conflict of interest in addressing, among other things, the rights and entitlements of the Noteholders and other creditors.

(d) As a result of this conflict of interest and other factors, including Crystallex's 2020 decision to select a new independent director without consulting with the Noteholder Committee while the parties were ostensibly mediating Crystallex's governance and the Monitor had recommended consultation with the Noteholders, I have lost all confidence in Crystallex's governance or that Crystallex and its management will consider the interests of the Noteholders and other creditors in their decision making process. Given my lack of faith and confidence in the debtor, I believe it is imperative that the Noteholders at least be able to access fair and reasonable disclosure from Crystallex to attempt to maintain a somewhat level playing field so that we can protect and advance our interests.

(e) In addition to Crystallex's governance, there are additional unresolved disputes between the Noteholders, on the one hand, and Crystallex and Tenor, on the other, including regarding the proposed CCAA plan delivered by the Noteholders to Crystallex and Tenor in 2019 and the entitlements of the Noteholders for the period from and after December 31, 2015.

(f) The Noteholders, Crystallex and Tenor have mediated certain of their disputes over much of the past two years, first pursuant to a consensual mediation with the Honourable Robert A. Blair throughout much of 2019, and subsequently pursuant to a Court-ordered mediation with Mr. Blair that commenced in March 2020. No resolution has been achieved through these mediation efforts in whole or in part.

(g) In recently filed materials Crystallex has characterized the Noteholders (and therefore all creditors) as being "currently out of the money". This is a shocking

allegation given Crystallex has recovered $500 million of value from Venezuela to date, has significant cash and other current assets on hand, is still owed nearly $1 billion dollars by Venezuela (plus ongoing interest), and has repeatedly advised the Noteholders and this Court that it is on the verge of successfully enforcing against the PDVH Shares. Statements like these further deepen my loss of confidence in Crystallex's ability to protect and advance the interests of its creditors.

(h) The Notes were issued by Crystallex in 2004 on a public basis pursuant to a prospectus, and Crystallex provided regular continuous public disclosure to its security holders, including interim and annual financial statements and related management discussion and analysis, until in and around August 2013. Crystallex remains a reporting issuer under Ontario securities law, but has been noted in default by the Ontario Securities Commission as a result of its failure to make certain filings and pay certain fees.

(i) Crystallex has offered to provide information to the Noteholders on a confidential basis; however, the parties are unable to agree on a form of confidentiality agreement as Crystallex insists on such an agreement being open-ended, and the Noteholders require a near-term blow-out date for any material non-public information ("**MNPI**") they might receive. For reasons that I have detailed in my prior affidavits and on cross-examination, being in receipt of MNPI under a confidentiality agreement for an indefinite period is inconsistent with Stornoway's obligations and duties to its funds' investors, including as it could potentially impair our ability to meet investor redemption requests, manage our portfolio and satisfy ongoing regulatory requirements. Accordingly, the "option" of receiving information under an open-ended confidentiality agreement is in reality a Hobson's choice for Stornoway, as we cannot receive information on this basis.

B. Recent History of Sealing and Financial Disclosure

18. Until February 2021, when the Court of Appeal denied Crystallex's and Tenor's leave to appeal this Court's spring 2020 decisions refusing Crystallex's request to seal its cash balance and aggregate actual cash flow and cash flow forecast filed with the Court in May

2020, Crystallex had not publicly disclosed its cash balance and any cash flow information to stakeholders for nearly seven years, over the objection of the Noteholders.

19. Although I had hoped this Court's and the Court of Appeal's recent decisions would cause Crystallex to reconsider its position on providing baseline public financial disclosure to its stakeholders on a go forward basis, Crystallex advised the Noteholders that it intended to continue to redact and seek to seal its cash balance and the entirety of its cash flow information going forward, which once again would have resulted in no public financial disclosure being made available to stakeholders. The Noteholders opposed this continued sealing and also brought a cross-motion seeking to unseal or require Crystallex to disclose certain key financial and other information that it had refused to provide to the Noteholders (including, in some cases, even to counsel on a confidential basis). These two motions (the "**CCAA Disclosure Motions**") were originally directed to be heard together on October 14, 2021.

20. Over the course of the summer of 2021, Crystallex made disclosure to the Noteholders of certain of the information sought on the CCAA Disclosure Motions but continued to resist publicly disclosing a number of key pieces of information, including the details of the Initial Payment Securities received by Crystallex from Venezuela under their 2018 Amended Settlement (which constituted a majority of the $425 million of value received by Crystallex under that settlement and are a critical asset) and Crystallex's updated cash balance and cash flow information.

21. On September 8, 2021, Judge Leonard P. Stark of the United States District Court for the District of Delaware, the Court overseeing Crystallex's U.S. enforcement efforts, rejected Crystallex's request to seal certain information it had delivered to the Special Master appointed by Judge Stark, including the details of the Initial Payment Securities (being, in effect, that Crystallex had received Venezuela and PDVSA bonds with a market value at time of receipt of approximately $320 million). The result was that the details of the Initial Payment Securities became public shortly thereafter in U.S. court filings.

22. Judge Stark's decision was a total rejection of the tactical secrecy Crystallex has sought to deploy in both the U.S. enforcement proceedings and these CCAA proceedings:

> The Court further believes that the public should have access to all information in the Proposed Order and Report. Crystallex brought its dispute with the Republic in a court of law, which is funded by the public and operates for the public's benefit. Maintaining the Court's integrity in the eyes of the public is of paramount importance. Accordingly, the strong presumption is that court filings - especially those necessary to and affecting the Court's exercise of judicial power - will be available to the public. […]
>
> Crystallex seeks to use the Court's mechanisms to collect a judgment of the U.S. courts. Yet Crystallex attempts to hide relevant information, on the purported bases that disclosure will cause Crystallex competitive harm (vis-a-vis other creditors of the Venezuela Parties), that disclosure may harm certain third parties, and that disclosure will offend "principles of comity and respect for parallel foreign judicial proceedings" (because Canadian bankruptcy courts have sealed the information at issue). The Court does not find those countervailing interests to be "compelling" or sufficient to justify the sealing Crystallex seeks. Ultimately, Crystallex has not met its burden to "overcome the presumption of access to show that the interest in secrecy outweighs the presumption." The public's interest in disclosure of information that directly relates to a component of the Special Master's role far outweighs Crystallex's private interests. [internal quotations to other case law and cites omitted]

23. Judge Stark's ruling was significant to the CCAA Disclosure Motions for two reasons. First, as noted, the details of the Initial Payment Securities were one of the key pieces of information sought on the Noteholders' cross-motion and which Crystallex refused to provide. Their public disclosure in the U.S. enforcement proceeding mooted this dispute. Second, following Judge Stark's ruling, Crystallex consented to the Monitor disclosing some—but not all—of the updated cash balance and cash flow information in the 35th and 36th Reports that had been temporarily sealed on a without prejudice basis pending the CCAA Disclosure Motions being heard. In particular, as reflected in a letter from counsel to Crystallex to counsel to the Monitor dated September 22, 2021, attached at Exhibit "X" to the October Fung Affidavit, Crystallex requested that the Monitor "…file revised redacted 35th and 36th Reports in the same manner as it did with the 33rd Report in respect of the Financial Information." Attached as **Exhibit "A"** hereto is a copy of the public Monitor's 33rd report that was made available on the Monitor's website in February 2021 following the Court of Appeal denying Crystallex and Tenor's leave to appeal application. The public Monitor's 33rd Report discloses Crystallex's *aggregate* actual cash flow and cash flow forecast, but redacts the *individual* line items and most explanatory notes in both,

as well as the cash flow variance analysis. I understand from counsel to the Noteholders, Goodmans LLP ("**Goodmans**"), that on or about September 26, 2021, the Monitor posted updated public versions of the 35th and 36th Report on the Monitor's website that were redacted in a manner consistent with the public 33rd Report.

24. Together with the piecemeal disclosure made by Crystallex over the course of the summer, the result was that by late September 2021, the Noteholders believed that the only items that remained in dispute on the CCAA Disclosure Motions were: (i) the sealing of the *individual* line items and explanatory notes in the actual cash flows and cash flow forecasts in the 35th and 36th Reports, as well as the cash flow variance analysis contained in those Reports (the "**Remaining Redacted Financial Information**"), which the Noteholders continued to oppose; and (ii) the unsealing of the CVR Info.

V. CRYSTALLEX'S NEW PROPOSED SEALING REGIME

A. Crystallex is Attempting to Renege on its Recent Commitment to Disclose its Cash Balance and Aggregate Actual Cash Flows on a Current Basis

25. Given the approaching November 2021 stay extension motion and the overlap between the dispute regarding sealing of the Remaining Redacted Financial Information in the 35th and 36th Reports and the updated cash flow information that would be filed in connection with Crystallex's November 2021 stay extension motion (the "**November 2021 Cash Flow Information**"), in late September 2021 the parties began to discuss their positions with respect to the public disclosure of the November 2021 Cash Flow Information.

26. As part of this exchange, on September 28, 2021, counsel to Crystallex delivered a letter to counsel to the Noteholders that outlined Crystallex's position on various issues, including the disclosure of the November 2021 Cash Flow Information. A copy of this letter is attached as **Exhibit "B"** hereto.

27. In the letter, counsel to Crystallex advised that:

> 2. In connection with the November 2021 Stay Extension Motion, Crystallex's then current cash balance and DIP balance will be publicly disclosed together with Crystallex's actual cash-flow reconciliation for the period April 2021 through October 2021 but with the line-item detail and

> explanatory notes will be [sic] redacted in a manner entirely consistent with the Monitor's re-filed 33rd Report.
>
> 3. Crystallex's proposed order to seal the cash-flow forecast filed in connection with the November 2021 Stay Extension Motion, as well as the line-item detail and explanatory notes to cash flow forecasts and the cash flow reconciliations (as noted above in 2), will expressly provide that any such sealing is "without prejudice" to the rights of any party to later seek to modify such sealing order or argue that the information is not confidential (the "Without Prejudice Modification Clause"). […]
>
> 4. Crystallex's proposed stay-extension order will also provide that the Monitor publicly report, every 6 months, on Crystallex's then current cash balance and DIP balance together with Crystallex's actual cash-flow reconciliation in a manner that is consistent with the Monitor's re-filed 33rd Report. [emphasis added][1]

28. Based on this letter, I understood that:

(a) Crystallex had agreed to provide public reporting of its cash balance and aggregate actual cash flows and reconciliation on a current basis, *i.e.*, that it would publicly disclose its cash balance and aggregate actual cash flows for the period April 2021 through October 2021 at some point in early November 2021 in the lead-up to the November 2021 stay extension hearing, and that it would continue to provide this information on a current basis every six months; and

(b) Crystallex would continue to seek to seal the line items and explanatory notes in its actual cash flow and cash flow reconciliation for the period April 2021 through October 2021, as well as the entirety of its actual cash flow forecast filed in November 2021 (with the result that the Court would need to hear and determine this sealing request).

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[1] Counsel to Crystallex's letter was sent in response to a letter from counsel to the Noteholders dated September 23, 2021, marked "without prejudice". Counsel to the Noteholders letter in part detailed various actions Crystallex's counsel had advised counsel to the Noteholders during a telephone conference on September 21, 2021 (attended by counsel to Crystallex, counsel to the Noteholders, counsel to Tenor, and the Monitor and its counsel) that Crystallex intended to take with respect to the then remaining disclosure issues as well as a settlement proposal by the Noteholders on the various outstanding disclosure issues. The Noteholders are prepared to disclose a copy of this letter with the settlement proposal redacted on the basis that it would not constitute a waiver of privilege.

29. Although I continued to believe (and still believe) that Crystallex should be publicly disclosing the entirety of its cash flow information on a current basis, I believed Crystallex had at least accepted that creditors were entitled to some ongoing current financial disclosure and that the scope of our dispute was narrowing.

30. However, based on the October Fung Affidavit, it appears that Crystallex is attempting to renege on its commitment to provide public disclosure of its cash balance and aggregate actual cash flow and reconciliation on a current basis, and is now seeking to seal this information until it is *at least* six months stale before being made available to stakeholders. I am not aware of any change in the situation with Crystallex or Venezuela in the past month that would explain Crystallex's changed position in this regard; rather, whatever concerns Mr. Fung is now expressing to justify the sealing relief Crystallex is seeking would also have been present a month ago when it outlined its position on the November 21 Cash Flow Information.

31. Notably, nowhere in the September 28 letter does Crystallex's counsel mention any intention on the part of Crystallex to seek to seal its cash balance or actual cash flow information until it is six months stale. In the circumstances, it seems to me that Crystallex's latest proposal is a re-hash of the delay tactics it has deployed since the Court first ruled against it in the spring of 2020. These tactics are an effort to delay the disclosure of financial information the Court has determined should be publicly disclosed in an effort to render that information stale when it is ultimately disclosed. This ensures the Noteholders and other non-insider stakeholders are always at least a few steps behind Crystallex's insiders.

32. I also note that although Mr. Fung has characterized Crystallex's proposed delay in disclosure as six months, the actual result would be for the information to be *at least* six months stale, and *as much* as 12 months stale, when publicly disclosed. By way of example, under Crystallex's proposed regime, the Noteholders would not receive cash flow reporting for the period April 2021 to September 2021 until April 1, 2022. At that point, the April 2021 information would already be one year stale.

33. Moreover, at present the most current publicly disclosed cash balance of Crystallex is as at March 31, 2021. Under Crystallex's proposal as I understand it, this cash balance will not be publicly updated until April 1, 2022 (with information as at September 30, 2021). As such, the practical effect of Crystallex's proposal would be that the Noteholders and other non-insider stakeholders understanding of Crystallex's cash balance (the most fundamental piece of financial information I would expect to be disclosed) would be a *full year* stale by the time further public disclosure is made available to them in April 2022. This delay in disclosure would actually be longer than the delay Crystallex was able to obtain through seeking leave to appeal this Court's 2020 decisions rejecting its sealing requests for the very same type of information it continues to seek to seal. This pattern would then repeat itself such that the Noteholders' understanding of Crystallex's cash balance would continuously be six months to one-year stale on a rolling basis.

B. Delayed Disclosure is Harmful to Stakeholders

34. I believe the delayed disclosure proposed by Crystallex is harmful to the Noteholders and other non-insider stakeholders for a number of reasons.

35. First, as relates to addressing issues that may arise in the case, information that is stale is inherently less valuable than information that is current insofar as it provides a picture of how things *were* as opposed to how things *are*. In the event there is a new development in the case (for instance, a further proposed settlement with Venezuela for which Court approval is sought), the Noteholders will not have access to current financial information to allow them to fully evaluate that development in the context of Crystallex's then current financial situation. By way of example, if my understanding of Crystallex's financial position is (for instance) ten months stale when a further settlement is proposed, I will not be able to determine with any specificity how much cash Crystallex would have available for distribution post implementation of a settlement, and thus what the impact of the settlement would be in terms of stakeholder recoveries.

36. Similarly, given Tenor recently purported to declare an event of default under the DIP in respect of the recent OFAC license decision that expressly permits Crystallex to reapply in 2022, the Noteholders' inability to access current financial information leaves them and

other non-insiders in an extremely vulnerable position to the extent Tenor were to seek to take any enforcement or other steps, or were Crystallex and Tenor to propose some modification to the DIP. Although the day prior to swearing my affidavit Crystallex served a supplemental affidavit of Mr. Fung advising that Tenor had agreed to waive the alleged event of default under the DIP, that an event of default was alleged at all demonstrates to me that Tenor is prepared to consider taking enforcement or other steps in response to ongoing developments in the U.S. enforcement process. In these circumstances, the Noteholders must have access to current financial information so they are in a position to consider all available options and respond to any enforcement or other adverse actions Tenor may seek to take.

37. Delayed disclosure also means that the Noteholders will always be at an informational disadvantage relative to the insider CVR holders who hold four of Crystallex's five board seats and whose economic interests are junior to creditors (and therefore potentially at odds with the economic interests of creditors). As I described in my May 28 Affidavit, I believe this ongoing informational asymmetry has made it very difficult for the parties to negotiate on issues in an attempt to achieve a consensual resolution, including during the course of the mediations that have played out over the past two years. I am particularly concerned about this informational disadvantage in a circumstance where I have lost all confidence that Crystallex will look out for the interests of the Noteholders and believe Crystallex's governance structure is rife with conflicts that incentivize the majority of its directors to behave in a manner adverse to the Noteholders' interests.

38. Although Mr. Fung has attempted to explain away these concerns by suggesting Crystallex does not anticipate seeking any substantive relief in the CCAA proceeding in the near term, as discussed in greater detail below, I believe the current dynamic that Mr. Fung describes in his affidavit with respect to Venezuela and Crystallex's U.S. enforcement efforts can only be described as fluid, and that it is impossible for anyone to predict what might unfold over the coming months as a result. In the circumstances, it is imperative that the Noteholders have access to timely and fair financial disclosure from Crystallex so that they are prepared to address any eventualities.

39. Delayed disclosure also prevents the Noteholders from identifying potential issues as they arise. By the time we become aware of an issue, our ability to address it may be impaired by the passage of time or mooted altogether. By way of example, when certain of the cash flow information in the Monitor's 33rd Report was finally disclosed in February 2021, an unredacted explanatory note stated that Crystallex had accrued potential accounts payable of approximately $11.6 million that were not included in its disbursements for the relevant cash flow period. Disclosure of this very significant accrual of liabilities surprised me and, to the extent Crystallex seeks to pay it in priority to the Noteholders, it potentially prejudices the Noteholders and other creditors. While I do not know if this accrual (or its history) was previously reported in prior Monitor's reports that remain sealed, had its existence been publicly disclosed at an earlier stage, I at least would have been aware of these accounts payable (potentially when the accrued liability was much smaller), been able to ask questions about them and, as necessary, been able to proactively address any concerns regarding them. Because I was not provided timely disclosure of this accrual, I was not able to do any of this.

40. Similarly, while the Noteholders are supportive of Crystallex's enforcement efforts against Venezuela, I was shocked to learn last month how much cash Crystallex has actually spent over the last three and a half years, and do not have a proper understanding of how these funds have been spent.

41. When the Special Master's Report was unsealed in mid-September 2021, the Noteholders learned that Crystallex had received cash settlement payments from Venezuela of approximately $180 million over the course of 2018. Prior to this, the Noteholders had only known that Crystallex had recovered $500 million of cash and securities from Venezuela, but not the breakdown between the two. Shortly thereafter, an updated public version of the 36th Report was posted by the Monitor which shows Crystallex had approximately $102 million of cash on hand as at March 31, 2021. This means Crystallex spent at least $78 million between mid-2018 and March 2021, and likely has spent in the range of $85 - $90 million (or approximately 50%) of the cash it has received from Venezuela to date based on the most recent publicly available net cash flow information available to me. In contrast, based on the 33rd Report's cash flow information (which, as noted, only became publicly

available in February 2021), I had estimated that Crystallex had an average net cash outflow of approximately $1.5 million per month, which implied a total net cash out flow from mid-2018 to present of only approximately $60 million. Although I expect some of this discrepancy may be explained by Crystallex having paid some accrued professional fees in 2018 (the existence of which were publicly disclosed, but not the amounts), that Crystallex's actual net cash outflow over the last several years appears to be a full 50% higher than my estimate shows the danger associated with delayed and/or partial disclosure of financial information.

42. It is unacceptable to me that I had no idea such a significant amount of the settlement funds had been spent by Crystallex until well after the fact, and that I still do not know the particulars of how those funds were spent beyond vague references in Mr. Fung's affidavits that Crystallex primarily spends money on enforcement efforts and these CCAA proceedings, and mostly on professional fees. To this end, the Noteholders intend to meet with the Monitor in the coming weeks to discuss the Monitor providing an accounting of Crystallex's use of settlement funds to date in a future report. To be clear, it may well be that Crystallex's expenditures have been entirely appropriate. However, I am very concerned by the recent disclosures regarding the extent of Crystallex's expenditures, believe creditors are entitled to more information regarding what Crystallex has spent (and is spending) settlement funds on, and that current and full financial disclosure would allow for these types of issues to be addressed in a more timely and fair manner by parties with a direct economic interest in Crystallex's spending.

43. Going forward, if Crystallex is permitted to seal its cash flow forecasts until they are stale (as it is seeking), I will continue to have zero visibility as to the amount of money Crystallex expects to spend, or its proposed use. Crystallex has been spending an extraordinary amount of money for a debtor in a CCAA case (order of magnitude of $25 million per year based on the calculations I outlined previously) and, notwithstanding receipt of $500 million of cash and securities, is now alleging creditors are out of the money. Especially given the potentially conflicting economic interests of the insider CVR holders who control Crystallex with those of creditors, I believe it is critical that creditors have reasonable insight into how much and on what Crystallex expects to spend money on going forward

so that creditors can exercise some degree of oversight, raise questions and, as necessary, seek to intervene before the money has already been spent.

44. The bottom line is that without timely disclosure of even basic financial information, I cannot know what I am missing, provide fully informed input to Crystallex, the Monitor and the Court, protect my interests, and be ready to handle whatever events may unfold in this complex case.

C. Crystallex's Proposal to only Report on an Aggregated Basis is Inappropriate

45. In what I consider to be entirely representative of the type of unilateral action that has characterized Crystallex's conduct throughout these proceedings, Mr. Fung has advised that, going forward, Crystallex only intends to report its cash flow information on an aggregate basis, without any breakdown or categorization of its receipts and disbursements. Mr. Fung is silent on whether Crystallex intends to provide any explanatory notes in its cash flows. I am advised by Goodmans that Crystallex has not provided a copy of the cash flows it intends to file with the Court on this motion (even on a confidential basis), saying they are not yet available.

46. Attached hereto as **Exhibit "C"** hereto is the 11th Report of the Monitor dated April 12, 2014, which includes the actual cash flow, prior period cash flow forecast and cash flow variance analysis prepared by Crystallex for the then relevant time periods. To my knowledge, this is the last time Crystallex's entire cash flow template (and information) was publicly disclosed without redaction. Of note, these cash flows only break down Crystallex's disbursements into various high-level sub-categories such as "Payroll and Benefits", "Arbitration" and "Restructuring – CCAA". Although I cannot be certain given the level of redaction, Crystallex's more recent cash flows seem to be in a similar format to these based on what information has been unredacted so far.

47. As described in greater detail in my May 28 Affidavit and alluded to above, I am a frequent participant in CCAA and other Canadian restructuring cases. Based on this experience, I would describe Crystallex's April 2014 cash flows as typical of the cash flow format that is provided by a debtor in a CCAA case, with the exception that they do not include the

usual explanatory notes (which are instead provided in the main body of the Monitor's 11th Report).

48. Consistent with this observation, I have reviewed the cash flows filed in a number of recent CCAA cases in which the Monitor in this case also served (or serves) as Monitor, copies of which are attached as **Exhibits "D"** through **"G"** hereto. These cash flows are all generally consistent with the general format of Crystallex's April 2014 cash flows in that they provide aggregate receipts, disbursements and net cash flow, as well as a break down of the receipts and disbursements into various sub-categories and related explanatory notes. I note one minor difference is that some of these cash flows report actual results and the related variance analysis on a consolidated basis for the entire relevant period rather than on a week by week basis as Crystallex's April 2014 cash flows do.

49. While I am not aware of how Crystallex's more recent cash flows break down its receipts and disbursements (as this information remains sealed), assuming they are similar to the categories in its April 2014 cash flows, I do not see how disclosure of this type of relatively high-level aggregated data could harm Crystallex. Even within a line item such as "Arbitration" (which presumably is the only type of line item that could conceivably be sensitive in some way), there are many options on which Crystallex could spend professional fees (*e.g.* the Citgo sale process, other U.S. litigation with Venezuela, engagement with OFAC, etc.) and knowing the total expenses it is incurring does not tell Venezuela anything about one or more activities of Crystallex that are caught within that broad category.

50. Similarly, the line items in Crystallex's April 2014 cash flows do not disclose payments to individual professional firms (as some CCAA cash flows do). As such, there is no risk that their disclosure would somehow "tip" Venezuela to an as yet undisclosed work stream (such as, for instance, a new enforcement effort in a foreign jurisdiction being undertaken by a newly engaged foreign professional firm).

51. Further, as noted previously, Mr. Fung has publicly stated that all Crystallex is spending money on is its enforcement efforts and this CCAA proceeding, with the majority of its funds being spent on its U.S. enforcement efforts. As such, I do not see what the risk would

be in Crystallex providing the typical break-down and categorization of its disbursements, as Venezuela can already be taken to know that Crystallex is spending the majority of its funds on enforcement efforts.

52. As I stated in my May 28 Affidavit, Crystallex's failure to disclose the details of what it has been spending or expects to spend its cash on means I have no ability to assess (or challenge) the appropriateness of Crystallex's expenditures, giving rise to concerns that are similar to the "delayed disclosure" concerns I described previously. When financial information is only disclosed on an aggregate basis, important details can be "buried", with the result that there is less (and perhaps no) ability for creditors to understand, assess or challenge how Crystallex is spending its cash or how its expenses are changing from month to month over time. Given the significant sums of money that are being spent by Crystallex as a debtor-in-possession in a public CCAA case, I believe the Noteholders and other creditors are entitled to know with a reasonable degree of detail what Crystallex is (and expects to be) spending these funds on.

D. Crystallex's New Rationale for Sealing

53. As in prior affidavits, Crystallex has redacted substantially all of the evidence it relies on to justify its proposed new sealing regime. As such, I have no ability to respond specifically to whatever harm Mr. Fung has articulated on this occasion, although I gather from unredacted portions of his affidavit that Crystallex continues to believe that the normal course financial disclosure the Noteholders seek could still somehow be used by Crystallex's "litigation adversaries" to its detriment.

54. As outlined in my May 28 Affidavit, Stornoway, as a significant creditor and one of the economic beneficiaries of Crystallex's enforcement efforts against Venezuela, entirely rejects Mr. Fung's view that disclosure of the type of baseline financial information the Noteholders seek could somehow imperil Crystallex's enforcement efforts or its competitive position *vis-à-vis* Venezuela or competing creditors (including for the reasons I describe above at paragraphs 49 to 51). This is a judgment call that Stornoway and other creditors should be able to make, balancing staying informed with advancing recovery efforts.

55. I also note that I am aware of other cases where a CCAA debtor engaged in protracted and expensive litigation has nonetheless continued to provide detailed cash flow reporting to its creditors. By way of example, attached as **Exhibit "H"** to my Affidavit is the 104th Report of the Monitor dated March 14, 2014, filed in Nortel Networks Corporation ("**Nortel**") *et al*.'s CCAA proceedings (omitting certain voluminous appendices that are not related to the matters I describe). I am aware from the public Court filings and media reports in that case that Nortel, its foreign affiliates and various of their stakeholders were engaged in years long litigation before this Court and a U.S. court over the allocation of approximately $7.5 billion of sale proceeds from asset divestitures and billions of dollars of claims asserted by Nortel's European affiliates. Nonetheless, the monitor in that case continued to provide detailed cash flow reporting throughout the case, including as reflected in the aforementioned report. Indeed, the Court in that case requested that the monitor provide supplemental cash flow reporting (reflected at Appendix "C") providing greater detail on the litigation expenses being incurred by Nortel.

56. In addition, I am not aware of any negative impacts on Crystallex arising from the recent financial disclosures it has been required to make by this Court and Judge Stark. As best I can tell from what is not redacted in the October Fung Affidavit, the best evidence of alleged actual "harm" Mr. Fung can point to as a result of these disclosures is rhetorical and entirely irrelevant arguments Venezuela has made to Judge Stark about Tenor's economic interests in Crystallex, and a hyperbolic blog posting made by a Venezuelan political activist who argues Crystallex has been paid in full by Venezuela based on the face value of the Initial Payment Securities. In my view, this is not harm at all, and certainly not harm that would justify Crystallex withholding financial information from its creditors.

E. Timely and Proper Financial Disclosure is More Important Now than Ever

57. As described above, Mr. Fung tries to justify Crystallex's request for a one-year stay extension and not providing any current financial disclosure by arguing nothing is anticipated to happen in the CCAA case for the next year. One reason for this is because Crystallex does not intend to do anything to try and advance the case—it has told the Noteholders that it has no intention of ever proposing a CCAA plan of arrangement and

has failed to respond or engage with the Noteholders on the CCAA plan they delivered in 2019.

58. Notwithstanding that Crystallex has no intention to try and advance the case, the Noteholders continue to constantly evaluate Crystallex's circumstances based on the information available to them and may well choose to seek to progress this case at some point in the months to come. One impact of Crystallex delaying and limiting disclosure to the Noteholders is to make it more challenging for the Noteholders to proactively advance matters in this case.

59. In addition, as noted previously, my main takeaway from all of the circumstances surrounding Crystallex's U.S. enforcement efforts, OFAC and Venezuela described by Mr. Fung is that all of these matters are entirely fluid and beyond the control of Crystallex one way or the other, with the result being that it is impossible for anyone to predict what might unfold in the coming months.

60. Of note, Mr. Fung did not highlight for the Court two developments of which I am sure he is aware that suggest to me there is a possibility of progress being made by Crystallex soon. First, in addition to seeking to have a sale process for the PDVH Shares approved shortly, the Special Master appointed by Judge Stark has made clear he intends to work in the near term to have Venezuela, Crystallex and the other parties at interest in the sale process negotiate a consensual waterfall of how the sale proceeds for PDVH's Shares are to be applied, or potentially a further outright settlement of Crystallex's judgment and the other parties' entitlements.[2]

61. Second, it was recently publicly reported that Citgo has hired JPMorgan Chase & Co. ("**JPMorgan**") as an adviser to attempt to negotiate a resolution with Venezuela's various creditors that are pursuing Citgo in an attempt by the Guaido government to keep control

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[2] See, for instance, Exhibit E(2) to the October Fung Affidavit, Special Master's Report and Recommendation Regarding Proposed Sale Procedures Order dated September 15, 2021, at paras. 5, 37 and 38. A copy of Exhibit "B" to the Special Master's Report which details his proposed settlement process was not exhibited to the October Fung Affidavit. As such, I have exhibited a complete copy of the Special Master's Report, including Exhibit "B" and the other exhibits, to my affidavit as **Exhibit "I"**.

of Citgo. A Bloomberg article dated September 24, 2021, that describes this development is attached hereto as **Exhibit "J"**. The article reports that JPMorgan has presented a set of plans to the Venezuela National Assembly for negotiating with creditors and quotes an advisor to the National Assembly as saying, "Once the National Assembly gives the go ahead, the companies could explore with creditors possibilities of negotiations […]. The process need to be fast because we don't have much time." The article identifies Crystallex as one of the chief creditors of Venezuela pursuing Citgo.

62. Given these constantly evolving circumstances, as well as the recent uncertainty regarding the status of the DIP, I believe it is more important than ever that the Noteholders have timely access to current financial disclosure from Crystallex so they are prepared and able to consider, respond and address whatever might come.

VI. A THREE MONTH STAY EXTENSION IS APPROPRIATE

63. Crystallex has requested a one-year stay extension, which is six-months longer than any prior stay extension granted by the Court in this proceeding, with the exception of the 1.5 year stay extension (subsequently extended by a year) that was granted *on consent* of the Noteholders following the parties reaching a standstill agreement as reflected in this Court's Stay Extension and Standstill Order dated June 5, 2013. Since Crystallex elected to terminate the standstill at the end of 2015, there has been no consensus on the status or conduct of this case, and stay extensions have been granted for only approximately three or six months at a time.

64. Based on my experience in CCAA cases and discussions with Goodmans, I understand that one-year stay extension requests are very rare in CCAA cases and typically reserved for cases in which there is consensus on the status of the case and no stakeholder opposition to such a lengthy extension, or cases that are in wind-down following the implementation of a CCAA plan or other restructuring transaction. Neither is true of this case.

65. The Noteholders have no desire to drive up Crystallex's expenses in these CCAA proceedings (which may well ultimately be borne by them and Crystallex's other creditors) and have never opposed a stay extension request or sought to terminate the CCAA

proceedings. Rather, the litigation and related expenses that have arisen in connection with Crystallex's CCAA stay extension requests are a result of Crystallex continuously seeking to seal the cash flow information it is required to file with the Court in order to demonstrate that the relief it requests is appropriate, including continuing to seek to seal its cash balance and all of its cash flow information even after this Court and the Court of Appeal ruled against it. Indeed, even now, after Crystallex has conceded it cannot sustain the secrecy it has sought to impose in this case and has provided some public financial disclosure, Crystallex remains unwilling to provide normal course timely financial disclosure, seeks to unilaterally modify its cash flow template to reduce the disclosure it provides, and is attempting to renege on disclosure commitments it made to the Noteholders only a month ago. In my view, this is not the good faith conduct of a debtor that supports the granting of an extended stay of proceedings.

66. In addition, for the reasons discussed previously, I believe it is more important than ever that Crystallex provide the Noteholders and its other stakeholders with timely financial disclosure, as well as disclosure of what is happening in the U.S. enforcement process, with OFAC, any potential settlement opportunities with Venezuela and otherwise. While I do closely monitor public filings in the U.S. enforcement process, I do not believe that a creditor in a Canadian insolvency proceeding should be required to wade through voluminous U.S. court filings in order to stay up to date on Crystallex and this CCAA case. Moreover, there may well be a host of relevant developments to this CCAA case that do not make their way into U.S. court filings, either because there is no reason for them to be addressed in U.S. court filings, or because Crystallex elects not to address them or seeks confidential treatment.

67. In the circumstances of an unresolved case that is nearly a decade old, where there is no consensus between the debtor and its major stakeholder on the status or direction of the case, significant governance concerns have been raised and remain unaddressed, the debtor is burning millions of dollars a month that has not been accounted for, the DIP lender (who also holds two board seats) recently purported to declare an event of default, and critical events continue to unfold in the U.S. and Venezuela on a week to week basis, a three month stay extension and quarterly public financial reporting is appropriate to ensure that

Crystallex is required to return to this Court to provide fair, full and timely financial and other disclosure to its creditors and demonstrate that an extension of the CCAA stay is appropriate having regard to the then prevailing circumstances.

VII. CRYSTALLEX'S ALLEGATION AGAINST GREYWOLF

68. At paragraph 117 of the October Fung Affidavit, Mr. Fung alleges that:

> In 2017, Crystallex learned that a principal of Grey Wolf Loan Participation LLC, which is a current member of the [Noteholder Committee], had contacted the Government of Venezuela directly in an attempt to circumvent Crystallex and negotiate a deal with respect to the Award.

69. Mr. Fung does not identify the source of Crystallex's information nor does he provide any particulars of this allegation.

70. Greywolf Loan Participation LLC ("**Greywolf**") is a participant in the Noteholder Committee and has been since the beginning of these proceedings. Adrian Waisburg is Greywolf's representative on the Noteholder Committee. I have known Mr. Waisburg since prior to the commencement of these proceedings and regularly speak with him regarding the case in connection with our participation on the Noteholder Committee.

71. I discussed Mr. Fung's allegation with Mr. Waisburg and he advised me that Greywolf categorically denies Mr. Fung's allegation, and confirmed that neither he, nor anyone else at Greywolf, has ever made any attempt to circumvent Crystallex and negotiate a deal with the Government of Venezuela with respect to the Award.

VIII. CONCLUSION

72. After 18 months of litigation relating to sealing and disclosure of information, and following Court decisions in both Canada and the U.S. that have rejected the secrecy Crystallex has sought to deploy, Crystallex still seeks to keep its non-insider stakeholders in the dark, and only provide information to them after the fact when the information is stale and of little practical utility.

73. For the reasons outlined here, I firmly believe the Noteholders and other creditors are entitled to timely, fair and frank public disclosure of information, and that their ability to participate in these proceedings and protect and advance theirs interests will be impaired if this disclosure is not provided.

SWORN remotely by Scott Reid stated as being located in the City of Toronto, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario on October 29, 2021 in accordance with O. Reg. 431/20, *Administering Oath or Declaration Remotely*.

A Commissioner for taking affidavits
Name: CHRIS ARMSTRONG

SCOTT REID

SCHEDULE "A" - PRIOR AFFIDAVIT EVIDENCE ON CVR INFO

1. Affidavit of Scott Reid sworn May 28, 2021

F. Public Disclosure of Tenor and Director and Officer CVR Entitlements

28. In connection with the original DIP loan, Crystallex agreed to provide Tenor with 35% of the CVRs. As Tenor advanced further loans under the DIP, Crystallex agreed to provide it with more CVRs. The last public disclosure in this regard was made nearly seven years ago when the Monitor disclosed that Tenor had earned 70.554% of the CVRs. Based on reviewing the Monitor's reports, I expect that Tenor is likely entitled to a greater percentage of the CVRs as a result of having advanced further DIP financing to Crystallex; however, there has been no public disclosure of Tenor's current CVR entitlement.

29. I also understand from the Monitor's reports that in 2014 Tenor transferred some of its CVR entitlements to two of Crystallex's directors and officers, Robert Fung and Marc Oppenheimer. The amount of CVRs that were transferred and the terms related thereto have never been publicly disclosed to stakeholders.

[…]

CVR Entitlements

52. As mentioned, there has been no disclosure of the current amount of CVRs held by Tenor. The last public disclosure in this regard was also nearly seven years ago when it was disclosed that Tenor held 70.554% of the CVRs. While I have previously estimated what Tenor's current CVR entitlement may be by extrapolating from publicly available information regarding the principal amount of further DIP financing provided by Tenor since then, I do not know if this estimate is accurate.

53. In addition, Crystallex has never publicly disclosed the amount of CVRs that Tenor transferred to Messrs. Fung and Oppenheimer in 2014, or the terms of that transfer.

54. Messrs. Fung and Oppenheimer, plus two Tenor nominees, Robin Shah and Daniel Kochav, represent four of Crystallex's five directors. As detailed in my prior affidavits, given (i) the CVRs are subordinate to the Notes and the claims of other creditors, and (ii)

the value of the CVRs (if any) is, in part, a function of the amount of Noteholder and other creditor claims, the Trustee and Noteholder Committee believe these directors have a significant conflict of interest in addressing, among other things, the rights and entitlements of the Noteholders and other creditors.

55. The fact there has not been fulsome disclosure of the CVR entitlements of Crystallex's directors and officers, particularly where those entitlements incentivize those same directors and officers to attempt to minimize the rights and entitlements of the Noteholders and other creditors, is very concerning to me.

56. Finally, not knowing the current CVR entitlements of Tenor and Messrs. Fung and Oppenheimer means Stornoway does not have a complete understanding of Crystallex's capital structure, which is a fundamental aspect of any restructuring case. Moreover, as any unallocated CVRs (i.e., 100% less whatever has been allocated to Tenor and management to date) are a potential source of value in a restructuring transaction, not knowing the particulars of the existing CVRs is an impediment to Stornoway being able to fully analyze Crystallex's situation and what opportunities may be available.

[…]

2. <u>Reply Affidavit of Scott Reid sworn July 19, 2021</u>

16. The following tables sets forth the information sought on the Noteholder Cross-Motion, and the Noteholders' response to what Crystallex has provided to date:

<u>Requested Information</u>	**<u>Noteholders' Response to Crystallex Disclosure</u>**
(a) Total CVR earned by the DIP Lender	Crystallex's disclosure, some six years after the fact, is now satisfactory.
(b) The amount of CVRs transferred by the DIP Lender to Messrs. Fung and Oppenheimer, and the terms of such transfer	Crystallex has redacted the actual amount of CVRs transferred by Tenor to Messrs. Fung and Oppenheimer from the unexecuted form of CVR transfer agreement it has now disclosed. The CVR transfer agreement is a material contract with Crystallex insiders and the actual CVR amounts transferred to Messrs. Fung and Oppenheimer are critical for stakeholders to understand as that informs the level of economic interest (and resulting conflict)

Requested Information	**Noteholders' Response to Crystallex Disclosure**
	arising from their holding of the CVRs. It is a requirement that reporting issuers disclose the compensation details of their key executives as well as details regarding the securities they own in the company. As outlined in my May 28 Affidavit, Crystallex remains a reporting issuer under Ontario securities law and is also a debtor in a public CCAA process, and I do not see why the rules should be any different for it (I note that Crystallex has also not disclosed Messrs. Fung and Oppenheimer's compensation details). With respect to Mr. Fung's concerns regarding security risks should he or Mr. Oppenheimer opt to travel to Venezuela, I agree with his assessment of these risks. However, I do not believe that the risk is increased should their specific interest in the CVRs be disclosed as: (i) I believe they would face these risks in any event as representatives of Crystallex; and (ii) the fact of their interest in the CVRs is already public knowledge.

[…]

THIS IS EXHIBIT "A"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

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 CRYSTALLEX INTERNATIONAL CORPORATION

THIRTY-THIRD REPORT OF THE MONITOR AS OF APRIL 30, 2020

INTRODUCTION

1. This Court granted Crystallex International Corporation ("**Crystallex**" or the "**Applicant**") protection under the *Companies' Creditors Arrangement Act (Canada)* (the "**CCAA**") pursuant to the Initial Order of Mr. Justice Newbould dated December 23, 2011 (the "**Initial Order**"). Also pursuant to the Initial Order, this Court appointed Ernst & Young Inc. as the monitor (the "**Monitor**") of the Applicant and granted a stay of proceedings, which was most recently extended to May 6, 2020 pursuant to an order of this Court dated November 4, 2019.

2. On the same date as the Initial Order, Crystallex also commenced a proceeding before the United States Bankruptcy Court in the District of Delaware (the "**Delaware Bankruptcy Court**") pursuant to Chapter 15 of the United States Bankruptcy Code to obtain an order recognizing this CCAA proceeding as the foreign main proceeding and providing a stay of proceedings in the United States (the "**Chapter 15 Proceedings**"). On January 20, 2012, the Delaware Bankruptcy Court granted an order approving the recognition of the CCAA proceeding as a foreign main proceeding and giving full force and effect in the United States to the Initial Order, including any extensions or amendments authorized under the CCAA proceeding.

3. To provide the necessary financing for its CCAA proceeding and to pursue its arbitration claim against the Bolivarian Republic of Venezuela ("**Venezuela**") in relation to certain mine sites that it alleged were expropriated, Crystallex obtained debtor-in-possession

financing ("**CCAA Financing**") from Luxembourg Investment Company 31 S.à.r.l. (successor to Tenor Kry Coöperatief U.A.) ("**Tenor**" or the "**DIP Lender**"). This Court granted an Order dated April 16, 2012 approving the CCAA Financing ("**CCAA Financing Order**"). The current outstanding principal owed to the DIP Lender is US$75,733,333.

4. On April 4, 2016, an arbitral tribunal constituted under the auspices of the Additional Facility of the International Center for Settlement of Investment Disputes granted an award (the "**Award**") in favour of the Applicant. The Award against Venezuela includes:

   a) US$1.202 billion in damages;
   b) interest accrued at 6-month average U.S. dollar LIBOR plus 1%, compounded annually, from April 13, 2008 to the date of the Final Award Order; and
   c) post judgment interest from the date of the Final Award Order.

PURPOSE

5. The Monitor is filing this thirty-third report (the "**Thirty-Third Report**") to provide the Court with an update on:

   a) challenges and adverse changes with respect to Crystallex's Award realization strategy;
   [redacted]
   c) the Applicant's request for approval of the thirteenth amendment to the debtor-in-possession financing agreement (the "**Thirteenth Credit Amendment Agreement**");
   d) the Applicant's request for an extension of the Stay Period to November 6, 2020;
   e) the Applicant's liquidity position;
   f) the Applicant's cash flow projection from April 1, 2019 to November 30, 2020 (the "**Cash Flow Statement**");
   g) the Applicant's request for an order filing certain portions of this Thirty-Third Report under a sealing order; and
   h) the Monitor's observations and recommendations.

6. In preparing this Thirty-Third Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records prepared by Crystallex, and discussions with and information from management of the Applicant ("**Management**") (collectively, the "**Information**").

7. The Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Auditing Standards ("**GAAS**") pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Monitor expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.

8. Capitalized terms not defined in this Thirty-Third Report are as defined in previous reports of the Monitor. Unless otherwise stated, all monetary amounts contained herein are expressed in U.S. Dollars.

CHALLENGES AND ADVERSE CHANGES WITH RESPECT TO CRYSTALLEX'S AWARD REALIZATION STRATEGY

9. There are a number of challenges that Crystallex faces in monetizing the Award including, but not limited, to the following:

   a) as this Court knows, most of the world, including Venezuela, has been adversely and materially impacted by the novel coronavirus ("**COVID-19**") pandemic. Among other things, the sudden decline in economic activities and transportation demands around the world has triggered a sharp drop in oil prices and put additional pressure on Venezuela's oil industry, which accounts for more than fifty percent of the country's gross domestic product. The COVID-19 pandemic is expected to pose unprecedented challenges to Venezuela's already decimated health and financial systems. As at the date of this report, Venezuela and the United States have not been able to reach a resolution on terms for the

United States to lift sanctions that could assist Venezuela in responding to the COVID-19 pandemic impacts;

b) the ongoing uncertainty with respect to who will be the next leader of a new transitional government, if any, in Venezuela. As described in the affidavit sworn by Robert Fung on April 24, 2020 (the "**Fung Affidavit**"), it is difficult for the Applicant to engage in any meaningful settlement discussions with Venezuela in the coming months regardless of which regime is in power;

c) the inability of Crystallex to execute on the PDVH shares as long as the Delaware Stay remains in place[1]. The uncertainty as to when the United States Supreme Court (the "**Supreme Court**") will release its decision may complicate the Applicant's dual-track strategy given the ever changing economic and political situation in Venezuela;

[redacted]

e) the potential outcome of the Declaratory Judgement Action involving Crystallex's competing creditors. Although it is difficult to predict how the Declaratory Judgement Action will be resolved between PDVSA and the Bondholders, a myriad of outcomes could further delay Crystallex's efforts to execute the Writ of the Attachment.

10. As described in previous reports of the Monitor and as out in detail in Confidential Appendix "**A**", the Applicant developed and implemented a dual-track strategy whereby it is concurrently pursuing enforcement of the Award and a negotiated resolution with Venezuela. An update on these efforts is set out below.

Appeal of Writ of Attachment

11. On September 26, 2019, Venezuela and PDVSA both filed petitions for a panel rehearing of the Third Circuit Appeal which had affirmed the Delaware Order issuing the Writ of

[1] Refer to the Confidential Appendix -A for the capitalized terms not defined in paragraph 9 to paragraph 17.

Attachment. On November 21, 2019, the Third Circuit denied Venezuela and PDVSA's rehearing petitions (the "**Third Circuit Decision**").

12. On February 19, 2020, Venezuela and PDVSA petitioned the United States Supreme Court for a writ of certiorari (the "**Writ of Certiorari**") for leave to appeal the Third Circuit Decision to the United States Supreme Court. On April 13, 2020, Crystallex filed its opposition brief. As described in the affidavit sworn by Robert Fung on April 26, 2020 (the "**Fung Affidavit**"), the Supreme Court may call for the view of the United States Solicitor General as to whether the Supreme Court should agree to grant the petition to hear the case. The Applicant has advised the Monitor that it is not able to predict whether the Supreme Court will seek the views of the Solicitor General or when the Supreme Court will make a determination on the petition. [redacted]

Delaware Stay

13. As set out in previous reports of the Monitor, on November 30, 2018, the Delaware Court issued an Order that granted a stay of further proceedings (the "**Delaware Stay**") until the later of i) January 10, 2019; or ii) the disposition of the Third Circuit Appeal. On October 10, 2019, the Applicant filed an application to lift the Delaware Stay. Venezuela and PDVSA jointly opposed Crystallex's request.

14. On December 12, 2019, the Delaware Court issued a memorandum order staying the Writ of Attachment proceedings until the conclusion of any proceedings in the Supreme Court, if applicable, or "further order of this or any other Court lifting the stay".

U.S. Sanctions

15. On November 22, 2019, OFAC published a final rule that amends previous Sanctions with respect to Venezuela and PDVSA's property. Among other things, the amendment

prohibits Crystallex from attaching, executing or selling the PDVH shares unless Crystallex obtains a specific license authorizing it to proceed.[2]

16. [redacted]

17. Notwithstanding the challenges and material adverse developments described above, the Applicant continues to pursue its dual-track strategy with respect to the Award. However, there are increasing uncertainties in terms of timing and quantum of proceeds realizable from the Award. Therefore, while the Applicant's desire is to have some recovery for its shareholders, the Monitor's view is that such result is uncertain at this time.

[redacted]

Status of Mediation

18. As described in the Thirty-First Report of the Monitor dated May 1, 2019, the Monitor proposed mediation (the "**Mediation**") among the Applicant, the DIP Lender and the Noteholders ("**Mediation Participants**"), who agreed to attend a voluntary Mediation before the Honourable Mr. Robert Blair (the "**Mediator**").

19. The Mediation Participants exchanged their mediation briefs and reply mediation briefs prior to a two-day Mediation session on May 28 and 29, 2019. A follow-up Mediation session was held on June 11, 2019 and thereafter the Mediation Participants, without counsel, attended several meetings, both in-person and via telephone in the context of the ongoing mediation in an attempt to resolve the ongoing disputes.

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[2] § 591.407 Settlement agreements and enforcement of certain orders through judicial process. https://www.law.cornell.edu/cfr/text/31/591.407

20. On November 18, 2019, the voluntary Mediation was terminated. [redacted]

21. [redacted]

22. [redacted]

[redacted]

23. At a case conference on January 27, 2020 to discuss the proposed filing and scheduling of the various motions, Justice Hainey directed that all the "parties should attempt to mediate their disputes with Mr. Blair or if he is not available another mutually agreeable mediator. If the disputes cannot be resolved counsel will schedule the Motions with me and they will be heard expeditiously".

24. The Noteholders, Crystallex and the DIP Lender held multiple mediation sessions with Mr. Blair through 2020 and the mediation is ongoing.

25. Several issues are outstanding as between the Noteholders, the DIP Lender and Crystallex, including those described in greater detail below.

26. [redacted]

27. [redacted]

28. [redacted]

[redacted]

29. [redacted].

30. [redacted]

[redacted]

31. [redacted]

32. [redacted]

[redacted]

33. [redacted]

[redacted]

34. [redacted]

[redacted]

35. [redacted]

[redacted]

36. [redacted]

[redacted]

37. [redacted]

38. [redacted]

THE THIRTEENTH CREDIT AMENDMENT AGREEMENT

39. As described in the Thirty-Second Report, the Applicant and the DIP Lender reached an agreement on the terms of an extension and amendment of the debtor-in-possession credit agreement (the "**DIP Credit Agreement**") through to May 6, 2020 or the expiry of the Stay, if earlier (the "**Twelfth Amendment Agreement**"), which Agreement was approved by the Court on November 6, 2019.

40. The DIP Credit Agreement will mature on May 6, 2020. The Monitor understands that the DIP Lender is prepared to further extend the maturity of the DIP Credit Agreement on the terms of the Thirteenth Credit Amendment Agreement, subject to Court approval.

41. The Thirteenth Credit Amendment Agreement is attached as Exhibit A to the Fung Affidavit, and simply extends the maturity date to match the proposed Stay extension date or the expiry of the Stay period, if earlier. The Thirteenth Credit Amendment Agreement becomes effective when all the conditions precedent therein are satisfied or waived and contains no extension or amendment fees.

42. The DIP Credit Agreement permits the DIP Lender to assign its interests in the DIP Loan without any further approvals, or the consent of the Borrower provided the assignment is made to a "Tenor affiliate". There have been other such assignments of the DIP Loan in this CCAA Proceeding by the DIP Lender, the last such assignment having taken place in 2014. In each case, Crystallex has executed an "assignment agreement" to document the assignment. Pursuant to an assignment agreement dated and effective as of March 30, 2020, the DIP Loan was assigned from Luxembourg Investment Company 31 S.à.r.l., as assignor and the DIP Lender, to Tenor Special Situation I, LP, a Cayman Islands Exempted Limited Partnership, as assignee, and Crystallex as the agreement of borrower (the "**2020 Assignment Agreement**"). In the opinion of the Monitor and as discussed with counsel to the Applicant prior to its execution, the Agreement of Borrower to the 2020 Assignment Agreement was unnecessary in whole and was too broad in the acknowledgements and confirmations the Applicant purported to grant under it. However, based on the confirmation by the Company's counsel that they have reviewed the draft Assignment Agreement and concluded that the Applicant and its stakeholders are not placed in a worse

position by virtue of signing the Agreement of Borrower in respect of the Assignment Agreement, the Monitor did not object to the Applicant signing same.

THE APPLICANT'S REQUEST FOR AN EXTENSION OF THE STAY PERIOD

43. The current stay of proceedings under the Initial Order, as extended by subsequent orders, expires on May 6, 2020. In connection with the Thirteenth Credit Amendment Agreement, the Applicant seeks a six-month extension of the Stay Period to November 6, 2020. The length of the Stay sought by the Applicant is consistent with the previous Stay period extension.

THE APPLICANT'S LIQUIDITY POSITION

44. Attached as Confidential Appendix "**B**" is a summary of the Applicant's actual receipts and disbursements from the period of October 1, 2019 to March 31, 2020 compared to the cash flow forecast included in the Thirty-Second Report. The balance of the Applicant's cash and cash equivalents as at March 31, 2020 was approximately $116.1 million, which was $0.9 million higher than forecast. The favorable variance is primarily due to the lower than forecast Arbitration costs and higher than forecast harmonized sales tax refunds. [redacted]

THE APPLICANT'S CASH FLOW STATEMENT

45. Attached as Confidential Appendix "**C**" to this Thirty-Third Report is the Applicant's projected Cash Flow Statement for the period from April 1, 2020 to November 30, 2020 (the "**Period**"). For reasons set out in the Fung Affidavit, the Applicant requests that the Cash Flow Statement be sealed.

46. The Cash Flow Statement represents the estimates of Management of the projected cash flow during the Period on a monthly basis. The Cash Flow Statement has been prepared

using the probable and hypothetical assumptions set out in the notes to the Cash Flow Statement (the "**Probable and Hypothetical Assumptions**" or the "**Assumptions**").

47. The Cash Flow Statement contains Management's assumption that the Applicant will not receive any payments from Venezuela during the Period. [redacted] projected to be incurred during the Period and that [redacted] will remain outstanding at November 30, 2020. The Applicant projects that it will have the ability to sustain its operations through the proposed Stay period to advance all necessary strategic initiatives related to asset preservation and enforcement strategies in connection with the Award.

48. The Monitor has reviewed the Cash Flow Statement to the standard required of a Court-appointed Monitor stipulated by section 23(1) (b) of the CCAA.

49. Pursuant to this standard, the Monitor's review of the Cash Flow Statement consisted of inquiries, analytical procedures and discussions related to information supplied to it by certain key members of Management and employees and legal counsel of the Applicant. Since the Probable and Hypothetical Assumptions need not be supported, the Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash Flow Statement. The Monitor also reviewed the support provided by Management for the Probable and Hypothetical Assumptions and the preparation and presentation of the Cash Flow Statement.

50. Based on this review, nothing has come to the Monitor's attention that causes it to believe, in all material respects, that:

a) the Probable and Hypothetical Assumptions are inconsistent with the purpose of the Cash Flow Statement;
b) as at the date of this Report, the Probable and Hypothetical Assumptions are not suitably supported and consistent with the plans of the Applicant or do not provide a reasonable basis for the Cash Flow Statement, given the Probable and Hypothetical

Assumptions; or

c) the Cash Flow Statement does not reflect the Probable and Hypothetical Assumptions.

51. The Cash Flow Statement has been prepared solely for the purpose described above, and readers are cautioned that it may not be appropriate for other purposes.

THE APPLICANT'S REQUEST FOR SEALING THE THIRTY-THIRD REPOrT

52. The Applicant has requested that certain portions of this report and the Appendices to this report to be sealed and filed under a protective order. The Applicant advised the Monitor that the redactions and sealing are necessary to protect the Applicant's strategic interests in its Award realization activities.

THE MONITOR'S OBSERVATIONS AND RECOMMENDATIONS

53. The main objectives of the Applicant in this CCAA proceeding are: i) the pursuit and collection of the Award for the benefit of its stakeholders; and ii) the development of a plan of arrangement or scheme of distribution that can be approved by this Court.

54. The Monitor is of the view that the Applicant has made progress and is continuing to pursue collection of the Award in good faith and with due diligence.

55. The Monitor believes it is beneficial for the Applicant, the DIP Lender and the Noteholders to reconcile their differences on various issues and encourages the parties to continue their negotiations regarding these matters.

56. Based on Management's assumptions described above, the Cash Flow Statement indicates that the Applicant is estimated to have sufficient liquidity through November 30, 2020. Therefore, the Monitor supports the Applicant's motion for an extension of the Stay Period to November 6, 2020.

57. The Monitor supports the extension of the maturity of the Applicant's obligations under the DIP Credit Agreement and the Thirteenth Credit Amendment Agreement.

58. The Applicant has requested that the unredacted version of the Thirty-Third Report be sealed and filed under a protective order. Following numerous discussions, the Applicant

advised the Monitor that the redactions are necessary to protect the Applicant's strategic interests in its Award realization activities.

All of which is respectfully submitted this 30th day of April 2020.

ERNST & YOUNG INC.
In its capacity as Court-appointed Monitor of
Crystallex International Corporation

Per:

Brian M. Denega
Senior Vice President

Confidential Appendix A

Confidential Appendix B

Crystallex International Corporation ("Crystallex")
Actual to Forecast Report
October 1, 2019 to March 31, 2020

US $000

	Actual						
	30-Oct-19	30-Nov-19	31-Dec-19	31-Jan-20	28-Feb-20	31-Mar-20	Total
Opening Cash Balance	127,054	123,310	122,641	121,110	118,187	117,449	127,054
Receipts							
[redacted]							
Total Receipts	350	253	19	58	168	52	900
Disbursements							
[redacted]							
Total Disbursements	(4,093)	(922)	(1,550)	(2,981)	(906)	(1,366)	(11,818)
Net Cash Flow	(3,744)	(669)	(1,531)	(2,923)	(738)	(1,314)	(10,919)
Ending Cash Balance	123,310	122,641	121,110	118,187	117,449	116,135	116,135

**Certain numbers in the Cash Flow Statement are rounded.*

[redacted]

Confidential Appendix C

Crystallex International Corporation ("Crystallex")
Cash Flow Statement
April 1, 2020 to Novermber 30, 2020
US $000

	Notes	1 30-Apr-20	2 31-May-20	3 30-Jun-20	4 31-Jul-20	5 31-Aug-20	6 30-Sep-20	7 31-Oct-20	8 30-Nov-20	Total
Opening Cash Balance	2	116,135	113,993	112,863	111,736	110,471	109,336	108,199	106,937	116,135
Receipts										
[redacted]										
Total Receipts		50	50	50	50	50	50	50	50	400
Disbursements										
[redacted]										
Total Disbursements		(2,192)	(1,180)	(1,177)	(1,315)	(1,186)	(1,187)	(1,312)	(1,186)	(10,734)
Net Cash Flow		(2,142)	(1,130)	(1,127)	(1,265)	(1,136)	(1,137)	(1,262)	(1,136)	(10,334)
Ending Cash Balance		113,993	112,863	111,736	110,471	109,336	108,199	106,937	105,802	105,802

** Certain numbers in the Cash Flow Statement are rounded.*

This monthly cash flow statement (the "Cash Flow Statement") has been prepared by Management solely for the purpose of determining the ability of Crystallex International Corporation ("Crystallex" or the "Applicant") to fund its business activities as set out herein. The Cash Flow Statement represents Management's reasonable estimates at present. This is not a projection or forecast as contemplated in the *Chartered Professional Accountants Canada Handbook*. The actual timing and amount of the receipts and disbursements may fluctuate from the estimates shown herein and these fluctuations may be material. Readers are cautioned that the Cash Flow Statement may not be appropriate for their purposes.

Capitalized terms not defined in the notes to the Cash Flow Statement are defined in the reports of the Monitor.

1. The Cash Flow Statement is presented for the period from April 1, 2020 to November 30, 2020 (the "Period") and represents Management's estimate of the projected financial results from operations during that time on a cash, not accrual, basis. The Cash Flow Statement is presented in thousands of U.S. Dollars. Actual disbursements will reflect the foreign exchange rate in effect on the date of the transaction.

[redacted]

The total cash disbursements of $10.7 million does not include any estimated potential accounts payable of approximately $11.6 million that is projected to be outstanding as of November 30, 2020.

THIS IS EXHIBIT "B"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

DAVIES

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Toronto, ON M5V 3J7 Canada

dwpv.com

Robin B. Schwill
T 416.863.5502
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File 246577

September 28, 2021

BY EMAIL

Goodmans LLP
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Attention: Chris Armstrong

Dear Sirs/Mesdames:

CCAA Proceedings of Crystallex International Corporation ("Crystallex")

I am in receipt of your letter dated Thursday, September 23, 2021 requesting a response by noon on September 24, 2021. It was not possible for me to discuss your letter with my client and obtain instructions to send this reply until today.

In an effort to resolve the remaining issues in connection with what I have referred to as the October 14 Motions, I can confirm to you as follows:

1. Crystallex will be applying for a one-year CCAA stay extension effective from November 5, 2021 to November 4, 2022 (the "**November 2021 Stay Extension Motion**").

2. In connection with the November 2021 Stay Extension Motion, Crystallex's then current cash balance and DIP balance will be publicly disclosed together with Crystallex's actual cash-flow reconciliation for the period April 2021 through October 2021 but with the line-item detail and explanatory notes will be redacted in a manner entirely consistent with the Monitor's re-filed 33rd Report.

3. Crystallex's proposed order to seal the cash-flow forecast filed in connection with the November 2021 Stay Extension Motion, as well as the line-item detail and explanatory notes to cash flow forecasts and the cash flow reconciliations (as noted above in 2), will expressly provide that any such sealing is "without prejudice" to the rights of any party to later seek to modify such sealing order or argue that the information is not confidential (the "**Without Prejudice Modification Clause**"). On this basis there should be no reasonable grounds to oppose the relief, and if any such grounds in fact do exist then you can reserve your rights at that time.

DAVIES

4. Crystallex's proposed stay-extension order will also provide that the Monitor publicly report, every 6 months, on Crystallex's then current cash balance and DIP balance together with Crystallex's actual cash-flow reconciliation in a manner that is consistent with the Monitor's re-filed 33rd Report.

5. Crystallex's proposed order on its Protective Motion will seek the continued redaction of the line-item detail and explanatory notes to cash flow forecasts and cash flow reconciliations in the 35th and 36th Reports and will include the Without Prejudice Modification Clause.

6. With respect to the retention amounts provided to Mr. Fung and Mr. Oppenheimer under the Net Arbitration Proceeds Transfer Agreement (the "**Retention Amounts**"), Crystallex will provide such information to any member of the Ad Hoc Committee on a confidential basis. Crystallex will not allege that the Retention Amounts are material non-public information.

7. With respect to the monthly fee amounts being paid to Moelis & Co. and Pirinate Consulting LLC, Crystallex will similarly provide such information to the any member of the Ad Hoc Committee on a confidential basis. Crystallex will also not allege that the monthly fee amounts are material non-public information.

In the case of items 6 and 7, Crystallex is expressly not providing securities or other legal advice to the Ad Hoc Committee and the Ad Hoc Committee must engage and rely on its own counsel for such advice.

In light of the foregoing, Crystallex believes that all matters contained in the October 14 Motions have been resolved. We ask that you advise immediately what, if anything, the Ad Hoc Committee intends to continue to litigate on October 14.

Yours very truly,

Robin B. Schwill

cc Robert J. Chadwick, Peter Ruby, *Goodmans LLP*
David Byers, Maria Konyukhova, *Stikeman Elliott LLP*
Brian Denega, Fiona Han, *Ernst & Young Inc.*
Ryan C. Jacobs, Shayne Kukulowicz, Tim Pinos, *Cassels Brock & Blackwell LLP*
Natalie Renner, Maureen Littlejohn, *Davies Ward Phillips & Vineberg LLP*

THIS IS EXHIBIT "C"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

Court File No.: CV-11-9532-00CL

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 CRYSTALLEX INTERNATIONAL CORPORATION

ELEVENTH REPORT OF THE MONITOR

April 12, 2014

INTRODUCTION

1. On December 23, 2011, Crystallex International Corporation ("**Crystallex**" or 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 (the "**CCAA**") pursuant to the Order of this Court dated December 23, 2011 (the "**Initial Order**"). Pursuant to the Initial Order, Ernst & Young Inc. ("**EYI**") was appointed as the monitor of the Applicant (the "**Monitor**") in these CCAA proceedings.

2. In order to provide the necessary financing for its CCAA proceeding (the "**CCAA Proceeding**"), Crystallex has obtained debtor in possession financing (after the assignment of the loan from the original lender, Tenor Special Situation Fund I, LLC) from Tenor Capital Coöperatif U.A. ("**Tenor**").

PURPOSE

3. The Monitor is filing this Eleventh Report (the "**Eleventh Report**") to provide the Court with an update on the following issues:

   (a) The status of the Applicant's arbitration proceedings in respect of its appropriated

mine site in Venezuela;

(b) The Applicant's cash flows since the date of the Tenth Report of the Monitor dated June 4, 2013 (the "**Tenth Report**");

(c) The Applicant's need for additional financing;

(d) The Applicant's motion to approve the Third DIP Loan (as defined herein);

(e) The Applicant's motion to extend the stay period to December 31, 2015;

(f) The Applicant's motion to extend the standstill agreement (the "**Standstill Agreement**") with its noteholders (as defined herein) to December 31, 2015;

(g) The Applicant's change in counsel;

(h) Crystallex's request to seal Appendices "A", "B", "D" and "F" (the "**Confidential Appendices**") of this Eleventh Report given the confidential nature of their contents; and

(i) The Monitor's views and recommendations in respect of the above.

DISCLAIMER

4. In preparing this Eleventh Report and making the comments herein, the Monitor has been provided with, and has relied upon, unaudited financial information, books and records prepared by Crystallex, and discussions with management of the Applicant ("**Management**") (collectively, the "**Information**"). Except as described in this Eleventh Report in respect of the Applicant's cash flow statement:

(a) the Monitor has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. However, the Monitor has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Monitor expresses no opinion

or other form of assurance contemplated under GAAS in respect of the Information; and

(b) Some of the information referred to in this Eleventh Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.

5. Future oriented financial information referred to in this Eleventh Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that may not be ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.

6. Capitalized terms not defined in this Eleventh Report are as defined in previous reports of the Monitor. Unless otherwise stated all monetary amounts contained herein are expressed in U.S. Dollars.

7. This Eleventh Report should be read in conjunction with the Affidavits of Robert Fung sworn April 8 and April 11, 2014 in support of this motion (collectively, the "**Fung Affidavits**")

UPDATE ON ARBITRATION

8. Attached as confidential Appendix "A" to this Eleventh Report is a summary of the Applicant's arbitration proceedings.

UPDATE ON CCAA PROCEEDINGS SINCE JUNE 2013

9. In its Tenth Report, the Monitor reported that, subject to the Court's approval of an injection of additional financing, the Revised DIP Projection (which was the forecast on which the financing was based) indicated that the Applicant would have sufficient liquidity to operate through to December 31, 2014. This Court approved the injection of additional financing on June 5, 2013 and contemporaneously ordered an extension of the stay period until December 31, 2014 (the "**Stay Period**").

10. In the months leading up to the commencement of the Arbitration hearing in November 2013, total costs of preparing for the hearing exceeded the amount projected in the Revised DIP Projection. In addition and for reasons more fully described in the Fung Affidavits and the confidential Appendices, Crystallex was required to incur additional costs associated with the Arbitration Claim.

11. The remainder of the update on the CCAA Proceedings can be found in confidential Appendix "B" to this Eleventh Report.

ACTUAL CASH FLOWS SINCE JUNE 2013

12. Appendix "C" to this Eleventh Report sets out the actual cash flows of Crystallex, on a monthly basis, since June 1, 2013. The Tenth Report of the Monitor dated June 4, 2013 included details of the Applicant's cash flows up to and including May 17, 2013. Cash flows from May 18 to May 31, 2013 reflected a use of cash in the amount of approximately $261,000 due to payment of payroll (approximately $112,000), rent (approximately $14,000) and general office expenses for the remainder.

13. The following summarizes some of the larger variances from the forecast that was filed with the Court in June 2013:

    (a) *Opening cash* as at June 1, 2014 is approximately $150,000 less than forecast due to the fact that the opening cash balance was a forecast amount that was estimated in mid-May 2013;

    (b) *Net DIP Loan Proceeds* are approximately $5 million less than forecast. As set out below, the Applicant did not submit a draw request to Tenor in December 2013 as contemplated in the forecast;

    (c) *Equipment proceeds* realized a positive variance of approximately $227,000 due to the fact that proceeds were received in late March, 2014. Such proceeds were not forecast by Crystallex.

    (d) *HST refunds* were approximately $607,000 higher than forecast;

(e) *Consultants and general legal* disbursements were approximately $126,000 less than forecast due to cash management efforts of management and lower than forecast expenses related to this line item;

(f) *Arbitration* disbursements were $315,000 higher than forecast due to the increased activity of the arbitration professionals as discussed elsewhere in this Eleventh Report. In addition to this amount, the Applicant has certain post-filing accounts payable that are described in greater detail in confidential Appendix "D" (the bulk of which is related to the Arbitration Claim) as at the date of this Eleventh Report. The delay in the proceedings had direct negative implications for the professional costs incurred. In addition, during the delay resulting from Venezuela's motion, the Applicant and its counsel determined that they would spend additional time preparing witnesses for their respective testimony related to the Arbitration Claim. As such, significant additional unbudgeted costs were incurred;

(g) Disbursements related to *Restructuring – CCAA* were approximately $270,000 lower than forecast as a result of the Applicant deferring payment to its professionals. However, the Applicant has outstanding accounts payable to various parties related to the CCAA Proceeding which, if paid, would eliminate this positive variance;

(h) A positive variance of approximately $216,000 has been realized with respect to *Insurance* due to a delay in a forecast payment. This payment is now reflected in the Budget (as defined herein);

(i) Crystallex realized *Foreign exchange* gains of approximately $120,000 due to the decrease of the value of the Canadian dollar relative to the U.S. dollar; and

(j) Costs related to the *Caracas Office G&A* were approximately $73,000 lower than forecast due to a decrease in activity in that office and a favourable exchange rate.

CRYSTALLEX'S CURRENT LIQUIDITY POSITION

14. An update on the Applicant's currently liquidity position can be found in confidential Appendix "D" to this Eleventh Report.

THIRD DIP LOAN

15. As a result of the issues set out above and in the Confidential Appendices, the Applicant has undertaken efforts to find additional sources of funding to allow it to pursue the Arbitration Claim. After assessing its various options (as described in greater detail in the Fung Affidavits), Crystallex has negotiated a term sheet (the "**2014 Term Sheet**") with its existing lender, Tenor and signed a Commitment Letter (as defined in the Fung Affidavits) after consultation with the Monitor. Furthermore, an amending agreement, the "**Third DIP Amending Agreement**", has been negotiated between the parties.

16. Significant details with respect to the 2014 Term Sheet and Third DIP Amending Agreement are summarized below:

    (a) Two new tranches of financing will be made available to Crystallex. These include $11.55 million to be issued as a single draw (the "**Third DIP Amount**") and a further $3.333 million (the "**Standby Facility**"). The Third DIP Amount and the Standby Facility are, together, the "**Third DIP Loan**";

    (b) The regular and default rates of interest will remain at 10% and 12%, respectively and the Third DIP Loan, unless it is extended, will mature December 31, 2016;

    (c) Tenor has waived any known existing defaults and agreed to release the $5 million that was undrawn during the last round of financing (i.e. the Supplemental Loan) subject to certain conditions including that funds advanced pursuant to the Supplemental Loan shall only be used to fund the activities that are set out in the Budget (i.e. cannot be used for any cost overruns unless in respect of Arbitration costs and certain additional specified costs). The Monitor notes that Tenor has already earned entitlement to 6.7% of the Net Arbitration Proceeds on this Supplemental Loan;

(d) As with prior rounds of financing, Tenor will be entitled to additional compensation in addition to its 10% interest charge. On Court approval of the Third DIP Amount, Tenor will be entitled to 1.34% of the Net Arbitration Proceeds (as they are defined in Fung Affidavits) for each $1 million of financing that is approved for total additional compensation of 15.477% of the Net Arbitration Proceeds. Similar compensation will be payable on the Standby Facility (i.e., another 4.47% of the Net Arbitration Proceeds), but such compensation will not be earned until such time as funds are drawn. If all available amounts of the Third DIP Loan are drawn by Crystallex, Tenor will be entitled to a total of 69.817% of the Net Arbitration Proceeds;

(e) Provided that an Event of Default (as such term in defined in the various credit agreements) has not occurred and the Standby Facility is fully drawn, the Company will be entitled to draw the full Supplemental Loan and no interest will accrue on the Supplemental Loan until December 1, 2014, regardless of when it is drawn. If such an Event of Default does occur, interest will be payable in the normal course pursuant to the credit documents;

(f) If Crystallex submits a draw request pursuant to the Standby Facility and such request is not agreed to by Tenor, Crystallex shall have the ability to make disbursements from cash on hand without triggering a default under the various covenants and the failure to obtain the Standby Facility will not trigger an Event of Default with respect to any draw on the Supplemental Loan. However, other budget-based covenants will remain in place and an Event of Default may otherwise arise;

(g) Tenor will be entitled to a commitment fee of $1.05 million in respect of the funding of the Third DIP Amount. A fee of $333,333 (i.e. 10%) will be earned by Tenor when the Standby Facility is drawn. Should less than the full amount be drawn, the commitment fee will be calculated on a *pro rata* basis;

(h) Tenor has agreed to advance the full amount of the Supplemental Loan no later than concurrently with the final draw of the Standby Facility (if it is drawn in multiple

tranches) or concurrently with the full draw of the Standby Facility. However, the Standby Facility may only be drawn with the approval of both Tenor and Crystallex subject to Tenor's complete discretion as to whether it will advance the Standby Facility;

(i) The Third DIP Amendment Agreement has amended certain covenants to which Crystallex was subject. These include the following:

i. Historically Crystallex was allowed an overage of 10% of forecast disbursements on a rolling 6 month basis. The Third DIP Amendment Agreement has increased this variance to 15%. A further change with respect to this covenant is to remove certain line items from the calculation. Such line items are primarily related to the Arbitration costs and costs related to the Monitor and its counsel. This covenant will be first calculated in June 2014 or July 2015, depending on the timing of the first advance of the Third DIP Amount;

ii. Crystallex is currently permitted a one-time variance of 20% on the rolling 6 month covenant calculation set out above. The Third DIP Amending Agreement has increased this threshold to 30%; and

iii. All other budget-based covenants remain the same as the last credit agreement.

(j) The Third DIP Amending Agreement contains certain provisions amending the current corporate governance of Crystallex. In the event that the independent director (who is the "**Special Managing Director**") of Crystallex leaves the Board of Directors, board approval shall require three of the remaining four directors voting the same way. Similarly, if another member joins the board, a majority shall require four out of the five members. If the board increases beyond 5 members, board approval shall be by simple majority but will require at least one Series 1 Nominee (i.e. a representative from Tenor) in order to be successful. The Series 1 Nominees include two representatives from Tenor who are members of the Board

of Directors. This process is the "**Supermajority Threshold**";

(k) The Supermajority Threshold provisions shall remain in force until such time as a new Special Managing Director is appointed and a vote of confidence in such Special Managing Director occurs. In order to achieve such vote of confidence, four out of the five directors must vote in favour. If this threshold is reached, a simple majority will be all that is required for future votes. If not, the Supermajority Threshold shall remain in effect until such time as the necessary votes are achieved in a future vote. Such votes may be held at a maximum once every four weeks.

(l) The Third DIP Amending Agreement places restrictions on the Applicant's ability to accept certain claims of its creditors without Tenor's consent. The Court issued the "**Claims Procedure Order**" on November 30, 2012 and such order requires the Monitor to obtain the Applicant's consent or approval of the Court to accept any claim in excess of $100,000. The Third DIP Amending Agreement prevents Crystallex from accepting or providing its consent to the Monitor to accept any Noteholder Claim as defined in the Claims Procedure Order without Tenor's consent or approval of the Court.

MONITOR'S VIEWS WITH RESPECT TO THE THIRD DIP LOAN

17. As described in greater detail below, one of the factors that this Court is to consider when considering approval of interim financing is the Monitor's report referred to in paragraph 23(1) (b) of the CCAA. Subject to this Court approving the Third DIP Loan in the amount of 14.9 million, the Budget projects that Crystallex will have sufficient liquidity to operate during the proposed Period.

18. The Monitor's duties with respect to its review of the Budget pursuant to section 23(1)(b) of the CCAA require the Monitor to review it as to its reasonableness and to file a report with this Court on the Monitor's findings. The Canadian Association of Insolvency and Restructuring Professionals standards of professional practice include a standard for monitors fulfilling their statutory responsibilities under the CCAA in respect of a

Monitor's Report on a Cash-Flow Statement. A copy of Standard 09-1 Cash Flow Statement is attached hereto as Appendix "E".

19. Pursuant to this standard, the Monitor's review of the Budget consisted of inquiries, analytical procedures and discussion related to information supplied to the Monitor by certain of the management and employees of Crystallex. Since hypothetical assumptions need not be supported, the Monitor's procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Budget. The Monitor also reviewed the support provided by management of Crystallex for the probable assumptions of the Budget.

20. Based on the Monitor's review, nothing has come to its attention that causes it to believe that, in all material respects:

    i. the hypothetical assumptions are not consistent with the purpose of the Budget;

    ii. as at the date of this Eleventh Report, the probable assumptions developed by management are not suitably supported and consistent with the plans of Crystallex or do not provide a reasonable basis for the Budget, given the hypothetical assumptions; or

    iii. the Budget does not reflect the probable and hypothetical assumptions.

21. In considering the proposed Third DIP Loan, the Monitor reviewed the factors set out in Section 11.2(4) of the CCAA which provides a non-exhaustive list of factors which this Court is to consider when deciding whether to approve the Applicant's proposed Third DIP Loan. The Monitor's comments with respect to these factors are set out below.

11.2 (4) (a) - the period during which the company is expected to be subject to proceedings under the CCAA

22. As part of its process to obtain additional financing, Crystallex has prepared a monthly budget through the end of 2015 (the "**Budget**"). The Budget is presented on a monthly basis during the period as defined therein and represents management's estimate of the projected cash flow through 2015 (the "**Period**") given anticipated activity levels and

required levels of security required by the Applicant. Given the nature of Crystallex's operations at present, the projected cash flows consist of draws under the Third DIP Loan and payments to multiple employees, professionals and, to a lesser degree, other service providers. As discussed herein, the costs and timing associated with the realization of the Arbitration Claim remain uncertain. While management has consulted with the professionals involved to obtain their input on anticipated costs going forward, there remain significant risks around these assumptions. Material variances could significantly affect the timing of the Applicant requiring additional financing to continue pursuit and collection of the Arbitration Claim.

23. The Period was selected by management based on Crystallex's assessment of the likely timing of a decision from the Tribunal after consultation with Freshfields. Collection of any award and other delays may require additional time and funding before receiving any funds from the Arbitration following the end of the Period.

24. Given the timelines, as described to the Monitor and Crystallex, the need for financing could extend for a number of months post-arbitration hearings and it is appropriate in the Monitor's view that the funding continue to be available to Crystallex for the rest of 2014 and 2015.

25. The Budget assumes and provides for no extended disputes or significant involvement of professionals in the CCAA Proceedings, including in respect of the current Third DIP Loan negotiations and approval process; however, it does provide for limited contingency funds in case of deviation from the Budget. It is possible that additional funding, including that contemplated by the Standby Facility, will be required. The fees associated with negotiating and implementing the Third DIP Loan will very likely exceed what is assumed for professional fees for this period in the Budget and will create additional risk around variances, budget-based defaults and funding for these types of expenses during the Period. The Monitor notes that the negotiations relating to the Third DIP Loan should constitute Contentious Proceedings under section 8.1(n)(iii), which interpretation is necessary to address the default provisions relating to Restructuring expenses in the Budget.

11.2 (4) (b) – how the company's business and financial affairs are to be managed during the proceedings

26. The Applicant contemplates keeping existing senior management in place through the Arbitration Proceedings and employing appropriate Arbitration consultants for the prosecution of the Arbitration Claim. Crystallex states all the knowledge necessary to advance the Arbitration Proceedings rests with the existing senior management and the Arbitration consultants.

27. Furthermore, Company is attempting to reduce its overhead costs (including headcount reductions and senior management salary deferrals) in an attempt to minimize cash outflows.

11.2 (4) (c) – whether the company's management has the confidence of its major creditors

28. The Monitor is not aware of any stakeholder requesting that the Company's management be replaced.

11.2 (4) (d) – whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the company

29. Crystallex requires additional financing to pay its expenses and continue to pursue the Arbitration Claim. As such, the Third DIP Loan will enhance the viability of a CCAA Plan by preserving the main asset of the company for the benefit of all stakeholders. Absent additional financing, it is not possible to pursue the Arbitration Claim

11.2 (4) (e) – the nature and value of the company's property

30. Crystallex has no assets or operations to provide recovery to its stakeholders other than the pursuit of the Arbitration Claim.

31. Accordingly, the only avenue to present value for its stakeholders is to prosecute the Arbitration Claim for which the additional financing is required.

11.2 (4) (f) – whether any creditor would be materially prejudiced as a result of the security charge

32. The Monitor has had discussions with Tony Reyes ("**Reyes**"), a shareholder of the Applicant, and the only individual shareholder who has been active in contacting the Monitor, to advise him of the principal terms of the Third DIP Loan and the Budget. Reyes advises that he supports the proposed financing.

33. The Applicant is continuing discussions with the Noteholders in respect of the Third DIP Loan and the Standstill/Stay Period extension.

34. The ability of the Applicant to continue to operate and pursue the Arbitration Claim is beneficial to all of the Applicant's stakeholders.

11.2 (4) (g) – the monitor's report referred to in paragraph 23(1)(b), if any.

35. The discussion of the Monitor's report referred in 23(1)(b) is found in paragraphs 22 to 34 of this Eleventh Report.

36. The Budget has been prepared by management of Crystallex using probable and hypothetical assumptions set out in notes 1 to 12 of the Budget. A copy of the budget can be found in confidential Appendix "F" to this Eleventh Report.

37. As described in the Disclaimer above, since the Budget is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, the Monitor expresses no assurance as to whether the Budget will be achieved and the Monitor refers readers to the Disclaimer section above.

Additional Considerations

38. The Third DIP Loan is consistent with other rounds of financing with respect to the fees and interest rates charged and the additional compensation (i.e. the Lender's Additional Compensation). The Monitor notes, however, that the Supplemental Loan, on which Lender's Additional Compensation has already been earned, is to be advanced after the

Third DIP Amount and, at the latest, contemporaneously with the Standby Facility. Tenor has confirmed to the Monitor that it expects that the Supplemental Loan will be drawn in 2014 in accordance with the Budget, or earlier.

39. Given the extent of uncertainty regarding the Arbitration Claim, it is not certain that the full quantum of the new funding will ever be required. As such, it is possible that Tenor may earn a share of the Net Arbitration Proceeds for advancing funds that are never used by Crystallex in the prosecution of the Arbitration Claim. However, such funds would ultimately paid to Crystallex's various creditors in accordance with their legal priorities.

40. For the reasons described in greater detail in the Fung Affidavits, Crystallex was unable to locate any sources of financing other than Tenor. Due to time, financial constraints and restrictions on other financings contained in the existing DIP and concern regarding the impact of widespread disclosure of the Company's financial condition on the Arbitration Proceedings, Crystallex felt unable to run a more comprehensive process at this time.

41. Accordingly, the Third DIP Loan appears to be the only viable option available to Crystallex to obtain the financing necessary to continue its prosecution of the Arbitration Claim for the benefit of all stakeholders.

ANY FUTURE FINANCING FOLLOWING THE THIRD DIP LOAN

42. To date, only Tenor has provided post-filing financing to Crystallex.

43. If and when future financing becomes necessary (the "**Future Financing**"), Tenor has advised the Monitor that it will permit either existing equity holders or Noteholders (collectively the "**Participants**") to subscribe to any such financing arrangement where additional funds are provided to Crystallex. Such subscription will be limited to 49.99% of the total financing provided (the "**Future Participation Amount**").

44. The following would apply to such Future Financing:

    (a) The Participants shall have 5 days to commit to providing their share of the Future Financing once notified of such financing being sought by Crystallex. All funds to

be provided shall be paid to the Monitor to be held in escrow;

(b) If participating, the Participants shall be required to support the Future Financing and shall remain "silent partners" with Tenor;

(c) An intercreditor agreement shall be reached between the various lenders; and

(d) A minimum of 50% of the Future Participation Amount must be subscribed or the ability to participate in the Future Financing shall be cancelled unless certain provisions are waived by Tenor.

EXTENSION OF THE STAY PERIOD

45. In its motion materials, the Applicant is requesting the Court to extend the stay period from December 31, 2014 to December 31, 2015.

46. Given the uncertainty surrounding the time necessary to pursue the Arbitration Claim and the fact that financing will be available to the Applicant through the end of December 2015, the Monitor is supportive of the extension of the stay period.

EXTENSION OF THE STANDSTILL AGREEMENT

47. On June 5, 2014, the Court issued an Order approving an agreement between Crystallex and an ad hoc committee of holders (the "**Noteholders**") of its 9.375% interest notes (the "**Standstill Agreement**"). The purpose of the Standstill Agreement was to settle certain disputes between the Noteholders and to provide Crystallex with certainty of creditor support as it pursued the Arbitration Claim. The Standstill Agreement was to run through December 31, 2014.

48. Given that the uncertainty in respect of the time necessary to pursue the Arbitration Claim, the Noteholders and the Company are holding discussions to extend the period of the Standstill Agreement by one year to December 31, 2015 to remain consistent with the timeline contemplated by the Budget.

49. Given the certainty the Standstill Agreement provides, the Monitor is supportive of the

extension of the Standstill Agreement to December 31, 2015, provided the parties reach an agreement and the terms remain consistent with those currently in effect.

CHANGE OF THE COMPANY'S SOLICITORS

50. Effective February 25, 2014, certain lawyers within Dentons Canada LLP with carriage of the matter representing Tenor in this proceeding transitioned their practices to Cassels Brock & Blackwell LLP who were counsel to the Applicant at the time. The former Dentons Canada LLP lawyers will continue their representation of Tenor in these proceedings with the consent of Crystallex. Accordingly, Crystallex retained Davies Ward Phillips & Vineberg LLP as new counsel and served a Notice of Change of Lawyers upon the service list to provide formal notification that it has retained Davies as its counsel for the purposed of the CCAA proceedings.

51. The Monitor received correspondence from the managing partner of Cassels Brock & Blackwell LLP dated February 25, 2014 confirming that appropriate procedures were put in place within their offices to ensure that no confidential information pertaining to their representation of Crystallex can be available to any lawyers within their offices representing Tenor. The Monitor will provide a copy of such correspondence to any stakeholder on request.

SEALING OF THE ELEVENTH REPORT

52. The Applicant requests that Appendices "A", "B", "D" and "F" of this Eleventh Report be sealed to allow the Applicant to continue its pursuit of the Arbitration Claim. The Monitor agrees that it is critical that the Venezuelan government not be given any undue advantage by having access to information to which it would, outside of the CCAA proceedings, not be entitled. This would include critical information regarding the liquidity of Crystallex.

THE MONITOR'S RECOMMENDATIONS

53. A key objective of the Applicant in the CCAA Proceeding was and remains obtaining sufficient financing to allow it to prosecute the Arbitration Claim to a favourable judgment and settlement or enforcement for the benefit of all of its stakeholders.

54. The Third DIP Loan provides the Applicant with $13.5 million of new financing and unlocks the outstanding $5 million of un-advanced funds from the previous round of financing (subject to certain conditions described above) and is intended to permit the Applicant to achieve its goal of prosecuting the Arbitration Claim. In this context, it is beneficial to all of the Applicant's stakeholders.

55. The Applicant, with the involvement of the Monitor, has consulted with counsel to the Noteholders as well as with Reyes, a shareholder who provides an equity perspective on the Applicant's intended course of action. Reyes supports the approval of the Third DIP Loan and the Noteholders are still providing their feedback to Crystallex.

56. Accordingly, and for the reasons set out above, the Monitor supports the Applicant's request for an Order approving the Third DIP Loan.

57. For the reasons set out above, the Monitor also supports the sealing of Appendices "A", "B", "D" and "F" of the Monitor's Eleventh Report.

58. Also, given the factors raised elsewhere in this Eleventh Report, the Monitor is supportive of the extension of both the Stay Period and the Standstill Agreement to December 31, 2015.

59. The Monitor also respectfully requests that this Court approve the Monitor's Eleventh Report and the Monitor's activities as set out therein.

All of which is respectfully submitted this 12th day of April, 2014.

ERNST & YOUNG INC.
In its capacity as Court-appointed Monitor of
Crystallex International Corporation

Per:

Brian M. Denega
Senior Vice President

Todd Ambachtsheer
Vice President

Appendix "A"
Summary of Arbitration Proceedings

CONFIDENTIAL

Appendix "B"
Further Update on the CCAA Proceedings

CONFIDENTIAL

Appendix "C"
Actual Receipts and Disbursements

CRYSTALLEX INTERNATIONAL CORPORATION
Actual Receipts and Disbursements
For the Period from June 1, 2013 to March 31, 2014
For the Month Ending
US ($000's)

	Actual										
	Jun-13	**Jul-13**	**Aug-13**	**Sep-13**	**Oct-13**	**Nov-13**	**Dec-13**	**Jan-14**	**Feb-14**	**Mar-14**	**Total**
OPENING CASH BALANCE	**353**	**4,794**	**1,794**	**572**	**90**	**3,362**	**1,981**	**1,717**	**998**	**649**	**353**
CASH RECEIPTS											
DIP Loan Proceeds	10,000	-	-	-	6,700	-	-	-	-	-	**16,700**
Equipment Proceeds	-	-	-	-	-	-	-	-	-	227	**227**
HST Refunds	159	-	-	-	-	448	-	-	-	-	**607**
Total Cash Receipts	**10,159**	**-**	**-**	**-**	**6,700**	**448**	**-**	**-**	**-**	**227**	**17,534**
CASH DISBURSEMENTS											
Payroll and Benefits	(294)	(326)	(183)	(181)	(369)	(241)	(176)	(175)	(171)	(171)	**(2,288)**
Consultants & General Legal	(176)	(6)	(2)	(13)	-	(1)	-	-	-	-	**(198)**
Arbitration	(1,664)	(1,608)	(949)	(136)	(2,567)	(1,486)	(40)	(490)	(173)	(174)	**(9,286)**
Restructuring - CCAA	(3,288)	(921)	51	(38)	(393)	(18)	(16)	(36)	-	-	**(4,659)**
Insurance	-	(12)	-	-	-	-	-	-	-	(151)	**(163)**
Regulatory & Accounting	(97)	(139)	(2)	(7)	(2)	(4)	(2)	(6)	(1)	(4)	**(264)**
Administration	(96)	20	(28)	(46)	(31)	(36)	(33)	(24)	(10)	86	**(197)**
Equipment	(38)	(32)	(24)	-	(19)	(22)	(5)	-	-	-	**(141)**
Foreign exchange	-	44	5	4	18	10	8	13	6	11	**120**
Total Corporate	**(5,653)**	**(2,980)**	**(1,132)**	**(417)**	**(3,362)**	**(1,798)**	**(264)**	**(718)**	**(349)**	**(403)**	**(16,673)**
Venezuelan Expenditures											
Caracas Office G&A	(65)	(20)	(90)	(65)	(65)	(31)	-	-	-	-	**(338)**
Total Expenditures	**(5,718)**	**(3,000)**	**(1,222)**	**(482)**	**(3,428)**	**(1,829)**	**(264)**	**(718)**	**(349)**	**(403)**	**(17,414)**
Net Cash Outflow	**4,441**	**(3,000)**	**(1,222)**	**(482)**	**3,272**	**(1,381)**	**(264)**	**(718)**	**(349)**	**(176)**	**120**
ENDING CASH BALANCE	**4,794**	**1,794**	**572**	**90**	**3,362**	**1,981**	**1,717**	**998**	**649**	**473**	**473**

CRYSTALLEX INTERNATIONAL CORPORATION
Actual Receipts and Disbursements
For the Period from June 1, 2013 to March 31, 2014
For the Month Ending
US ($000's)

	Forecast										
	Jun-13	**Jul-13**	**Aug-13**	**Sep-13**	**Oct-13**	**Nov-13**	**Dec-13**	**Jan-14**	**Feb-14**	**Mar-14**	**Total**
OPENING CASH BALANCE	**504**	**4,579**	**1,665**	**126**	**5,630**	**4,235**	**2,846**	**1,592**	**5,333**	**4,588**	**504**
CASH RECEIPTS											
DIP Loan Proceeds	10,000	-	-	6,700	-	-	-	5,000	-	-	**21,700**
Equipment Proceeds	-	-	-	-	-	-	-	-	-	-	-
HST Refunds	-	-	-	-	-	-	-	-	-	-	-
Total Cash Receipts	**10,000**	**-**	**-**	**6,700**	**-**	**-**	**-**	**5,000**	**-**	**-**	**21,700**
CASH DISBURSEMENTS											
Payroll and Benefits	(276)	(324)	(183)	(182)	(323)	(182)	(182)	(282)	(182)	(182)	**(2,297)**
Consultants & General Legal	(224)	(5)	(5)	(5)	(5)	(30)	(5)	(35)	(5)	(5)	**(324)**
Arbitration	(1,899)	(1,284)	(855)	(839)	(934)	(1,019)	(944)	(516)	(416)	(266)	**(8,971)**
Restructuring - CCAA	(3,369)	(1,160)	(250)	-	(35)	(10)	(35)	-	(10)	(60)	**(4,929)**
Insurance	-	(10)	-	-	-	(9)	-	(350)	-	(10)	**(379)**
Regulatory & Accounting	(32)	(2)	(98)	(92)	(12)	(2)	(2)	(2)	(62)	(63)	**(367)**
Administration	(39)	(39)	(36)	(37)	(36)	(34)	(37)	(33)	(31)	(34)	**(358)**
Equipment	(35)	(40)	-	-	-	-	-	-	-	-	**(75)**
Foreign exchange	-	-	-	-	-	-	-	-	-	-	-
Total Corporate	**(5,874)**	**(2,864)**	**(1,427)**	**(1,155)**	**(1,345)**	**(1,286)**	**(1,205)**	**(1,218)**	**(706)**	**(620)**	**(17,701)**
Venezuelan Expenditures											
Caracas Office G&A	(50)	(50)	(50)	(40)	(50)	(40)	(50)	(40)	(40)	(40)	**(450)**
Total Expenditures	**(5,924)**	**(2,914)**	**(1,540)**	**(1,195)**	**(1,395)**	**(1,389)**	**(1,255)**	**(1,258)**	**(746)**	**(660)**	**(18,276)**
Net Cash Outflow	**4,076**	**(2,914)**	**(1,540)**	**5,505**	**(1,395)**	**(1,389)**	**(1,255)**	**3,742**	**(746)**	**(660)**	**3,424**
ENDING CASH BALANCE	**4,579**	**1,665**	**126**	**5,630**	**4,235**	**2,846**	**1,592**	**5,333**	**4,588**	**3,927**	**3,927**

CRYSTALLEX INTERNATIONAL CORPORATION
Actual Receipts and Disbursements
For the Period from June 1, 2013 to March 31, 2014
For the Month Ending
US ($000's)

	Variance										
	Jun-13	**Jul-13**	**Aug-13**	**Sep-13**	**Oct-13**	**Nov-13**	**Dec-13**	**Jan-14**	**Feb-14**	**Mar-14**	**Total**
OPENING CASH BALANCE	**(150)**	**215**	**128**	**446**	**(5,541)**	**(873)**	**(866)**	**125**	**(4,335)**	**(3,938)**	**(150)**
CASH RECEIPTS											
DIP Loan Proceeds	-	-	-	(6,700)	6,700	-	-	(5,000)	-	-	**(5,000)**
Equipment Proceeds	-	-	-	-	-	-	-	-	-	227	**227**
HST Refunds	159	-	-	-	-	448	-	-	-	-	**607**
Total Cash Receipts	**159**	**-**	**-**	**(6,700)**	**6,700**	**448**	**-**	**(5,000)**	**-**	**227**	**(4,166)**
CASH DISBURSEMENTS											
Payroll and Benefits	(18)	(1)	(0)	1	(46)	(60)	6	106	11	11	**10**
Consultants & General Legal	48	(1)	3	(8)	5	29	5	35	5	5	**126**
Arbitration	235	(324)	(94)	703	(1,633)	(467)	904	26	242	92	**(315)**
Restructuring - CCAA	81	239	301	(38)	(358)	(8)	19	(36)	10	60	**270**
Insurance	-	(2)	-	-	-	9	-	350	-	(141)	**216**
Regulatory & Accounting	(65)	(137)	96	85	10	(2)	0	(4)	61	59	**103**
Administration	(57)	59	9	(9)	5	(2)	4	10	21	120	**161**
Equipment	(3)	8	(24)	-	(19)	(22)	(5)	-	-	-	**(66)**
Foreign exchange	-	44	5	4	18	10	8	13	6	11	**120**
Total Corporate	**221**	**(116)**	**295**	**739**	**(2,017)**	**(512)**	**941**	**500**	**357**	**217**	**625**
Venezuelan Expenditures											
Caracas Office G&A	(15)	30	(40)	(25)	(15)	9	50	40	40	40	**112**
Total Expenditures	**(206)**	**86**	**(317)**	**(713)**	**2,033**	**440**	**(991)**	**(540)**	**(397)**	**(257)**	**862**
Net Cash Outflow	**(365)**	**86**	**(317)**	**5,987**	**(4,667)**	**(8)**	**(991)**	**4,460**	**(397)**	**(484)**	**(3,304)**
ENDING CASH BALANCE	**215**	**128**	**446**	**(5,541)**	**(873)**	**(866)**	**125**	**(4,335)**	**(3,938)**	**(3,454)**	**(3,454)**

Appendix "D"
Update on the Applicant's Liquidity Position

CONFIDENTIAL

Appendix "E"
Cash Flow Standard

CANADIAN ASSOCIATION OF INSOLVENCY AND RESTRUCTURING PROFESSIONALS
ASSOCIATION CANADIENNE DES PROFESSIONNELS DE L'INSOLVABILITÉ ET DE LA RÉORGANISATION

Standards of Professional Practice

No. 09-1
CASH-FLOW STATEMENT

In this Standard, words importing the singular number or the masculine gender only include more persons, parties or things of the same kind than one, and females as well as males and the converse.

1.00 SCOPE AND PURPOSE

1.01 The purpose of this Standard is to provide guidance to a Monitor fulfilling its statutory responsibilities under the **Companies' Creditors Arrangement Act (CCAA), R.S.C. 1985, c. C-36, as amended**, in respect of a Monitor's Report on a Cash-Flow Statement. This Standard only addresses the Monitor's obligations with respect to the cash-flow forecast filed in support of the initial application. If appropriate, the Monitor **should** file similar reports in respect of subsequent or revised cash-flow forecasts, notwithstanding that there is no statutory obligation to file such reports.

1.02 The Monitor's duties and obligations in respect of a particular **CCAA** proceeding **shall** be governed by the **Act**, the applicable orders issued by the court, and this Standard where applicable. To the extent that this Standard conflicts with any order issued by the court, the Monitor **shall** be governed by the order.

2.00 DEFINITIONS

2.01 In this Standard:

"**May**" means the Standard is simply intended to be helpful and the Monitor has full discretion to follow it or not.

"**Should**" means it is appropriate to do so in most circumstances. Where a Monitor judges it appropriate to do otherwise, the Monitor should consider the advisability of documenting the reasons for its decision.

"**Shall**" means the Standard is mandatory and the Monitor must follow it.

No. 09-1
CASH-FLOW STATEMENT

2.02 In this standard:

"Act" means the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended;

"Association" means Canadian Association of Insolvency and Restructuring Professionals / Association canadienne des professionnels de l'insolvabilité et de la réorganisation;

"**Assumptions**" means the Hypothetical Assumptions and Probable Assumptions developed by the Company;

"Cash-Flow Statement" in respect of a Company, means a statement indicating, on a weekly basis (or such other basis as is appropriate in the circumstances), the projected cash-flow of the Company as defined in section 2(1) of the **Act** based on Probable and Hypothetical Assumptions that reflect the Company's planned course of action for the period covered;

"Company" means a debtor company, as defined in Section 2 of the **Act**, that intends to commence or has commenced, as the case may be, a proceeding under the **Act** or in respect of whom a proceeding under the **Act** has been commenced;

"Hypothetical Assumptions" means assumptions with respect to a set of economic conditions or courses of action that are not necessarily the most probable in the Company's judgment, but are consistent with the purpose of the Cash-Flow Statement;

"Material" means that it is probable that a change in an item or an aggregate of items would influence or change a decision;

"Material Adverse Change" means a change that, in the Monitor's opinion, materially and negatively impairs, or is reasonably expected to materially and negatively impair, the Company's cash-flow, financial circumstances or likelihood of success of a plan of arrangement. Examples would include, but not be limited to a change that:

- has a significant adverse effect on the expected cash-flows compared to the Cash-Flow Statement; or
- impairs the ability of the Company to carry on operations; or
- significantly prejudices the rights or interests of one or more classes of creditors.

No. 09-1
CASH-FLOW STATEMENT

"Monitor" in respect of a Company, means the person appointed by the court pursuant to Section 11.7 of the **Act** to monitor the business and financial affairs of the Company;

"Monitor's Report" means a report on the Cash-Flow Statement issued by the Monitor in accordance with Section 23(1)(b) of the **Act**;

"Probable Assumptions" means assumptions that: (i) the Company believes reflect the most probable set of economic conditions and planned courses of action, suitably supported that are consistent with the plans of the Company; and (ii) provide a reasonable basis for the Cash-Flow Statement;

"Review for Reasonableness" means the review conducted by the Monitor pursuant to Section 23(1)(b) of the **Act**; and

"Suitably Supported" means that the Assumptions are based on either one or more of the following factors: the past performance of the Company, the performance of other industry / market participants engaged in similar activities as the Company, feasibility studies, marketing studies or any other reliable source of information that provides objective corroboration of the reasonableness of the Assumptions. The extent of detailed information supporting each Assumption, and an assessment as to the reasonableness of each Assumption, will vary according to circumstances and will be influenced by factors such as the significance of the Assumption and the availability and quality of the supporting information.

3.00 ASSISTING THE COMPANY

3.01 The Monitor **may** assist the Company in the preparation of the Cash-Flow Statement.

3.02 The Monitor **shall** remind the Company that the Cash-Flow Statement and the Assumptions on which it is based, are the responsibility of the Company.

3.03 The Monitor **shall** remind the Company that the Monitor has the statutory duty to file a report with respect to the Cash-Flow Statement.

3.04 The Monitor **should** advise the Company that any information given by the Company to the Monitor may be disclosed to the court and the creditors.

3.05 The Monitor **should** document the foregoing in a letter to the debtor, a sample of which is attached as Appendix A to this standard.

4.00 DOCUMENTATION

4.01 The review performed by the Monitor in accordance with this Standard **shall** be documented.

4.02 The Monitor **should** obtain written confirmation (a sample letter is attached as Appendix B to this standard) from an authorized officer or director of the Company that:

a) the Cash-Flow Statement and the Assumptions on which it is based, are the responsibility of the Company; and

b) the Company's responsibility extends beyond ensuring that individual Assumptions used in the preparation of the Cash-Flow Statement are appropriate in the circumstances, and includes the responsibility to ensure that such Assumptions as a whole are appropriate in the circumstances.

5.00 MONITOR'S REVIEW

5.01 The Monitor **shall** perform a Review for Reasonableness.

5.02 The review **shall** be performed by an individual or individuals having, when considered as a whole, adequate technical training and proficiency, with due care and with an objective state of mind.

5.03 The review **shall** be adequately planned and properly executed and if assistants are employed, they **shall** be properly supervised.

5.04 The Monitor **should**, as soon as practicable, acquire knowledge of the Company and an understanding of the practices and particulars of the industry within which the Company operates, sufficient to enable it to perform the Review for Reasonableness.

5.05 The Review for Reasonableness **shall** consist of enquiry, analytical procedures and discussions with the Company to determine whether there is anything that causes the Monitor to believe that, in all material respects:

a) the Hypothetical Assumptions are not consistent with the purpose of the Cash-Flow Statement;

b) as at the date of the Monitor's Report, the Probable Assumptions developed by the Company are not Suitably Supported and consistent with the plans of the Company or do not provide a reasonable basis for the Cash-Flow Statement, given the Hypothetical Assumptions; or

c) the Cash-Flow Statement does not reflect the Probable and Hypothetical Assumptions.

5.06 The Monitor **should** satisfy itself that the computations contained in or made in preparing the Cash-Flow Statement are consistent with the Assumptions and materially accurate.

5.07 Where practicable, the Monitor **should** reconcile the Cash-Flow Statement to the appropriate actual cash and loan balances in the financial records of the Company, as at the start date of the Cash-Flow Statement, and a description of such reconciliation process may be included in the Monitor's Report.

5.08 The Monitor **shall** periodically compare actual cash-flow results to those reflected in the Cash-Flow Statement and obtain reasonable explanations for significant variances. The Monitor **should** report the results of such comparisons and reviews to the court. Where the results of such comparisons and reviews indicate a Material Adverse Change in the Company's projected cash-flow or financial circumstances, the Monitor **shall** report the results of such comparisons and reviews to the court without delay.

6.00 MONITOR'S REPORT

6.01 After completing its Review for Reasonableness, the Monitor **shall** consider whether anything material has come to its attention that causes it to believe that:

a) The Hypothetical Assumptions are not consistent with the purpose of the Cash-Flow Statement; or

b) As at the date of the report, the Probable Assumptions developed by the Company are not Suitably Supported and consistent with the plans of the Company or do not provide a reasonable basis for the Cash-Flow Statement, given the Hypothetical Assumptions; or

c) The Cash-Flow Statement does not reflect the Probable and Hypothetical Assumptions.

6.02 The Monitor **should** file the Monitor's Report with the court within 10 days of the granting of the Initial Order or at such other time as may be ordered by the court.

6.03 The Monitor's Report **shall** include an overview and review of the Cash-Flow Statement and a summary of its determinations as required by Section 5.05 of this Standard.

6.04 The Monitor **should** ensure that all material Assumptions are disclosed in the notes and **shall** include in the Monitor's Report a statement to this effect.

6.05 The Monitor **shall** prepare, sign and file the Monitor's Report with the court.

6.06 The Monitor **should** date the Monitor's Report as of the date of the completion of his Review for Reasonableness.

6.07 The form of the Monitor's Report **shall** be substantially as follows:

The <attached> statement of projected cash-flow <attached as appendix ___ of this report/the debtors application material> (the "Cash-Flow Statement") of _____ (name of Company),(the "Company") as of the _____ day of _____ ____, consisting of _____ (describe, including relevant dates), has been prepared by the management of the Company for the purpose described in Note _____, using the Probable and Hypothetical Assumptions set out in Notes _____.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by certain of the management and employees of the Company. Since Hypothetical Assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the Cash-Flow Statement. We have also reviewed the support provided by management of the Company for the Probable Assumptions, and the preparation and presentation of the Cash-Flow Statement.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects:

a) the Hypothetical Assumptions are not consistent with the purpose of the Cash-Flow Statement;

b) as at the date of this report, the Probable Assumptions developed by management are not Suitably Supported and consistent with the plans of the Company or do not provide a reasonable basis for the Cash-Flow Statement, given the Hypothetical Assumptions; or

c) the Cash-Flow Statement does not reflect the Probable and Hypothetical Assumptions.

Since the Cash-Flow Statement is based on Assumptions regarding future events, actual results will vary from the information presented even if the Hypothetical Assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the Cash-Flow Statement will be achieved. We express no opinion or other form of assurance with respect to the accuracy of any financial information presented in this report, or relied upon by us in preparing this report.

The Cash-Flow Statement has been prepared solely for the purpose described in Note ____/on the face of the Cash-Flow Statement, and readers are cautioned that it may not be appropriate for other purposes.

Optional paragraph if the Monitor's report is to be included as part of another report:

Note: Date and signature of Monitor should be excluded if this report is included within another report prepared by the Monitor.

<Dated at _____, this _____ day of _____ _____.

_____

Monitor>.

6.08 The Monitor's Report **should** be augmented with such additional comments as deemed appropriate by the Monitor in the circumstances.

6.09 Where the Monitor concludes it is unable to issue the Monitor's Report in the form set out above, in accordance with the timeline detailed in paragraph 6.02, the Monitor:

a) **Shall** advise the Company of the Assumptions and/or other matters that prevent the Monitor from issuing the Monitor's Report and **should** consider advising the Company of same in writing; and

b) **Shall** file a report with the court in accordance with the timeline detailed in paragraph 6.02 setting out the reasons therefore.

Appendix “F”
Budget

CONFIDENTIAL

THIS IS EXHIBIT "D"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc.
Consolidated Weekly Cash Flow Statement: Variance Analysis
For the Period from November 15, 2014 to January 16, 2015
CDN ('000)

	Actual									
	1 Nov-21	2 Nov-28	3 Dec-05	4 Dec-12	5 Dec-19	6 Dec-26	7 Jan-02	8 Jan-09	9 Jan-16	Total
Beginning Cash Balance	6,043	6,696	7,393	6,155	6,360	6,869	7,378	6,410	7,399	6,043
Cash Receipts										
Customer Revenue	1,175	1,376	1,326	1,117	1,183	980	1,672	1,188	1,116	11,133
Incremental Funding	-	-	-	-	-	-	-	-	-	-
Other Accounts Receivable	-	-	5	-	-	0	4	0	8	17
Tax Refund (Payment)	(53)	(30)	-	-	(60)	-	-	-	-	(143)
Total Cash Receipts	1,122	1,346	1,331	1,117	1,123	980	1,677	1,188	1,124	11,006
Cash Disbursements										
Payroll and Benefits	(98)	(151)	-	(158)	(98)	-	(150)	-	(180)	(835)
Sales & Marketing	(4)	(6)	(8)	(18)	(6)	(16)	(6)	(23)	(186)	(273)
Commissions	(1)	-	-	(547)	-	-	-	-	(755)	(1,304)
Service Delivery & IT	(196)	(179)	(275)	(83)	(240)	(118)	(126)	(186)	(83)	(1,486)
Payments for Outsourced Operations	(64)	(62)	(1,578)	(55)	(109)	(105)	(1,565)	32	(48)	(3,554)
Rent & Site Operations	(44)	(162)	(699)	(3)	(43)	(42)	(798)	-	(5)	(1,796)
General Operating Expenditures	(34)	(37)	(8)	(17)	(19)	(152)	1	(19)	(18)	(304)
BOD Expenses	-	-	-	-	-	-	-	-	(18)	(18)
CCAA Monitor and Monitor's Counsel Fees	-	(8)	-	(28)	(15)	-	-	-	(6)	(58)
CCAA Legal Fees	(12)	(39)	-	-	(52)	(37)	-	-	-	(139)
Other Legal and Advisor Expenses	(17)	(3)	-	(3)	(33)	(1)	-	(3)	(18)	(78)
Interest Payments	-	-	-	-	-	-	-	-	-	-
Total Cash Disbursements	(468)	(648)	(2,569)	(912)	(615)	(470)	(2,644)	(199)	(1,317)	(9,844)
Net Cash Flow	653	697	(1,238)	205	508	509	(967)	988	(193)	1,163
Ending Cash Balance	6,696	7,393	6,155	6,360	6,869	7,378	6,410	7,399	7,205	7,205

Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc.
Consolidated Weekly Cash Flow Statement: Variance Analysis
For the Period from November 15, 2014 to January 16, 2015
CDN ('000)

	Forecast									
	1 Nov-21	2 Nov-28	3 Dec-05	4 Dec-12	5 Dec-19	6 Dec-26	7 Jan-02	8 Jan-09	9 Jan-16	Total
Beginning Cash Balance	6,043	6,684	7,052	5,513	5,556	6,255	6,722	4,837	5,597	6,043
Cash Receipts										
Customer Revenue	1,217	1,217	1,208	1,204	1,204	1,204	1,198	1,184	1,184	10,818
Incremental Funding	-	-	-	-	-	-	-	-	-	-
Other Accounts Receivable	-	-	-	-	-	-	-	-	-	-
Tax Refund (Payment)	-	(30)	-	-	-	(140)	-	-	-	(170)
Total Cash Receipts	1,217	1,187	1,208	1,204	1,204	1,064	1,198	1,184	1,184	10,648
Cash Disbursements										
Payroll and Benefits	(99)	(180)	(3)	(204)	-	(85)	(183)	-	(204)	(958)
Sales & Marketing	(35)	(35)	(50)	(50)	(50)	(50)	(50)	(50)	(50)	(418)
Commissions	-	-	-	(545)	-	-	-	-	(628)	(1,172)
Service Delivery & IT	(195)	(250)	(275)	(186)	(186)	(241)	(274)	(187)	(187)	(1,980)
Payments for Outsourced Operations	(63)	(63)	(1,592)	(63)	(63)	(63)	(1,592)	(63)	(63)	(3,626)
Rent & Site Operations	(43)	(158)	(711)	-	(43)	-	(869)	-	(43)	(1,867)
General Operating Expenditures	(61)	(54)	(54)	(54)	(62)	(99)	(54)	(43)	(76)	(557)
BOD Expenses	-	-	-	-	-	-	-	-	-	-
CCAA Monitor and Monitor's Counsel Fees	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(271)
CCAA Legal Fees	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(270)
Other Legal and Advisor Expenses	(20)	(20)	0	-	(41)	-	0	(20)	-	(102)
Interest Payments	-	-	-	-	-	-	-	-	-	-
Total Cash Disbursements	(576)	(819)	(2,746)	(1,161)	(505)	(597)	(3,082)	(424)	(1,310)	(11,221)
Net Cash Flow	642	367	(1,538)	43	699	466	(1,884)	760	(127)	(573)
Ending Cash Balance	6,684	7,052	5,513	5,556	6,255	6,722	4,837	5,597	5,470	5,470

Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc.
Consolidated Weekly Cash Flow Statement: Variance Analysis
For the Period from November 15, 2014 to January 16, 2015
CDN ('000)

	Variance - Better / (Worse)										
	1 Nov-21	2 Nov-28	3 Dec-05	4 Dec-12	5 Dec-19	6 Dec-26	7 Jan-02	8 Jan-09	9 Jan-16	Total	
Beginning Cash Balance	-	12	342	642	804	613	656	1,573	1,802	-	
Cash Receipts											
Customer Revenue	(42)	159	118	(87)	(21)	(224)	475	4	(68)	314	
Incremental Funding	-	-	-	-	-	-	-	-	-	-	
Other Accounts Receivable	-	-	5	-	-	0	4	0	8	17	
Tax Refund (Payment)	(53)	-	-	-	(60)	140	-	-	-	27	
Total Cash Receipts	(96)	159	123	(87)	(81)	(84)	479	4	(60)	358	2
Cash Disbursements											
Payroll and Benefits	1	29	3	46	(98)	85	33	-	24	123	
Sales & Marketing	31	29	41	32	44	34	44	27	(136)	146	
Commissions	(1)	-	-	(3)	-	-	-	-	(127)	(131)	
Service Delivery & IT	(2)	71	0	103	(54)	123	148	1	104	494	
Payments for Outsourced Operations	(1)	1	14	8	(46)	(42)	27	95	15	72	
Rent & Site Operations	(1)	(4)	12	(3)	-	(42)	71	-	38	72	
General Operating Expenditures	27	16	45	37	43	(53)	54	25	58	253	
BOD Expenses	-	-	-	-	-	-	-	-	(18)	(18)	
CCAA Monitor and Monitor's Counsel Fees	30	22	30	2	15	30	30	30	24	213	
CCAA Legal Fees	18	(9)	30	30	(22)	(7)	30	30	30	130	
Other Legal and Advisor Expenses	3	17	(0)	(3)	8	(1)	(0)	17	(18)	24	
Interest Payments	-	-	-	-	-	-	-	-	-	-	
Total Cash Disbursements	107	171	177	249	(110)	127	438	224	(7)	1,377	3
Net Cash Flow	12	330	300	163	(191)	43	917	229	(67)	1,735	
Ending Cash Balance	12	342	642	804	613	656	1,573	1,802	1,735	1,735	4

NOTES:

1. Overview
- Cash analysis of actual cash flow ("Actual") compared to the cash flow statement as set out in the Ninth Report of the Monitor, dated November 25, 2014 (the "Forecast") for the period from November 15, 2014 to January 16, 2015 (the "Period"). Key reasons for the variances during the Period are noted below.
- All amounts in the notes below are in thousands of Canadian Dollars.

2. Cash Receipts
- During the Period, total cash receipts were $11,006 compared to $10,648 in the Forecast, resulting in a favourable variance of $358. The variance is primarily related to:
  - $314 favourable variance in Customer Revenue due to higher customer receipts than projected.

3. Cash Disbursements
- During the Period, total cash disbursements were $9,844 compared to $11,221 in the Forecast, resulting in a favourable variance of $1,377. The variance is primarily related to:
  - $146 permanent favourable variance in Sales & Marketing;
  - $494 permanent favourable variance in Service Delivery & IT primarily due to lower than estimated cost from third party providers;
  - $253 permanent favourable variance in General Operating Expenditures ;
  - $213 favourable timing variance in CCAA Monitor and Monitor's Counsel Fees;
  - $130 favourable variance in CCAA Legal Fees primarily due to savings.

4. Ending Cash Balance
- Ending Cash Balance for the Period was $7,205 compared to $5,470 in the Forecast, resulting in a favourable variance of $1,735.

Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc.
Consolidated Weekly Cash Flow Statement
For the period from January 17, 2015 through to May 8, 2015
CDN ('000)

		Week Ending																
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	
		Jan-23	Jan-30	Feb-06	Feb-13	Feb-20	Feb-27	Mar-06	Mar-13	Mar-20	Mar-27	Apr-03	Apr-10	Apr-17	Apr-24	May-01	May-08	Total
Beginning Cash Balance	2	7,205	8,018	8,328	6,963	6,201	7,074	7,414	5,960	6,257	7,010	7,424	5,768	6,613	6,636	7,236	5,396	7,205
Cash Receipts																		
Customer Revenue	3	1,195	1,195	1,280	1,294	1,294	1,294	1,170	1,149	1,149	1,149	1,157	1,168	1,168	1,168	1,160	1,113	19,103
Other Accounts Receivable		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tax Refund (Payment)	4	-	(108)	-	-	-	(140)	-	-	-	(140)	-	-	-	(140)	-	-	(528)
Total Cash Receipts		1,195	1,087	1,280	1,294	1,294	1,154	1,170	1,149	1,149	1,009	1,157	1,168	1,168	1,028	1,160	1,113	18,575
Cash Disbursements																		
Payroll and Benefits	5	(14)	(255)	-	(184)	-	(255)	-	(184)	-	(255)	-	-	(184)	(85)	(170)	-	(1,585)
Sales & Marketing	6	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(25)	(397)
Commissions	7	-	-	-	(1,526)	-	-	-	(348)	-	-	-	-	(562)	-	-	-	(2,436)
Service Delivery & IT	8	(170)	(170)	(275)	(190)	(190)	(190)	(254)	(164)	(164)	(164)	(251)	(167)	(167)	(167)	(250)	(158)	(3,092)
Payments for Outsourced Operations	9	(58)	(58)	(1,568)	(58)	(58)	(58)	(1,568)	(58)	(58)	(58)	(1,568)	(58)	(58)	(58)	(1,568)	(58)	(6,969)
Rent & Site Operations	10	(43)	(193)	(684)	-	(43)	(193)	(684)	-	(43)	-	(877)	-	(43)	-	(877)	-	(3,679)
General Operating Expenditures	11	(28)	(28)	(28)	(28)	(61)	(28)	(28)	(28)	(60)	(28)	(28)	(28)	(60)	(28)	(28)	(28)	(539)
BOD Expenses	12	-	-	-	-	-	-	-	-	-	-	-	-	-	-	(18)	-	(18)
CCAA Monitor and Monitor's Counsel Fees	13	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(15)	(246)
CCAA Legal Fees	14	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(30)	(479)
Other Legal and Advisor Expenses	15	-	(3)	(20)	-	-	(20)	(20)	-	-	(20)	(20)	-	-	(20)	(20)	-	(146)
Interest Payments	16	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash Disbursements		(382)	(777)	(2,645)	(2,055)	(421)	(814)	(2,624)	(852)	(396)	(595)	(2,814)	(323)	(1,145)	(428)	(3,000)	(314)	(19,586)
Net Cash Flow		813	310	(1,365)	(761)	873	340	(1,454)	297	753	414	(1,656)	845	24	600	(1,840)	799	(1,011)
Ending Cash Balance		8,018	8,328	6,963	6,201	7,074	7,414	5,960	6,257	7,010	7,424	5,768	6,613	6,636	7,236	5,396	6,195	6,195

NOTES TO THE CONSOLIDATED WEEKLY CASH FLOW STATEMENT

1. The consolidated weekly cash flow statement (the "**Cash Flow Statement**") has been prepared solely for the purpose of projecting the combined cash receipts and disbursements of Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**"), Data & Audio-Visual Enterprises Wireless Inc. ("**Wireless**"), and 8440522 Canada Inc. (collectively, the "**Applicants**" or "**Mobilicity**").

   The Cash Flow Statement represents management's reasonable estimates at present. The actual timing and amount of the receipts and disbursements may fluctuate from the estimates shown herein and these fluctuations may be material. Receipts and disbursements are inclusive of any applicable federal and provincial sales taxes.

   Readers are cautioned that the Cash Flow Statement may not be appropriate for their purposes.

   The Cash Flow Statement is presented on a weekly basis from January 17, 2015 to May 8, 2015 (the "**Period**") and represents management's reasonable estimates of the results of operations and CCAA costs of administration during the Period.

   The Cash Flow Statement is presented in thousands of Canadian dollars and assumes that any foreign currency transactions are made based on foreign exchange rates in effect as of January 16, 2015.

   Pursuant to an order of the Ontario Superior Court of Justice (Commercial List) made on September 30, 2013 (the " **Initial Order"),** the Applicants were afforded a stay of proceedings that is effective against their pre-filing creditors, including amounts owed to their secured creditors that has been extended from time to time. The Cash Flow Statement assumes that the court extends the stay of proceedings until the end of the Period.

2. The Opening Cash Balance includes Mobilicity's cash on hand, net of outstanding cheques, as at January 16, 2015.

3. Customer Revenues represent projected weekly cash inflows resulting from prepayments for service by Mobilicity's existing and projected customers. Mobilicity has projected that its active subscribers will continue to moderately decrease during the Period from the actual number of existing subscribers as of December 2014.

4. Tax Refunds (Payments) represent the projected sales taxes collected from Mobilicity's customer revenues net of its sales taxes paid for products and services received. Mobilicity has projected to make provincial sales tax payments of $0.14 million in the last week of each subsequent month during the Project period.

5. Payroll and Benefits represent projected gross payroll, including payments to executives and the monthly fees payable to the Chief Restructuring Officer along with the costs associated with standard employee benefit plan covering health, dental, accidental death and death, life insurance, short-term disability and long-term disability. The majority of the salaried and hourly employees are paid semi-monthly through direct deposit.

6. Sales & Marketing represent projected general costs associated with sales and marketing activities for services rendered on or after September 30, 2013.

7. Commissions represent projected fees paid to the Applicants' dealers. Commissions are usually paid 45 days after the end of each month for newly acquired subscribers subject to the new subscribers remaining active for 35 days. Pursuant to the Initial Order, payments to Mobilicity's dealers are unaffected by the stay of proceedings.

8. Service Delivery & Information Technology relates primarily to roaming, long distance and data services provided to Mobilicity's customers, as well as the projected fees for Mobilicity's suppliers of credit card processing services.

9. Payments for Outsourced Operations represent projected payments to third party service providers for critical business process functions including network building and maintenance, call centre operations, handset logistics and distribution, and billing systems. Following the issuance of the Initial Order, Mobilicity has been involved in active negotiations with the service providers and the Cash Flow Statement assumes that the projected payments during the Period are made in accordance with the modified contractual terms that are agreed upon or are in the process of being negotiated.

10. Rent & Site Operations represent projected lease payments for Mobilicity's leased facilities, including its corporate head office in Woodbridgeand two co-location data centers. In addition, the Applicants lease approximately 450 locations for their cellular broadcasting equipment. Pursuant to the Initial Order, all lease payments are made monthly in advance for the period commencing from and including the date of the Initial Order.

11. General Operating Expenditures include projected administration expenses, human resources expenses, travel and entertainment, and certain capital expenditures related to general business operations and consultants.

12. BOD Expenses represent projected fees payable to members of the Applicants' board of directors.

13. CCAA Monitor & Counsel Fees include the estimated fees and disbursements of the CCAA Monitor and its legal counsel.

14. CCAA Legal Fees represent the estimated fees and disbursements for Mobilicity's legal counsel, counsel to the Ad Hoc Committee of Senior Unsecured Debenture Holders, and counsel to the DIP Lenders.

15. Other Legal and Advisory Expenses include projected legal expenses paid in relation to Equity Financial and general legal and consulting expenses for Mobilicity's day-to-day operations.

16. Consistent with the Initial Order, the Applicants are not projected to make any post-filing interest payments in respect of the $195 million First Lien Notes or the $43.25 million Second Lien Notes.

THIS IS EXHIBIT "E"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

Essar Steel Algoma Inc. and Other Affiliated CCAA Filing Entities (the "Applicants")
Combined Actual Receipts and Disbursements
For the period of November 30, 2015 to December 11, 2015
($CDN millions)

	Actual	Forecast	Variance	Notes
Receipts				
Sales Collections	$ 52	$ 54	$ (2)	
Other	-	-	-	
Total Receipts	**52**	**54**	**(2)**	
Operating Disbursements				
Payroll, Pension & Benefits	16	17	1	
Raw Materials	42	32	(10)	**1**
Utilities & Other Consumables	3	7	4	**2**
Other Payables and capital expenditures	18	15	(3)	**3**
Capital Expenditures	1	3	3	**3**
Statutory Payments	3	4	1	
Total Operating Disbursements	**82**	**78**	**(4)**	
Net Operating Cash Flow	**(30)**	**(24)**	**6**	
Non Operating Disbursements/(Receipts)				
Interest	1	-	(1)	
DIP Transaction Costs	-	-	-	
Restructuring Costs	0	1	1	
Total Non-Operating Disbursements	**1**	**1**	**(0)**	
Total Disbursements	83	79	(4)	
Net Cash Receipts/(Disbursements)	$ (31)	$ (25)	$ (6)	
Cash Position (Unrestricted)				
Opening Cash	31	11	20	
Net Cash Receipts/(Disbursements)	(31)	(25)	(6)	
DIP Facility Draw/(Payback)	26	29	3	**4**
Ending Cash Balance	26	15	12	

DIP Facility				
Opening Balance	65	86	21	
DIP Facility draw/(payback) - unrestricted	26	29	3	**4**
Closing Balance	**91**	**115**	**24**	

***Amounts may not cross or down add due to rounding.**

Essar Steel Algoma Inc. and Other Affiliated CCAA Filing Entities (the "Applicants")
Combined Actual Receipts and Disbursements
For the 2-Week Period November 30 to December 11, 2015
Variance Analysis

This variance analysis sets out the significant variances between the Applicants' actual receipts & disbursements compared to the cash flow projection appended to the Proposed Monitor's report dated November 9, 2015.

The actual receipts and disbursements are denominated in Canadian dollars. In the projection, U.S dollars are converted to Canadian dollars at the exchange rate of CDN$1.30=US$1.00.

1. **Raw Materials** – The unfavourable variance is primarily due to timing differences related to the purchase of iron ore. Management expects that the timing differences will reverse in the near future.

2. **Utilities and other consumables –** The favourable variance is primarily a timing difference that management expects to reverse in the short term.

3. **Other Payables and Capital Expenditures –** These variances are primarily related to the classification of certain disbursements between these two line items. Management is in the process of categorizing capital expenditure disbursements for the purposes of cash flow reporting.

4. **DIP Facility Draw/(Payback)** – As of December 11, 2015, the Applicants had drawn US$125 million under the DIP Facilities, of which US$70 million was made available to the Applicants. The remaining funds are held in a restricted account for future use pursuant to the DIP agreement.

Essar Steel Algoma Inc. and Other Affiliated CCAA Filing Entities (the "Applicants")

Combined Cash Flow Projection for the Period from December 12, 2015 to March 18, 2016

In millions of CAD$

Essar Week Number:		50	51	52	1	2	3	4	5	6	7	8	9	10	11	
Week Ending	*Notes*	18-Dec-2015	25-Dec-2015	01-Jan-2016	08-Jan-2016	15-Jan-2016	22-Jan-2016	29-Jan-2016	05-Feb-2016	12-Feb-2016	19-Feb-2016	26-Feb-2016	04-Mar-2016	11-Mar-2016	18-Mar-2016	**TOTAL**
Receipts																
Sales Collections	*2*	$ 25	$ 27	$ 27	$ 28	$ 29	$ 29	$ 29	$ 29	$ 30	$ 30	$ 30	$ 30	$ 31	$ 31	$ 402
Other	*3*	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total receipts		**25**	**27**	**27**	**28**	**29**	**29**	**29**	**29**	**30**	**30**	**30**	**30**	**31**	**31**	**402**
Operating disbursements																
Payroll, Pension & Benefits	*4*	3	6	6	8	5	6	9	6	5	6	5	11	5	6	85
Raw Materials	*5*	17	17	15	12	12	8	9	8	8	8	8	9	10	10	153
Utilities & other consumables	*6*	7	6	5	3	4	4	5	3	5	7	5	3	1	7	67
Other payables	*7*	11	10	8	10	13	9	9	9	8	12	9	10	8	13	138
Capital expenditures	*8*	4	4	3	2	1	1	1	1	1	1	1	1	1	1	20
Statutory payments	*9*	-	-	4	-	-	-	-	4	-	-	-	6	-	-	14
Total operating disbursements		**42**	**42**	**42**	**35**	**36**	**28**	**33**	**30**	**27**	**34**	**27**	**39**	**25**	**37**	**476**
Net operating cash flow		**(18)**	**(15)**	**(16)**	**(7)**	**(7)**	**1**	**(4)**	**(1)**	**2**	**(4)**	**2**	**(9)**	**7**	**(5)**	**(74)**
Non operating disbursements/(receipts)																
Interest	*10*	-	-	0	2	-	-	0	1	-	-	-	2	-	-	5
DIP Transaction Costs	*11*	-	-	-	-	-	3	-	-	-	-	-	-	-	-	3
Restructuring costs	*12*	3	1	3	1	1	0	3	0	1	0	3	0	1	0	16
Total Non-Operating Disbursements		**3**	**1**	**3**	**3**	**1**	**3**	**3**	**2**	**1**	**0**	**3**	**2**	**1**	**0**	**24**
Total disbursements		46	43	45	38	36	30	36	32	28	34	30	41	25	37	500
Net cash receipts/(disbursements)		$ (21)	$ (16)	$ (18)	$ (9)	$ (8)	$ (2)	(7)	(3)	$ 2	$ (4)	$ (0)	$ (12)	$ 6	$ (6)	$ (98)
Cash balance																
Beginning balance	*1*	$ 26	$ 32	$ 35	$ 30	$ 30	$ 26	24	17	14	28	23	23	11	27	$ 26
Net cash receipts/(disbursements)		(21)	(16)	(18)	(9)	(8)	(2)	(7)	(3)	2	(4)	(0)	(12)	6	(6)	(98)
DIP Facility draw/(payback)		26	20	14	9	3	-	-	-	12	-	-	-	9	-	93
Ending cash balance		$ 32	$ 35	$ 30	$ 30	$ 26	$ 24	$ 17	$ 14	$ 28	$ 23	$ 23	$ 11	$ 27	$ 21	$ 21
DIP Facility																
Opening Balance - unrestricted funds		$ 91	$ 117	$ 137	$ 150	$ 159	$ 163	$ 163	$ 163	$ 163	$ 175	$ 175	$ 175	$ 175	$ 184	$ 91
DIP Facility released/(payback)	*11*	26	20	14	9	3	-	-	-	12	-	-	-	9	-	93
Closing Balance - unrestricted funds		$ 117	$ 137	$ 150	$ 159	$ 163	$ 163	$ 163	$ 163	$ 175	$ 175	$ 175	$ 175	$ 184	$ 184	$ 184

Unrestricted DIP borrowings		$ 117	$ 137	$ 150	$ 159	$ 163	$ 163	$ 163	$ 163	$ 175	$ 175	$ 175	$ 175	$ 184	$ 184	
Restricted DIP borrowings		46	26	12	3	-	-	-	-	53	53	53	53	43	43	
Total DIP borrowings	*11*	$ 163	$ 163	$ 163	$ 163	$ 163	$ 163	$ 163	$ 163	$ 228	$ 228	$ 228	$ 228	$ 228	$ 228	

In the Matter of the CCAA of Essar Steel Algoma Inc. ("Algoma"), Essar Tech Algoma Inc., Essar Steel Algoma (Alberta) ULC, Cannelton Iron Ore Company and Essar Steel Algoma Inc. USA. (collectively, the "Applicants")

Notes to the Applicants' Unaudited Cash Flow Projection

Disclaimer:

In preparing this cash flow projection (the "**Projection**"), the Applicants have relied upon unaudited financial information and the Applicants have not attempted to further verify the accuracy or completeness of such information. The Projection includes estimates concerning the operations of the plants and additional assumptions discussed below with respect to the requirements and impact of a ***Companies' Creditors Arrangement Act*** ("**CCAA**") filing. Since the Projection is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Projection period will vary from the Projection, even if the assumptions materialize, and such variation may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

Overview:

The Projection reflects cash flows from the Applicants' operations. The Applicants, with the assistance of the Monitor, have prepared the Projection based primarily on historical results and Algoma's current expectations. The cash flow projection is presented in millions of Canadian dollars. Receipts and disbursements denominated in US currency have been converted into Canadian dollars using an exchange rate of USD $0.77 = CAD $1.00.

Assumptions:

1. **Beginning balance**
   This represents the cash balance as of December 12, 2015.

2. **Sales Receipts**
   Algoma's sales receipts are based on forecast collections from opening accounts receivable and projected sales during the projection period. Projected sales are estimated based on the Applicants' production plan and estimated prices, net of potential customer set-off claims.

3. **Others**

   Other receipts include the interest earned on bank deposits, HST/GST refunds and other miscellaneous items. For conservatism purposes, the Projection does not reflect those miscellaneous receipts due to the uncertainty in their timing and quantum.

4. **Payroll, Pension & Benefits**

   These disbursements include payroll costs for all salaried and hourly employees, and are forecast based on historical run rates. Salaried employees are paid at the start of each month and hourly wages are paid bi-weekly. Payroll deductions are remitted approximately one week after the pay date. Pension payments reflect current service costs; however, Special Payments (as defined in the Fourth Report of the Monitor) in respect of the deficit of the Applicants' defined pension plans are not included. Benefit payments for current and retired employees are based on the estimated weekly activity rate.

5. **Raw Materials, 3rd party**

   These disbursements relate to the purchase of coal, ore, coke, scrap, reagents and other raw materials from third party suppliers. The disbursements are projected based on estimated purchases and payment terms. Projected purchases reflect the required inventory build-up prior to the closure of the shipping season. The Projections assume no payment of pre-filing trade payables.

6. **Utilities & other consumables**

   These disbursements relate to natural gas, oxygen, water, electricity, and refractories which are estimated based on weekly activity rates.

7. **Other payables**

   These disbursements represent payments to other suppliers not included in other specific line items, such as freight, duty, insurance and general office expenditures. The remaining disbursements have been estimated based on historical run rates.

8. **Capital expenditures**

   These disbursements relate to required repairs and maintenance and certain capital projects.

9. **Statutory disbursements**

   Statutory payments represent primarily estimated GST remittances to customs on imported goods and Quebec sales tax remittances.

10. Interest

The Applicants entered into an interim financing agreement (the "**DIP Agreement**") with the lenders consisting of two proposed debtor in possession loan facilities (the "**DIP Facilities**").

These disbursements consist of the following:

- interest payments on the drawn portion of the DIP Facilities, which are projected based on the drawn amounts at the rate of LIBOR + 9.00%, payable at the end of each month; and
- interest on certain of the Applicants' existing pre-petition debt obligations.

11. DIP Facilities Draws & Transaction Costs

As of December 11, 2015, the Applicants had drawn US$125 million under the DIP Facilities, of which US$70 million was released to the Applicants. The remaining funds are held in a restricted account pursuant to the DIP agreement for future use.

Transaction costs represent the estimated fees for the Applicants' financial advisor in connection with the restructuring proceedings.

During the projection period, the Applicants project to drawn an additional US$50 million, increasing the DIP borrowings to US$175 million. During the projection period, approximately US$72 million is projected to be released to the Applicants. Restricted cash as of March 18, 2016 is projected to be US$33 million.

12. Restructuring costs

Restructuring costs include the estimated fees and disbursements of the CCAA Monitor, its legal counsel, the Applicants' legal counsel and the counsel to the potential DIP lender as well as the fees for other professional services in relation to the Applicants' restructuring proceedings.

THIS IS EXHIBIT "F"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

Performance Sports Group Ltd.
Cash Flow Variance (Actual vs. Cash Flow Forecast) Report
For the Period from October 31 to November 18, 2016 (3 weeks)
Unaudited, in US $000's (note 1)

	October 31 to November 11, 2016 (3 weeks)		
	Actual	Budget	Variance
Opening Cash	$ 3,202	$ -	$ 3,202
Total Receipts	30,997	23,099	7,898
Cash Disbursements			
Payroll, Benefits and Temps.	(2,249)	(2,710)	460
Vendor Spend	(2,699)	(11,682)	8,983
Utilities	(9)	(81)	72
Insurance	(123)	(148)	25
Property, Sales and Other Taxes	(469)	(365)	(104)
Facilities / Rent / Leases	(88)	(531)	443
Other Operating Disbursements	(1,138)	(2,228)	1,090
Total Operating Disbursements	(6,774)	(17,745)	10,970
Total Operating Cash Flow	24,223	5,354	18,868
Capex	(201)	(522)	322
Interest Payments	(720)	(791)	71
Professional Fees	(9)	-	(9)
Other Non-Operating Disbursements	(118)	(303)	185
Total Non-Operating Disbursements	(1,048)	(1,616)	568
Chapter 11 / CCAA Items:			
Utilities Deposit	-	(300)	300
503b9 Claims	-	(467)	467
Foreign / Critical Vendor Payments	(781)	(6,833)	6,053
Other Chapter 11 / CCAA Prepayments	-	-	-
Shippers and Warehousemen	(133)	(1,000)	867
KEIP / KERP	-	-	-
Total Chapter 11 / CCAA Items	(914)	(8,600)	7,686
Total Disbursements	(8,736)	(27,960)	19,224
Net Cash Flow	22,261	(4,862)	27,123
Cash application			
ABL Facility draw / (pay down)	(28,971)	(23,099)	(5,873)
ABL DIP Facility draw / (pay down)	10,190	35,460	(25,270)
Ending Cash Balance (note 2 & 3)	$ 6,681	$ 7,500	$ (819)
ABL Balances			
ABL Facility	129,865	138,444	8,580
ABL DIP Facility	10,190	35,460	25,270
Ending total	$ 140,055	$ 173,905	$ 33,850
Borrowing Base	175,960	192,250	(16,290)
Liquidity	$ 35,906	$ 18,345	$ 17,561

Note 1
From October 31 to November 18, 2016, all Canadian dollar denominated amounts were converted to US dollars using an exchange rate of 0.75 CAD/USD.

Note 2
The closing cash balance reflects all Canadian and US dollar operating accounts described in the DIP ABL Facility Agreement.

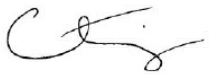
Note 3
Outstanding items are not included in the closing cash balance. As at Nov 11, 2016, $163 in outstanding cheques existed.

Performance Sports Group
Cash Flow Forecast

($ in 000s)

Week Ended:	Forecast 1 11/4/16	Forecast 2 11/11/16	Forecast 3 11/18/16	Forecast 4 11/25/16	Forecast 5 12/2/16	Forecast 6 12/9/16	Forecast 7 12/16/16	Forecast 8 12/23/16	Forecast 9 12/30/16	Forecast 10 1/6/17	Forecast 11 1/13/17	Forecast 12 1/20/17	Forecast 13 1/27/17	Forecast 14 2/3/17	Forecast 15 2/10/17	Forecast 16 2/17/17	Forecast 17 2/24/17	Forecast 18 3/3/17	Total 18-Week Forecast Period
Total Receipts	**$ 5,984**	**$ 7,557**	**$ 9,557**	**$ 8,557**	**$ 13,008**	**$ 13,135**	**$ 14,135**	**$ 14,135**	**$ 14,135**	**$ 11,068**	**$ 8,557**	**$ 8,557**	**$ 8,557**	**$ 9,248**	**$ 10,169**	**$ 10,169**	**$ 10,169**	**$ 10,598**	**$ 187,297**
Cash Disbursements:																			
Payroll, Benefits and Temps.	-	(2,007)	(703)	(1,800)	(1,002)	(1,585)	(1,086)	(1,741)	(1,001)	(1,560)	(1,084)	(1,632)	(996)	(1,546)	(1,081)	(1,631)	(996)	(1,527)	(22,977)
Vendor Spend	(113)	(5,934)	(5,634)	(6,292)	(4,864)	(5,675)	(5,375)	(5,375)	(6,267)	(5,437)	(4,997)	(4,997)	(4,997)	(5,513)	(5,246)	(5,246)	(5,246)	(6,013)	(93,222)
Utilities	-	(41)	(41)	(45)	(33)	(41)	(41)	(41)	(41)	(41)	(41)	(41)	(41)	(40)	(40)	(40)	(40)	(42)	(689)
Insurance	(148)	-	-	-	(148)	-	-	-	-	(148)	-	-	-	(148)	-	-	-	(148)	(740)
Property, Sales and Other Taxes	-	(65)	(300)	(1,460)	(70)	-	(200)	(91)	(625)	(145)	-	(200)	(805)	(170)	(65)	(200)	(655)	(70)	(5,121)
Facilities / Rent / Leases	(531)	-	-	-	(531)	-	-	-	-	(531)	-	-	-	(531)	-	-	-	(531)	(2,654)
Other Operating Disbursements	(149)	(1,039)	(1,039)	(1,133)	(891)	(1,082)	(1,082)	(1,082)	(1,082)	(1,066)	(1,063)	(1,063)	(1,063)	(1,060)	(1,056)	(1,056)	(1,056)	(1,106)	(18,170)
Total Operating Disbursements	**$ (941)**	**$ (9,087)**	**$ (7,717)**	**$ (10,731)**	**$ (7,539)**	**$ (8,384)**	**$ (7,784)**	**$ (8,331)**	**$ (9,016)**	**$ (8,927)**	**$ (7,184)**	**$ (7,932)**	**$ (7,901)**	**$ (9,009)**	**$ (7,488)**	**$ (8,173)**	**$ (7,993)**	**$ (9,437)**	**$ (143,573)**
Total Operating Cash Flow	**$ 5,043**	**$ (1,529)**	**$ 1,840**	**$ (2,173)**	**$ 5,470**	**$ 4,752**	**$ 6,352**	**$ 5,805**	**$ 5,120**	**$ 2,141**	**$ 1,373**	**$ 625**	**$ 656**	**$ 239**	**$ 2,681**	**$ 1,995**	**$ 2,176**	**$ 1,161**	**$ 43,724**
Capex	$ -	$ (92)	$ (430)	$ (94)	$ (164)	$ (179)	$ (29)	$ (29)	$ (29)	$ (183)	$ (209)	$ (209)	$ (209)	$ (145)	$ (59)	$ (397)	$ (59)	$ (150)	(2,664)
Interest Payments	(720)	-	(71)	-	(10,941)	-	(106)	-	(2,061)	(543)	-	-	-	(3,222)	-	-	-	-	(17,664)
Professional Fees	-	-	-	-	-	-	(5,145)	-	-	-	(4,405)	-	-	(4,190)	-	-	(2,990)	-	(16,730)
Other Non-Operating Disbursements	-	(114)	(189)	(514)	(106)	(86)	(161)	(86)	(86)	(81)	(80)	(155)	(80)	(88)	(97)	(172)	(97)	(90)	(2,284)
Total Non-Operating Disbursements	**$ (720)**	**$ (206)**	**$ (690)**	**$ (608)**	**$ (11,212)**	**$ (265)**	**$ (5,442)**	**$ (115)**	**$ (2,177)**	**$ (806)**	**$ (4,694)**	**$ (364)**	**$ (289)**	**$ (7,644)**	**$ (157)**	**$ (569)**	**$ (3,147)**	**$ (239)**	**$ (39,343)**
Total Chapter 11 / CCAA Items	**-**	**(4,450)**	**(4,150)**	**(4,150)**	**(4,150)**	**(4,150)**	**(4,150)**	**(2,500)**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**-**	**(27,700)**
Total Disbursements	**$ (1,661)**	**$ (13,743)**	**$ (12,557)**	**$ (15,488)**	**$ (22,900)**	**$ (12,799)**	**$ (17,375)**	**$ (10,946)**	**$ (11,192)**	**$ (9,734)**	**$ (11,878)**	**$ (8,296)**	**$ (8,190)**	**$ (16,653)**	**$ (7,645)**	**$ (8,743)**	**$ (11,140)**	**$ (9,676)**	**$ (210,616)**
Net Cash Flow	**$ 4,323**	**$ (6,186)**	**$ (2,999)**	**$ (6,931)**	**$ (9,892)**	**$ 337**	**$ (3,240)**	**$ 3,190**	**$ 2,943**	**$ 1,335**	**$ (3,321)**	**$ 261**	**$ 367**	**$ (7,405)**	**$ 2,524**	**$ 1,426**	**$ (971)**	**$ 922**	**$ (23,319)**
Beginning Cash Book Balance	$ 0	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 11,705	$ 11,705	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 11,691	$ 10,841	
Net Cash Flow (excl. Draws/Paydowns)	4,323	(6,186)	(2,999)	(6,931)	(9,892)	337	(3,240)	3,190	2,943	1,335	(3,321)	261	367	(7,405)	2,524	1,426	(971)	922	
Prepetition Revolver Draws/(Paydowns)	(5,984)	(7,557)	(9,557)	(8,557)	(13,008)	(13,135)	(14,135)	(14,135)	(14,135)	(11,068)	(8,557)	(8,557)	(8,557)	(9,248)	(10,169)	(5,181)	-	-	
DIP Revolver Draws/(Paydowns)	9,161	13,743	12,557	15,488	22,900	12,799	10,141	9,145	9,145	9,046	8,482	8,296	8,190	9,692	7,645	7,947	121	(428)	
Delayed Draw DIP Term Loan Draws/(Paydowns)	-	-	-	-	4,205	-	3,029	1,801	2,048	688	3,396	-	-	6,961	-	-	-	-	
Ending Cash Bank Balance (Excl. Restricted Cash)	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 11,705	$ 11,705	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 7,500	$ 11,691	$ 10,841	$ 11,336	
Restricted Cash	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	
Ending Cash Bank Balance (incl. Restricted Cash)	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 15,705**	**$ 15,705**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 11,500**	**$ 15,691**	**$ 14,841**	**$ 15,336**	

THIS IS EXHIBIT "G"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021



Commissioner for Taking Affidavits

Christopher Armstrong

Plasco Energy Group Inc.
Consolidated Cash Forecast Variance Report
For the 10 Week Period Ended April 17, 2015

10 Weeks Ended	Note	Actual 17-Apr-15	Forecast 17-Apr-15	Variance Actual vs. Fcst. $	Variance Actual vs. Fcst. %
Opening Cash Balance	A	**8,576,715**	**8,519,405**	**57,310**	**1%**
Cash Receipts					
Commodity tax refunds		165,104	178,000	**(12,896)**	**7%**
Other cash receipts	B	87,055	-	**87,055**	**N/A**
Total Cash Receipts		**252,159**	**178,000**	**74,159**	**NA**
Cash Disbursements					
Payroll and employee benefits	C	(2,092,590)	(2,134,646)	**42,056**	**2%**
Plant operating costs	D	(311,410)	(377,728)	**66,318**	**18%**
Rent and corporate administration costs	E	(445,210)	(799,764)	**354,554**	**44%**
Professional fees	F	(1,497,974)	(1,565,373)	**67,398**	**4%**
Interest and debt service payments		-	-	-	**N/A**
Total Cash Disbursements		**(4,347,185)**	**(4,877,511)**	**530,326**	**11%**
Net Cash Inflow (Outflow)		**(4,095,026)**	**(4,699,511)**	**604,485**	**13%**
Ending Cash Balance		**4,481,690**	**3,819,894**	**661,795**	**17%**

Notes:

A) Certain payments issued to vendors in 2010 / 2011 had not been presented to the Company's bank. Therefore, the Company stale-dated the payments and returned the associated outstanding cheques to cash, in the amount of $57,310.

B) The favourable variance was primarily permanent and was attributable to collection of cash from the following transactions that were not anticipated when the forecast, filed with the Court on February 10, 2015, was prepared: (1) sale of certain computing equipment to former employees ($17,734); (2) sale of scrap metal from the Company's Trail Road processing facility ($24,137); (3) vendor refunds pertaining to the return of certain tangible and intangible items purchased previously ($26,141); (4) interest earned on cash balances held in the Company's bank accounts ($9,043); and (5) final instalment of a research grant received from a Canadian federal government agency ($10,000).

C) The favourable variance was primarily attributable to certain severance payments to former employees, who were terminated prior to these proceedings, and were included in the Company's forecasted payroll costs. However, the severance agreements for those former employees, as well as the associated payments, were stayed when the Company's CCAA filing was approved.

D) The favourable variance was attributable to the timing of certain maintenance activities at the Company's demonstration facility, as well as to the timing of certain demonstration facility administration costs.

E) The favourable variance was primarily attributable to the following factors: (1) deferral to a later date of potential purchase of corporate extended reporting insurance ($230,913); (2) delayed renewal ($40,000) and cancellation ($70,601) of certain software licenses; and (3) cancellation of certain research & development project expenditures ($13,040).

F) The favourable variance was primarily attributable to the timing of professional advisor fees associated with the Company's financial restructuring and capitalization programs. Certain of these costs were paid shortly after the date this variance report was prepared and filed with the Court.

Plasco Energy Group Inc.

Consolidated Weekly Cash Flow Projection (see Notes attached)

For the 13 Week Period April 18, 2015 through July 17, 2015

Week Ended	Note	1 24-Apr-15	2 1-May-15	3 8-May-15	4 15-May-15	5 22-May-15	6 29-May-15	7 5-Jun-15	8 12-Jun-15	9 19-Jun-15	10 26-Jun-15	11 3-Jul-15	12 10-Jul-15	13 17-Jul-15	Total
Opening Cash Balance	2	4,481,690	4,032,895	3,675,786	3,352,827	3,028,457	2,916,332	2,808,668	2,129,156	2,155,010	1,030,055	995,351	632,767	654,692	4,481,690
Cash Receipts															
Commodity tax refunds	3	-	-	66,498	-	-	-	-	59,000	-	-	-	60,000	-	185,498
Other cash receipts		-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Cash Receipts		-	-	66,498	-	-	-	-	59,000	-	-	-	60,000	-	185,498
Cash Disbursements															
Payroll and employee benefits	4	(227,345)	(15,610)	(185,282)	-	(99,000)	(11,478)	(99,000)	-	(780,064)	-	(36,478)	-	(25,000)	(1,479,257)
Plant operating costs	5	(57,962)	(101,078)	(47,225)	(12,806)	(10,275)	(59,761)	(33,521)	(13,521)	(16,052)	(13,521)	(58,079)	(33,592)	(11,124)	(468,516)
Rent and corporate administration costs	6	(6,480)	(167,231)	(2,253)	(11,203)	(1,819)	(34,361)	(361,065)	(18,594)	(28,478)	(19,119)	(82,101)	(3,452)	(12,835)	(748,991)
Professional fees	7	(207,008)	(73,190)	(154,697)	(300,361)	(1,031)	(2,064)	(185,926)	(1,031)	(300,361)	(2,064)	(185,926)	(1,031)	(300,361)	(1,715,050)
Interest and debt service payments	8	-	-	-	-	-	-	-	-	-	-	-	-	-	-
(Contribution to) return of restricted cash	9	50,000	-	-	-	-	-	-	-	-	-	-	-	-	50,000
Total Cash Disbursements		(448,794)	(357,109)	(389,456)	(324,370)	(112,125)	(107,664)	(679,512)	(33,146)	(1,124,955)	(34,705)	(362,584)	(38,075)	(349,319)	(4,361,814)
Net Cash Inflow (Outflow)		(448,794)	(357,109)	(322,959)	(324,370)	(112,125)	(107,664)	(679,512)	25,854	(1,124,955)	(34,705)	(362,584)	21,925	(349,319)	(4,176,316)
Ending Cash Balance		4,032,895	3,675,786	3,352,827	3,028,457	2,916,332	2,808,668	2,129,156	2,155,010	1,030,055	995,351	632,767	654,692	305,373	305,373

Plasco Energy Group Inc.
Notes to the Consolidated Weekly Cash Flow Statement

1 The consolidated weekly cash flow statement (the **"Cash Flow Statement"**) has been prepared solely for the purpose of projecting the combined cash receipts and disbursements of Plasco Energy Group Inc., Plasco Trail Road Inc., Plasco Ottawa Inc. (collectively, the "Applicants"), and their affiliates ("the Plasco Group"). The Cash Flow Statement includes the business activities of the Applicants, as set out herein.

The Cash Flow Statement represents management's reasonable estimates at present. The actual timing and amount of the receipts and disbursements may fluctuate from the estimates shown herein and these fluctuations may be material. Disbursements are inclusive of any applicable federal and provincial sales taxes.

Readers are cautioned that the Cash Flow Statement may not be appropriate for their purposes.

The Cash Flow Statement is presented on a weekly basis from April 18, 2015 to July 17, 2015 (the **"Period"**) and represents management's reasonable estimates of the results of operations and CCAA costs of administration during the Period.

The Cash Flow Statement is presented in Canadian dollars and assumes that any foreign currency transactions are made based on foreign exchange rates in effect as of April 17, 2015.

The Cash Flow Statement assumes that the Applicants file for an extension of CCAA protection on April 29, 2015 and that, as a result, they are afforded a stay of proceedings that is effective against their pre-filing creditors, including amounts owed to their secured creditors.

2 The Opening Cash Balance is net of $950,000 that has been set aside for the Contingency Reserve.

3 Commodity tax refunds represents the estimated value of Harmonized Sales Taxes ("HST") that will be paid out to certain of the Plasco Group's vendors and service providers, and is expected to exceed the value of HST collected on any revenues or asset sales during the Period. Management will claim the excess net HST paid as a refund from the Canada Revenue Agency and will use the proceeds to finance operations during the period.

4 Payroll and employee benefits represents projected gross payroll, including payments to executives and the costs associated with the Company's standard employee benefit plan covering health, dental, accidental death and dismemberment, life insurance, short-term disability and long-term disability. The majority of the salaried hourly employees are paid semi-monthly through direct deposit. Excluded from payroll and employee benefits is the monthly fee payable to the Chief Restructuring Officer, which is included in the Professional Fees line item (see note 7 below). The Cash Flow Statement includes payment of a 1 week termination obligation to those employees who were retained under the KERP pertaining to service provided to the Plasco Group during the CCAA period up to the date of their respective terminations.

5 Plant operating costs includes certain maintenance costs required to decommission the Plasco Trail Road ("PTR") demonstration plant to a point where it cannot operate, including removal and disposal of any remaining process water and hazardous or non-hazardous materials. Plant operating costs also includes certain costs to maintain the building in basic working order, including the cost of ongoing utilities, as well as certain maintenance activities required to protect the environment and maintain safe conditions on site. It also includes monthly PTR demonstration plant insurance costs.

6 Rent and corporate administration costs includes the contractual monthly lease payments for the Company's corporate head office in Ottawa, Ontario. It also includes projected administration expenses, including telecommunication costs, human resources management costs, office supplies and equipment lease costs, Directors & Officers liability insurance costs, banking transaction charges, intellectual property-related legal costs, and certain IT costs, such as software licensing costs and capital equipment purchases necessary to operate the business.

Plasco Energy Group Inc.
Notes to the Consolidated Weekly Cash Flow Statement

7 Professional fees includes: (i) monthly fees for the Chief Restructuring Officer; (ii) monthly fees for the Plasco Group's legal counsel and legal counsel for the Plasco Group's Board of Directors; (iii) monthly fees for CCAA monitor and its legal counsel; (iv) estimated legal fees for certain general corporate legal matters; and (v) estimated fees for preparation of corporate tax and related filings for the Company and its subsidiaries.

8 Consistent with the proposed Initial Order, the Applicants are not projected to make any post filing interest or principal payments in respect of the remaining balances of the following debt instruments: (i) the North Shore Finance Lease ($17.92 million remaining principal balance); (ii) the CWP Finance Lease ($5.65 million remaining principal balance); (iii) the CWP Commercial Finance Lease (US$11.70 million remaining principal balance); (iv) the MRI loan ($1.00 million remaining balance); and (v) the Promissory Notes ($68.00 million remaining principal balance).

9 The Cash Flow Statement includes a $50,000 increase of the Plasco Group's cash balances pertaining to the reduction of cash reserves required by its corporate credit card provider.

THIS IS EXHIBIT "H"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

Court File No. 09-CL-7950

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 NORTEL NETWORKS CORPORATION, NORTEL NETWORKS LIMITED, NORTEL NETWORKS GLOBAL CORPORATION, NORTEL NETWORKS INTERNATIONAL CORPORATION AND NORTEL NETWORKS TECHNOLOGY CORPORATION

ONE HUNDRED AND FOURTH REPORT OF THE MONITOR DATED MARCH 14, 2014

INTRODUCTION

1. On January 14, 2009 (the "Filing Date"), Nortel Networks Corporation ("NNC" and collectively with all its subsidiaries "Nortel" or the "Company"), Nortel Networks Limited ("NNL"), Nortel Networks Technology Corporation ("NNTC"), Nortel Networks International Corporation and Nortel Networks Global Corporation (collectively the "Applicants") filed for and obtained protection under the *Companies' Creditors Arrangement Act* ("CCAA"). Pursuant to the Order of this Court dated January 14, 2009, as amended and restated (the "Initial Order"), Ernst & Young Inc. was appointed as the Monitor of the Applicants (the "Monitor") in the CCAA proceedings. The stay of proceedings was extended to April 1, 2014 by this Court in its Order dated October 29, 2013.

2. Nortel Networks Inc. ("NNI") and certain of its U.S. subsidiaries and affiliates concurrently filed voluntary petitions under Chapter 11 of the U.S. Bankruptcy Code (the "Code") in the United States Bankruptcy Court for the District of Delaware (the "U.S. Court") on January 14, 2009 (the "Chapter 11 Proceedings"). As required by U.S. law, an official committee of unsecured creditors (the "Committee") was established in January, 2009.

3. An ad hoc group of holders of bonds issued by NNL, NNC and Nortel Networks Capital Corporation has been organized and is participating in these proceedings as well as the Chapter 11 Proceedings (the "Bondholder Group"). In addition, pursuant to Orders of this Court, representative counsel was appointed on behalf of the former employees of the Applicants, the continuing employees of the Applicants and the LTD Beneficiaries (collectively, "Representative Counsel") and each of these groups is participating in the CCAA proceedings.

4. Nortel Networks (CALA) Inc. ("NN CALA" and together with NNI and certain of its subsidiaries and affiliates that filed on January 14, 2009, the "U.S. Debtors") filed a voluntary petition under Chapter 11 of the Code in the U.S. Court on July 14, 2009.

5. Nortel Networks UK Limited ("NNUK") and certain of its affiliates located in EMEA were granted administration orders (the "UK Administration Orders") by the High Court of England and Wales on January 14, 2009 (collectively the "EMEA Debtors"). The UK Administration Orders appointed Alan Bloom, Stephen Harris, Alan Hudson and Chris Hill of Ernst & Young LLP as administrators of the various EMEA Debtors, except for Nortel Networks (Ireland) Limited, to which David Hughes (Ernst & Young LLP Ireland) and Alan Bloom were appointed (collectively the "Joint Administrators").

6. Subsequent to the filing date, Nortel Networks S.A. ("NNSA") commenced secondary insolvency proceedings within the meaning of Article 27 of the European Union's Council Regulation (EC) No 1346/2000 on Insolvency Proceedings in the Republic of France pursuant to which a liquidator and an administrator have been appointed by the Versailles Commercial Court.

7. The CCAA proceedings and the UK Administration proceedings of NNUK and the other EMEA Debtors have been recognized by the U.S. Court as foreign main proceedings under Chapter 15 of the Code.

8. Subsequent to the Filing Date, certain other Nortel subsidiaries have filed for creditor protection or bankruptcy proceedings in the local jurisdiction in which they are located.

PURPOSE

9. The purpose of this One Hundred and Fourth Report of the Monitor (the "One Hundred and Fourth Report") is to report to this Court on the following matters:

a) consolidated cash position and liquidity of the Applicants as at March 1, 2014;

b) actual receipts and disbursements of the Applicants from January 19, 2014 to March 1, 2014;

c) cash flow forecast of the Applicants for the period March 2, 2014 to October 4, 2014;

d) status of the Applicants' claims process;

e) status of the Applicants' Compensation Claims Process;

f) information in support of the motion for an Order permitting the Monitor to review and adjudicate certain Compensation Claims in respect of which Form C Proofs of Claim were received after the relevant bar date;

g) status of the Health and Welfare Trust ("HWT");

h) status of the Termination Fund;

i) status of the Employee Hardship Application Process and Fund and provide information to the Court in support of the request to extend the Hardship Application Process through the stay extension period;

j) status of allocation and related claim matters pending under the Allocation Protocol approved by this Court and the U.S. Court on April 3, 2013 (the "Allocation Protocol" and all litigation and claims subject thereto, the "Allocation Protocol Litigation");

k) various other ongoing matters relevant to the CCAA proceedings;

l) request for an amendment to the Order (Distribution Escrow Agreement Amendments) of this Court dated February 10, 2014, to address the fees of JPMorgan Chase Bank, N.A., as escrow agent (the "Escrow Agent") in connection with the investment of approximately $7.3 billion of sale proceeds from the Nortel line of business and residual IP sales (the "Sale Proceeds");

m) status of foreign proceedings; and

n) request for an order that the stay of proceedings be extended up to and including October 3, 2014.

TERMS OF REFERENCE

10. In preparing this One Hundred and Fourth Report, the Monitor has relied upon unaudited financial information, the Company's books and records, financial information prepared by the Company and discussions with the Company. The Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of this information and accordingly, the Monitor expresses no opinion or other form of assurance on the information contained in this One Hundred and Fourth Report. Unless otherwise stated, all monetary amounts contained herein are expressed in U.S. dollars.

11. Capitalized terms not defined in this One Hundred and Fourth Report are as defined in the Affidavit of John Doolittle sworn on January 14, 2009, the Pre-Filing Report or previous reports of the Monitor. Capitalized terms relating to the Compensation Claims Process are as defined in the Compensation Claims Procedure Order.

12. The Monitor has made various materials relating to the CCAA proceedings available on its website at www.ey.com/ca/nortel. The Monitor's website also contains a dynamic link to Epiq Bankruptcy LLC's website where materials relating to the Chapter 11 Proceedings are posted.

CONSOLIDATED CASH POSITION AND LIQUIDITY OF THE APPLICANTS AS AT MARCH 1, 2014

13. As at March 1, 2014, the Applicants had cash available of approximately $209.2 million.

14. As at March 1, 2014, the Applicants had Restricted Cash and Unavailable Cash of $258.0 million. None of the Applicants' Restricted Cash and Unavailable Cash is presently available to fund the estate. Restricted Cash relates primarily to: (i) $10.7 million held in the D&O Trust as detailed in the Pre-Filing Report; and (ii) $9.7 million held in escrow related to the settlement of the Global Class Action. Unavailable Cash relates primarily to: (i) $7.6 million of net proceeds from the sale of the Strandherd Lands; (ii) $229 million from the sale of NNL's interest in the LGN joint venture held in a single purpose bank account; and (iii) $1 million from the sale of NNL's interest in the Relay business held in a single purpose bank account.

15. As discussed in prior Monitor's Reports, divestiture proceeds are being held in escrow by various escrow agents (the "Divestiture Proceeds"). As at March 1, 2014, approximately $7.3 billion of Divestiture Proceeds are held in escrow until a determination is made regarding allocation of these proceeds among the various Nortel legal entities, including the Applicants. Other Divestiture Proceeds totalling approximately $22 million are held in separate escrows in support of related TSA, succession tax and other adjustments and $35 million is held in a separate trust account pursuant to the Cascade Trust Indenture.

ACTUAL RECEIPTS AND DISBURSEMENTS OF THE APPLICANTS FROM JANUARY 19, 2014 TO MARCH 1, 2014

16. The Applicants' actual consolidated net cash outflow for the period January 19, 2014 to March 1, 2014 was $10.8 million.

17. Actual net cash flow was favourable to forecast by $10.5 million. Significant items contributing to this favourable variance were as follows:

a) a favourable permanent variance of $5.0 million with respect to recoveries from Nortel Networks (India) Private Limited on account of receipt of intercompany receivables not previously reflected in the forecast; and

b) a net favourable timing variance of $4.6 million in total Restructuring Costs as certain professional fees are anticipated to settle later than originally forecast.

18. Available Cash was negatively impacted compared to forecast by approximately $5.7 million as a result of an unfavourable exchange translation on funds held in Canadian dollars due to the depreciation of the Canadian dollar relative to the U.S. dollar.

19. Unavailable Cash and Restricted Cash were lower than forecast by approximately $0.9 million as a result of an unfavourable exchange translation on funds held in Canadian dollars due to the depreciation of the Canadian dollar relative to the U.S. dollar.

20. A summary of the actual receipts and disbursements as compared to the forecast filed with the One Hundred and Third Report is attached as Appendix "A".

CASH FLOW FORECAST OF THE APPLICANTS FOR THE PERIOD MARCH 2, 2014 TO OCTOBER 4, 2014

21. The Applicants, with the assistance of the Monitor, have prepared an updated 31-week cash flow forecast for the period March 2, 2014 to October 4, 2014 (the "March 2nd Forecast" and the "Forecast Period", respectively). A copy of the March 2nd Forecast is attached as Appendix "B".

22. Based on the March 2nd Forecast, it is anticipated the Applicants will have no receipts and total disbursements of $108.0 million resulting in a net cash outflow of $108.0 million during the Forecast Period.

23. Significant assumptions used in preparing the March 2nd Forecast include the following:

a) Divestiture Proceeds from the Layer 4-7, CDMA/LTE Access, Enterprise, Next Generation Packet Core, MEN, MSS, GSM/GSM-R, CVAS and Residual IP transactions are to be held in escrow and are not reflected in the March 2nd Forecast;

b) all pre-filing amounts owed to suppliers are stayed and post-filing amounts are paid on regular credit terms;

c) pursuant to the terms of the Amended and Restated Employee Settlement Agreement approved by this Court on March 31, 2010 (the "Employee Settlement Agreement"), there are no further current funding contributions to the Applicants' defined benefit pension plans. Funding related to current employees' retirement savings plans are reflected in benefits disbursements. Funding for non-registered pension or other retirement plans is stayed;

d) all interest payments relating to the Applicants' pre-filing indebtedness are stayed; and

e) Restructuring Costs – Advisor Fees and Restructuring Costs – Allocation Dispute Support Services have been forecast based on current and anticipated run rates.

24. The Court has previously requested the Monitor provide a supplementary schedule with details of restructuring costs incurred relating to the Allocation Protocol Litigation. A summary of the actual restructuring costs incurred as compared to the January 19th Forecast and further details with respect to the March 2nd Forecast restructuring costs are attached as Appendix "C".

25. Based on an analysis prepared by the Monitor, the Applicants have sufficient cash resources to fund the CCAA proceedings through October 3, 2014.

STATUS OF THE APPLICANTS' CLAIMS PROCESS

26. Attached as Appendix "D" is an update as to the status of claims filed against the Applicants as of March 6, 2014 pursuant to the Claims Procedure Order (the "Claims

Report") (which does not include claims filed pursuant to the Compensation Claims Procedure Order dated October 6, 2011). All claim amounts are in Canadian dollars (in millions) using January 14, 2009 exchange rates.

27. To date, 1,131 claims with a cumulative value of approximately CAD 36.1 billion have been filed against the Applicants pursuant to the Claims Procedure Order. This includes potential duplicative claims filed against multiple Applicants and claims filed subsequent to the Claims Bar Date. Since the Ninety-Eighth Report, 34 claims with a total claim value of $nil have been removed from the schedule as they related to hardship payment applications and are not claims pursuant to the Claims Procedure Order. The Monitor, in conjunction with the Applicants, has initially reviewed all 1,131 claims filed to date.

28. As at March 6, 2013, the Monitor has provisionally accepted 876 claims with a claim value of approximately CAD 2.7 billion (original filed claim amount of approximately CAD 12.0 billion). In addition, 112 claims with a current claim value of CAD 9.4 billion have been either partially or fully disallowed and a Notice of Dispute has been filed by the creditor.

29. The remaining 143 claims, representing a claim value of approximately CAD 24.2 billion, primarily relate to bond claims, certain pension claims, litigation claims, real estate claims and claims filed subsequent to the Claims Bar Date. These claims require further review, analysis, negotiation and possibly litigation prior to finalization.

30. Between October 13, 2013 and March 6, 2014, the Applicants, in conjunction with the Monitor, resolved five claims representing a total claim amount of approximately CAD 45.6 million for CAD 21.5 million. A copy of the Claims Report has been posted on the Monitor's website.

31. The claims resolution process continues to progress since the issuance of the Claims Resolution Order. The Monitor, in conjunction with the Applicants, continues to review, revise and disallow claims, as applicable. The Monitor will report to this Court further on this process in subsequent reports.

STATUS OF THE APPLICANTS' COMPENSATION CLAIMS PROCESS

32. As previously reported, the Monitor has concluded the majority of its review of both the Requests for Corrections and Form C Proofs of Claim filed in the Compensation Claims Process.

33. There remain approximately 10 claimants who provided a Request of Correction and also filed a Form C Proof of Claim where the Form C Proof of Claim remains under review by the Monitor. Once the Monitor has finalized its review of the Form C Proof of Claim, the Monitor will communicate to the claimant the results of both the Request for Correction and the Form C Proof of Claim.

34. In respect of the 853[1] Form C Proofs of Claim received to date:

- 286 are subject to Notices of Disallowance/Partial Disallowance that have been or will be issued;
- 202 have been withdrawn;
- 123 are marker claims filed by Director/Officers;
- 110 are claims filed against Directors/Officers where the claim against the estate is not in dispute;
- 50 claims have been or will be accepted;
- 9 are outstanding Precision claims;
- 41 are outstanding Expertech claims; and
- 32 claims remain under review.

The Monitor is discussing the most efficient process for the resolution of the claims against the Directors/Officers with counsel for the Directors/Officers and Representative Counsel.

Claims Officer Adjudication of Disputes

35. As of March 12, 2014, the Monitor has received 192 Notices of Dispute relating to the Request for Corrections and Form C Proofs of Claim. Of these:

[1] As many of the Form C Proofs of Claim were filed against multiple Applicants, these totals reflect non-duplicative claims.

- 78 have or are expected to be withdrawn;
- 83 have been settled and/or accepted;
- 15 have been resolved by the Claims Officer; and
- 16 are currently under review.

Active Employees

36. As of March 12, 2014, there are approximately 17 Active Employees. Pursuant to the Compensation Claims Order, the Monitor will mail an Information Statement Package or prescribed letter to these individuals when their employment status changes.

Requests for Corrections and Form C Proofs of Claim received after the relevant Bar Date

37. The Compensation Claims Process is in part a "reverse" claims process in that the Monitor sent Information Statements to claimants which detailed the personal information of such claimant, which personal information in turn generated such claimant's applicable Compensation Claims (and amounts thereof) based on a Court approved methodology.

38. Claimants had the opportunity to file: (i) requests for correction to correct personal information contained in information statements; and (ii) Proofs of Claim in respect of other Compensation Claims a claimant wished to assert ("Form C Proofs of Claim").

39. Such requests for correction and Form C Proofs of Claim were to be filed by the applicable bar date, being in some cases 4:00 pm (Eastern Time) on January 6, 2012 and in other cases a "rolling" bar date as determined under the Compensation Claims Procedure Order.

40. The Compensation Claims Procedure Order did not grant the Monitor discretion to extend the bar dates.

41. Pursuant to prior Orders of this Court, the Monitor was permitted to review and adjudicate certain specified Form C Proofs of Claim that were filed in the Compensation Claims Process and received after the applicable bar date.

42. Since October 22, 2013, the Monitor has received two (2) additional Form C Proofs of Claim, which total approximately CAD 260,000.

43. The Monitor is of the view it should be permitted to review and adjudicate these Form C Proofs of Claim as the claims relate either to new information received by the claimant through circumstances outside of their control or represent an additional claim of a previously recognized claimant under the Compensation Claims Procedure Order.

44. The relief requested by the Monitor with respect to these Form C Proofs of Claim will facilitate the timely resolution of the Compensation Claims of the relevant claimant.

45. Accordingly, the Monitor requests authorization to review and adjudicate the additional Form C Proofs of Claim specified above.

STATUS OF THE HWT

46. Pursuant to a series of Orders, this Court approved interim distributions from the HWT to the Participating Beneficiaries culminating with an order dated November 19, 2013 approving a final distribution and providing for an upward or downward adjustment to Estate Distributions as the result of the resolution of outstanding HWT matters. Processes for addressing outstanding matters, including the establishment of reserves, Trustee Claims and tax matters were also included in the November 19, 2013 order.

47. During the period from January 2011 through December 31, 2013, cumulative distributions in the amount of approximately CAD 62.0 million were made to over 8,900 individuals on account of Participating Benefits at a rate of 38% (a further distribution will be made to Pensioners with respect to Pensioner Life to bring their total cumulative distribution to the same percentage as the other Participating Benefits[2]). The Monitor anticipates the Declared Distribution on account of Pensioner Life payments will be made in the near future and will post notice of the payment date to its website.

48. Distributions other than those on account of LTD Income (the "Taxable HWT Distributions"), were considered to be taxable and subject to withholding of applicable taxes at source. Koskie Minsky LLP, as Court appointed representative counsel, is appealing the taxability of these amounts to the Tax Court of Canada. The appeal is not

[2] With the distribution on account of Pensioner Life being reduced as a result of actual 2010 Pensioner Life premiums for all Participating Beneficiaries with the exception of LTD Beneficiaries.

yet resolved. A determination by the Tax Court of Canada that some or all of the Taxable HWT Distributions are not taxable may result in removal of the tax gross-up component of the related estate claims as provided for in the Compensation Claim Methodology.

49. The Monitor continues to work diligently with the Applicants, Trustee, LTD Beneficiaries' Representative and her advisors, Former Employees' Representatives and their advisors, Unifor (formerly CAW) and others to finalize outstanding matters to allow the wind-up of the HWT.

STATUS OF THE TERMINATION FUND

50. In accordance with the Employee Settlement Agreement, the Applicants established a CAD 4.3 million fund for the benefit of former employees of the Applicants (the "Termination Fund"). By Court Order dated February 25, 2011, this Court extended the eligibility criteria for the Termination Fund to a group of former employees defined as Additional Eligible Former Employees. The February 25, 2011 Order also amended the Employee Hardship Application Process to permit the use of a portion of the funds allocated to the Employee Hardship Application Process, in combination with the remaining funds in the Termination Fund, to make payments to the Additional Eligible Former Employees.

51. As of March 11, 2014, 1,467 former terminated employees have received payments totalling approximately CAD 4.4 million. The remaining former employees have a potential combined entitlement of CAD 165,000.

52. The Applicants will deal with any further applications and make payments to eligible former employees pursuant to the above Orders as received.

STATUS OF THE EMPLOYEE HARDSHIP APPLICATION PROCESS AND FUND

53. On July 30, 2009, this Court issued an Order approving an employee hardship application process (the "Hardship Process") as more fully described in the Sixteenth Report and the Affidavit of John Doolittle dated July 24, 2009.

54. Subsequently, this Court ordered certain amendments to the eligibility criteria including the extension of the eligibility time period. In July 2012, the funds available to the Hardship Process were increased from the original CAD 750,000 to CAD 1,000,000. On May 1, 2013, this Court issued an Order approving a further increase of funds available through the Hardship Fund to CAD 1,200,000. Pursuant to an Order dated October 29, 2013, the Hardship Process is set to expire April 1, 2014.

55. As of March 11, 2014 there is currently approximately CAD $109,000 to satisfy future hardship application requests as detailed in the following chart:

(in CAD 000's)		
Initial Funding for the Hardship Fund		750
Additional Funding - July 2012		250
Additional Funding - May 2013		200
		1,200
Hardship Payments per Ninety- Eighth Report	(498)	
Additional hardship payments to March 11, 2014	(45)	
Awarded – payments pending as at March 11, 2014	(2)	(545)
		655
Additional eligible former employees		(366)
SIB/STB Hardship		(180)
Hardship funds as at March 11, 2014		109

56. The Monitor is continuing to administer the hardship payment application process and report thereon to Representative Counsel.

57. The Monitor believes access to the hardship application procedure remains necessary as applications asserting financial hardship resulting from illness, healthcare costs, pension reductions or other reasons continue to be received as a result of the cessation of benefits to

Former Employees, LTD Beneficiaries, Nortel pensioners and survivors of Nortel pensioners.

58. The Monitor believes that funding under the Hardship Process will continue to provide some relief to those holding Compensation Claims and who are experiencing financial difficulties. Any payments received by an individual as part of the Hardship Process will be a reduction against any distributions to which the individual may be entitled pursuant to the Compensation Claims Process.

59. Accordingly, the Monitor supports an extension of the deadline for submitting hardship applications to October 3, 2014 and amending the Eligibility Requirements and Procedure with Respect to Hardship Payment Applications attached as Appendix "E", accordingly.

STATUS OF ALLOCATION AND RELATED CLAIM MATTERS

60. The Allocation Protocol Litigation is the central focus of the Applicants and Monitor at this stage of the Applicants' restructuring proceedings. In addition to resolution of the allocation of the approximately $7.3 billion of Divestiture Proceeds, the Allocation Protocol Litigation encapsulates the significant claims advanced by the EMEA Debtors and the Trustee of the Nortel Networks UK Pension Trust Limited and the Board of the UK Pension Protection Fund against the Applicants that have been at the forefront of these proceedings. The Allocation Protocol Litigation is being resolved through coordinated but separate litigations pending before this Court and the U.S. Court as further detailed in the Allocation Protocol.

61. By their Orders dated May 15, 2013 and May 17, 2013, respectively, this Court and the U.S. Court have approved a Litigation Timetable (the "Litigation Timetable") and Discovery Plan (the "Discovery Plan") which, together with certain related Orders, agreements and relevant applicable law, governs the conduct of the discovery process and established timelines for the Allocation Protocol Litigation. Originally scheduled to begin on January 6, 2014, the start date for the joint hearings to resolve the Allocation Protocol Litigation was extended by agreement of the Core Parties (as defined in the Allocation

Protocol) and approval of the Courts to April 1, 2014. The Courts subsequently fixed May 12, 2014, as the peremptory trial start date.

62. Since approval of the Litigation Timetable and Discovery Plan, the Applicants and Monitor have been focused on meeting their obligations under the Discovery Plan and otherwise advancing the discovery process and Allocation Protocol Litigation. Since the last summary update on the status of the Allocation Protocol Litigation provided in the Ninety-Eighth Report, the following has occurred:

a) in December 2013, the U.S. Debtors, the Committee, the EMEA Debtors, the Joint Administrators, the UK Pension Claimants and certain other non-debtor Nortel entities and administrators agreed to a settlement of the claims by the EMEA Debtors and the UK Pension Claimants against the U.S. Debtors. The settlement provided the Joint Administrators, on behalf of the EMEA Debtors and certain of their affiliates, with an allowed administrative claim against NNI in the amount of $37.5 million and the UK Pension Claimants with an allowed administrative claim against NNI in the amount of $37.5 million. In connection with the settlement, the Joint Administrators agreed to withdraw their leave to appeal application to the Supreme Court of Canada in respect of the Allocation Protocol, as well as to waive their remaining appeal rights in the United States in respect of the U.S. Court's Order approving the Allocation Protocol;

b) the conclusion of fact witness depositions, which in total saw more than 110 depositions take place over the course of late September to mid-December 2013;

c) the exchange of over 80 expert reports, reply expert reports and sur-reply expert reports by the Core Parties; and

d) agreement to a form of trial protocol and substantial agreement on an amendment and supplement to the trial protocol.

63. In addition to the foregoing, the Applicants and Monitor continue to prepare both their allocation case and their defence to the claims of the EMEA Debtors and UK Pension Claimants and to otherwise advance the Allocation Protocol Litigation. In particular, expert

depositions will take place between March 17, 2014 and April 10, 2014 and over the course of April leading up the start of the trial on May 12, 2014 the Core Parties will exchange fact witness affidavits, designate documents and fact and expert testimony for trial, exchange exhibit lists and pre-trial briefs and deal with any necessary pre-trial motions.

OTHER MATTERS

Status of Environmental Appeal/ERT Proceedings

64. On March 9, 2012, this Court issued an Order granting certain relief in respect of the Applicants' environmental obligations pertaining to properties in Belleville, Kingston, Brockville and London, Ontario and a property NNL continues to own in London, Ontario (the "London Retained Lands"). Furthermore, the Order confirmed that various Orders issued by the Ontario Ministry of the Environment (the "MOE") against NNL in respect of such properties and related proceedings before the Ontario Environmental Review Tribunal (the "ERT Proceedings") were subject to the stay of proceedings granted by this Court. Her Majesty the Queen in Right of Ontario as represented by the MOE sought and obtained leave to appeal this Order.

65. On June 19, 2013, the Ontario Court of Appeal heard the MOE's appeal and on October 3, 2013 released its decision which granted the MOE's appeal with respect to all of the properties with the exception of the London Retained Lands. On December 2, 2013, the Applicants and Monitor sought leave to appeal the Ontario Court of Appeal's decision to the Supreme Court of Canada. On January 21, 2014, the MOE delivered its response to the Applicants' and Monitor's leave application and also filed an application for leave to appeal the Ontario Court of Appeal's decision as it relates to the London Retained Lands. Both leave applications have now been fully briefed and the parties' await the Supreme Court's determination on the leave applications.

66. In the interim, the ERT Proceedings pertaining to each property have been adjourned on a "status quo" basis until at least April 30, 2014. The Applicants and Monitor expect to

discuss the status of the ERT Proceedings with the MOE and other interested parties in the April 2014 timeframe and make a determination then as to whether to seek a formal stay of the ERT Proceedings pending disposition of their leave application and, if granted, their appeal.

Proceedings Commenced by the French Liquidator against NNC, NNL and the Monitor before the Versailles Commercial Court

67. As previously reported, the French Liquidator commenced proceedings (the "French Proceedings") against NNC, NNL and the Monitor before the Versailles Commercial Court (the "French Court") alleging NNC and NNL were the effective or de facto managers of NNSA, mismanaged the affairs of NNSA and such mismanagement led to any resulting deficiency of NNSA's assets relative to its liabilities such that NNC and NNL should be liable for any such deficiency.[3]

68. The Monitor is of the view the claims asserted in the French Proceedings are duplicative of the claims filed by and on behalf of NNSA in the Allocation Protocol Litigation, the French Proceedings are an abuse of process and the service of process in Canada on NNC, NNL and the Monitor in respect of the French Proceedings is a breach of the CCAA stay.

69. Since the commencement of the French Proceedings, the French Liquidator has from time to time confirmed to the Monitor the existence of a "de facto stay" of the French Proceedings and has sought to stay the French Proceedings before the French Court. In late 2013, the Monitor learned that one of the co-defendants to the French Proceedings opposed the continuation of the stay and there was a possibility the French Proceedings could advance to trial on February 11, 2014.

70. On February 5, 2014, the Monitor and Applicants served a motion seeking a declaration that, *inter alia*, the service of process in Canada in relation to the French Proceedings on each of NNC, NNL and the Monitor was a breach of the stay and that the French Proceedings are null and void and shall be given no force or effect in these proceedings,

[3] This Report provides only a summary overview of matters pertaining to the French Proceedings. A detailed review of the French Proceedings and the Monitor's position in respect thereof is provided in the One Hundred and Second Report.

nor otherwise recognized as creating or forming the basis of any valid or enforceable rights, remedies or claims against the Applicants, Monitor or any of their respective assets, property or undertakings in Canada. On February 7, 2014, the Monitor, Joint Administrators and French Liquidator agreed to a without prejudice adjournment of the motion on the terms reflected in an Endorsement of the Court of the same date, including that the motion not being heard prior to February 11, 2014 shall be without prejudice to the relief sought by and positions of the Monitor and Applicants in connection with the French Proceedings.

71. At the February 11, 2014 hearing, the French Court adjourned the French Proceedings to April 8, 2014. The Monitor is in the process of attempting to ascertain the various parties' intentions for the April 8, 2014 hearing before the French Court and considering its options. Once this process is complete, the Monitor expects to discuss with the French Liquidator and Joint Administrators a timetable for the hearing of the motion before this Court or another means of resolving matters pertaining to the French Proceedings.

Amendment to Order (Distribution Escrow Agreement Amendments)

72. On February 5, 2014, the Applicants and Monitor served a motion seeking an Order approving certain amendments to the Distribution Escrow Agreements relating to the Sale Proceeds and authorizing the Applicants and Monitor to execute Joint Instructions to the Escrow Agent authorizing a change of investment of the Sale Proceeds from a Collateralized Money Market Deposit Account to United States Treasury obligations with maturities shorter than one year.[4] On February 10, 2014, this Court granted the proposed Order sought by the Applicants and Monitor. A copy of the One Hundred and Third Report of the Monitor dated February 5, 2013, which provides further details and support in respect of the motion and the Order (Distribution Escrow Agreement Amendments) of this Court dated February 10, 2014 (the "February 12 Order") are attached at Appendices "F" and "G", respectively.[5]

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[4] Capitalized terms used in this section of the One Hundred and Fourth Report and not otherwise defined shall have the meaning given to them in the One Hundred and Third Report.

[5] The copy of the One Hundred and Third Report appended hereto includes only those Appendices relevant to the

73. As indicated in the One Hundred and Third Report, approval of the U.S. Court is also required to amend the Distribution Escrow Agreements. Prior to the U.S. Debtors' filing of their motion seeking approval of the amendments and authorization to execute the Joint Instructions and following further discussions among the U.S. Debtors, Monitor, Escrow Agent and other interested parties, the U.S. Debtors and Monitor agreed to the addition of language to the form of U.S. Order regarding the fees of the Escrow Agent. In particular, the Escrow Agent has advised the U.S. Debtors, Monitor and certain other interested parties that its standard fee for trading, custodial and settlement fees is 1.5 basis points on the amount of money invested on an annualized basis (the "Standard Fees"), which is a change from the fees expressly contemplated by the Distribution Escrow Agreements. Based on the amount of the Sale Proceeds (approximately $7.3 billion), such fees would be approximately $1.1 million for a one-year investing period (reduced pro rata for a shorter investing period) and would be deducted from any interest earned on the investment. The Escrow Agent has agreed to waive any fees accrued in connection with any investment in tranches of U.S. Treasury bills that would exceed the yield associated with that investment, such that at no point shall its fees decrease the principal amount associated with the investment.

74. Consistent with the form of Order entered by the U.S. Court on March 14, 2014, the Applicants and Monitor seek an amendment to the February 12 Order authorizing the Escrow Agent to receive the Standard Fees for the services to be performed in connection with the investments identified in the Joint Instructions and to collect the Standard Fees from the escrow accounts holding the Sale Proceeds (the "Escrow Accounts"). This authorization is not intended to, and shall not, modify the provisions of the Distribution Escrow Agreement with respect to the payment of other costs and expenses provided for therein. A blackline of the proposed Amended & Restated Order (Distribution Escrow Agreement Amendments) to the February 12 Order is included in the Applicants' and Monitor's motion record.

Distribution Escrow Agreement amendments.

STATUS OF FOREIGN PROCEEDINGS

Chapter 11

75. The following is a summary of the court orders that have been issued and the financial information that has been filed in the Chapter 11 Proceedings since the last update provided in the Ninety-Eighth Report:

    a) on November 15, 2013, the U.S. Court entered an order settling several claims relating to the sale of DiamondWare, Ltd. to NNI which involved payment of $806,595.46 to the claimants out of funds withheld from the purchase price and held in escrow to cover potential indemnification liabilities;

    b) the U.S. Debtors filed Debtor-in-Possession Monthly Operating Reports for July 2013, August 2013, September 2013 and October 2013 on October 24, 2013, January 7, 2014, February 21, 2014 and March 3, 2014, respectively; and

    c) the U.S. Court entered additional orders resolving certain claims, approving certain settlements, authorizing and amending the retention and payment of professionals and addressing other matters involving professionals, establishing discovery procedures, setting future hearing dates and granting other related relief.

76. With respect to the Allocation Dispute, the following is a summary of certain orders issued by the U.S. Court and related developments since the last update provided in the Monitor's Ninety-Eighth Report:

    a) on November 15, 2013, the U.S. Court issued an order adjourning *sine die* the objection of Wilmington Trust, N.A. ("Wilmington Trust"), as indenture trustee for certain notes issued by NNL, to certain claims filed in the Chapter 11 Proceedings by the Bank of New York Mellon, as indenture trustee for various notes and convertible notes guaranteed by NNI and Law Debenture Trust Company of New York, as indenture trustee for certain senior unsecured debt securities issued by Nortel Networks Capital Corporation. By its objection, Wilmington Trust sought a determination from the U.S. Court that the U.S.

"Federal Judgment Rate" is the "legal rate" that must be used to calculate the amount of any post-petition interest payable to unsecured creditors of a solvent estate;

b) on November 27, 2013, the U.S. Court entered an order amending the litigation schedule in the joint cross-border proceedings regarding the Allocation Dispute. Specifically, the order amended the schedule for taking remaining discovery, including expert depositions, pre and post-trial briefing and other filings, pre-trial conferences and the joint-trial now scheduled to begin on May 12, 2014;

c) on January 7, 2014, the U.S. Court entered an order approving a claims litigation settlement agreement ("U.S. Claims Settlement Agreement") by and among the U.S. Debtors, the Committee, the Joint Administrators, the EMEA Debtors, Nortel Networks Optical Components Limited, Nortel Telecom France SA, the court-appointed liquidator of Nortel Networks Optical Components Limited, the French Liquidator, the UK Pension Claimants and certain non-filed U.S. and EMEA Nortel affiliates. Pursuant to the U.S. Claims Settlement Agreement, the U.S. Debtors and the Committee settled claims brought against the U.S. Debtors by the other parties to the agreement in return for the allowance of a total of $75,000,000 in administrative expense priority claims. Additionally, the parties to the U.S. Claims Settlement Agreement have agreed to work in good faith to explore the development of a common allocation position and other agreements related to the conduct of the joint-trial; and

d) the U.S. Debtors obtained orders related to the appointment of individuals as commissioners to take evidence and testimony under the Hague Convention and the submission of Hague Convention applications, establishing discovery procedures and timetables, withdrawing applications for issuance of international letters of request (letters rogatory), setting hearing dates and granting other related relief.

Chapter 15

77. The following is a summary of the filings in the Chapter 15 proceedings of the Applicants since the last update provided in the Ninety-Eighth Report:

a) on November 18, 2013, the Monitor filed a copy of this Court's Order dated October 29, 2013 extending the stay of proceedings through April 1, 2014;

b) on November 15, 2013, the United States District Court for the District of Delaware entered a memorandum order affirming the U.S. Court's March 2, 2010, decision denying the motion of lead plaintiffs (the "Lead Plaintiffs") in the securities class action captioned David Lucescu, Individually and on Behalf of All Others Similarly Situated v. Mike Zafirovski, et al. (the "Securities Litigation") pending in the United States District Court for the Southern District of New York for modification of the U.S Court's order (the "Recognition Order") recognizing and enforcing the Initial Order in the United Sates. A copy of the District Court's order was filed in the Chapter 15 proceedings on November 20, 2013;

c) on February 14, 2014, the Lead Plaintiffs filed a renewed motion seeking a limited modification of the Recognition Order to pursue the Securities Litigation based on alleged changed circumstances from when the U.S. Court denied the Lead Plaintiffs' initial motion in March 2, 2010. The Monitor filed a preliminary response to the Lead Plaintiffs' renewed motion on February 27, 2014, requesting that the U.S. Court schedule a hearing to consider whether the Lead Plaintiffs should be directed to seek relief from the CCAA Stay from this Court in the first instance. At a status conference held on March 12, 2014, the U.S. Court declined to direct the Lead Plaintiffs to seek relief in Canada before a hearing on the merits currently scheduled for April 22, 2014; and

d) the Monitor has continued to file with the U.S. Court and serve on required parties notices of each of its reports to this Court.

MONITOR'S ANALYSIS AND RECOMMENDATIONS

78. The Monitor has and continues to assist the Applicants in their efforts to efficiently realize maximum value from their remaining assets, advance the interests of the Canadian estate in the Allocation Protocol Litigation, wind down their corporate, operational and IT infrastructure and conduct the claims processes for the purpose of preparing a plan of arrangement. As previously discussed, the joint hearings to resolve the Allocation Protocol Litigation are to commence on May 12, 2014. During the period leading up to the joint hearings, the Applicants and Monitor will be focusing a significant amount of time, effort and resources on this litigation and related discovery processes. Furthermore, the trials relating to the Allocation Protocol Litigation, including post trial submissions and rebuttal submissions, will likely extend into September 2014. An extension of the Stay Period is required to permit these and other restructuring efforts to continue such that resolution of these matters can be concluded and the Applicants can progress to a plan of arrangement and distributions to their creditors. The Monitor believes the Applicants are working diligently and in good faith and continue to progress towards such a plan.

79. For the reasons outlined in this One Hundred and Fourth Report, the Monitor supports:

a) an extension of the stay up to and including October 3, 2014;

b) permitting the Monitor to review and adjudicate certain Compensation Claims in respect of which Form C Proofs of Claim were received after the applicable bar date;

c) extension of the Employee Hardship Application Process through October 3, 2014 and the Eligibility Requirements and the Procedure with Respect to Hardship Payments Applications being amended accordingly; and

d) authorizing the Escrow Agent to receive the Standard Fees for the services to be performed in connection with the investments identified in the Joint Instructions and to collect the Standard Fees from the escrow accounts holding the Sale Proceeds.

All of which is respectfully submitted this 14th day of March, 2014.

ERNST & YOUNG INC.
in its capacity as Monitor of the Applicants
and not in its personal capacity

Per:

Murray A. McDonald
President

APPENDIX "A"

[ATTACHED]

Nortel Networks - January 19, 2014 to March 1, 2014
CCAA Applicants
Forecast Cash Flow - Variances
USD (Millions)

	Forecast	Actuals	Variances
Start of period	19-Jan-14	19-Jan-14	19-Jan-14
End of period	01-Mar-14	01-Mar-14	01-Mar-14
1 . Receipts & Disbursements			
Receipts			
Other Receipts	-	0.1	0.1
Net Intercompany Receipts	-	5.0	5.0
Total Receipts	-	5.1	5.1
Disbursements			
Payroll (Gross)	1.9	1.7	0.2
Benefits	0.2	0.1	0.1
Non-Inventory Purchases	0.6	0.1	0.5
Net Intercompany Disbursements	-	-	-
Restructuring Costs - Advisor Fees	15.0	11.2	3.8
Restructuring Costs - Allocation Dispute Support Services	3.6	2.8	0.8
Total Disbursements	21.3	15.9	5.4
Net Cash Flow	(21.3)	(10.8)	10.5
FX Impact	-	(5.7)	(5.7)
Opening Available Cash Balance	225.7	225.7	-
Closing Available Cash Balance	204.4	209.2	4.8
Unavailable Cash	238.0	237.6	(0.4)
Total Cash	442.4	446.8	4.4
Restricted Cash	20.9	20.4	(0.5)
Total Cash + Restricted Cash	463.3	467.2	3.9

APPENDIX "B"

[ATTACHED]

Nortel Networks - March 2, 2014		Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast
CCAA Applicants			Mar-14				Apr-14					May-14
Forecast Cash Flow	Start of period	02-Mar-14	09-Mar-14	16-Mar-14	23-Mar-14	30-Mar-14	06-Apr-14	13-Apr-14	20-Apr-14	27-Apr-14	04-May-14	11-May-14
USD (Millions)	End of period	08-Mar-14	15-Mar-14	22-Mar-14	29-Mar-14	05-Apr-14	12-Apr-14	19-Apr-14	26-Apr-14	03-May-14	10-May-14	17-May-14
Receipts												
Other Receipts		-	-	-	-	-	-	-	-	-	-	-
Net Intercompany Receipts		-	-	-	-	-	-	-	-	-	-	-
Total Receipts		-	-	-	-	-	-	-	-	-	-	-
Disbursements												
Payroll (Gross)		0.1	-	0.1	-	0.1	-	0.1	-	0.1	-	0.1
Benefits		-	-	-	-	-	-	-	-	-	-	-
Inventory Purchases		-	-	-	-	-	-	-	-	-	-	-
Non-Inventory Purchases		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Net Intercompany Disbursements		-	-	-	-	-	-	-	-	-	-	-
Restructuring Costs - Advisor Fees		2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Restructuring Costs - Allocation Dispute Support Services		0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
Total Disbursements		3.3	3.2	3.3	3.2	3.3	3.2	3.3	3.2	3.3	3.2	3.3
Net Cash Flow		**(3.3)**	**(3.2)**	**(3.3)**	**(3.2)**	**(3.3)**	**(3.2)**	**(3.3)**	**(3.2)**	**(3.3)**	**(3.2)**	**(3.3)**
FX Impact												
Opening Available Cash Balance		209.2	205.9	202.7	199.4	196.2	192.9	189.7	186.4	183.2	179.9	176.7
Closing Available Cash Balance		205.9	202.7	199.4	196.2	192.9	189.7	186.4	183.2	179.9	176.7	173.4
LG & Strandherd Proceeds		237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6
Total Cash		443.5	440.3	437.0	433.8	430.5	427.3	424.0	420.8	417.5	414.3	411.0
Restricted Cash		20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4
Total Cash + Restricted Cash		463.9	460.7	457.4	454.2	450.9	447.7	444.4	441.2	437.9	434.7	431.4

Nortel Networks - March 2, 2014		Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast
CCAA Applicants						Jun-14				Jul-14		
Forecast Cash Flow	Start of period	18-May-14	25-May-14	01-Jun-14	08-Jun-14	15-Jun-14	22-Jun-14	29-Jun-14	06-Jul-14	13-Jul-14	20-Jul-14	27-Jul-14
USD (Millions)	End of period	24-May-14	31-May-14	07-Jun-14	14-Jun-14	21-Jun-14	28-Jun-14	05-Jul-14	12-Jul-14	19-Jul-14	26-Jul-14	02-Aug-14
Receipts												
Other Receipts		-	-	-	-	-	-	-	-	-	-	-
Net Intercompany Receipts		-	-	-	-	-	-	-	-	-	-	-
Total Receipts		-	-	-	-	-	-	-	-	-	-	-
Disbursements												
Payroll (Gross)		-	0.1	-	0.1	-	0.1	-	0.1	-	0.1	-
Benefits		-	-	-	-	-	0.1	-	-	-	-	-
Inventory Purchases		-	-	-	-	-	-	-	-	-	-	-
Non-Inventory Purchases		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Net Intercompany Disbursements		-	-	-	-	-	-	-	-	-	-	-
Restructuring Costs - Advisor Fees		2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Restructuring Costs - Allocation Dispute Support Services		0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
Total Disbursements		3.2	3.3	3.2	3.3	3.2	3.4	3.2	3.3	3.2	3.3	3.2
Net Cash Flow		(3.2)	(3.3)	(3.2)	(3.3)	(3.2)	(3.4)	(3.2)	(3.3)	(3.2)	(3.3)	(3.2)
FX Impact												
Opening Available Cash Balance		173.4	170.2	166.9	163.7	160.4	157.2	153.8	150.6	147.3	144.1	140.8
Closing Available Cash Balance		170.2	166.9	163.7	160.4	157.2	153.8	150.6	147.3	144.1	140.8	137.6
LG & Strandherd Proceeds		237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6
Total Cash		407.8	404.5	401.3	398.0	394.8	391.4	388.2	384.9	381.7	378.4	375.2
Restricted Cash		20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4
Total Cash + Restricted Cash		428.2	424.9	421.7	418.4	415.2	411.8	408.6	405.3	402.1	398.8	395.6

Nortel Networks - March 2, 2014		Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast	Forecast
CCAA Applicants			Aug-14					Sep-14			
Forecast Cash Flow	Start of period	03-Aug-14	10-Aug-14	17-Aug-14	24-Aug-14	31-Aug-14	07-Sep-14	14-Sep-14	21-Sep-14	28-Sep-14	02-Mar-14
USD (Millions)	End of period	09-Aug-14	16-Aug-14	23-Aug-14	30-Aug-14	06-Sep-14	13-Sep-14	20-Sep-14	27-Sep-14	04-Oct-14	04-Oct-14
Receipts											
Other Receipts		-	-	-	-	-	-	-	-	-	-
Net Intercompany Receipts		-	-	-	-	-	-	-	-	-	-
Total Receipts		-	-	-	-	-	-	-	-	-	-
Disbursements											
Payroll (Gross)		0.1	-	0.1	-	0.1	-	0.1	-	0.1	1.6
Benefits		-	-	-	-	-	-	0.1	-	-	0.2
Inventory Purchases		-	-	-	-	-	-	-	-	-	-
Non-Inventory Purchases		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	8.6	11.6
Net Intercompany Disbursements		-	-	-	-	-	-	-	-	-	-
Restructuring Costs - Advisor Fees		2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	77.5
Restructuring Costs - Allocation Dispute Support Services		0.6	0.6	0.6	0.6	0.3	0.3	0.3	0.3	0.3	17.1
Total Disbursements		3.3	3.2	3.3	3.2	3.0	2.9	3.1	2.9	11.5	108.0
Net Cash Flow		**(3.3)**	**(3.2)**	**(3.3)**	**(3.2)**	**(3.0)**	**(2.9)**	**(3.1)**	**(2.9)**	**(11.5)**	**(108.0)**
FX Impact											
Opening Available Cash Balance		137.6	134.3	131.1	127.8	124.6	121.6	118.7	115.6	112.7	209.2
Closing Available Cash Balance		134.3	131.1	127.8	124.6	121.6	118.7	115.6	112.7	101.2	101.2
LG & Strandherd Proceeds		237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6	237.6
Total Cash		371.9	368.7	365.4	362.2	359.2	356.3	353.2	350.3	338.8	338.8
Restricted Cash		20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4	20.4
Total Cash + Restricted Cash		392.3	389.1	385.8	382.6	379.6	376.7	373.6	370.7	359.2	359.2

APPENDIX "C"

[ATTACHED]

Nortel CCAA Applicants
Advisor and Allocation Dispute Support Service Costs
All Figures in USD

Restructuring Costs - Advisory Fees (All figures in USD)	Jan 19, 2014 - Mar 1, 2014 Weekly Forecast	Jan 19, 2014 - Mar 1, 2014 Total Forecast	Jan 19, 2014 - Mar 1, 2014 Total Actual	Mar 2, 2014 - Oct 4, 2014 Weekly Forecast	Mar 2, 2014 - Oct 4, 2014 Total Forecast
Canadian Debtors' Advisors					
Davies Ward Phillips & Vineberg LLP (Environmental)					
Gowling Lafleur Henderson LLP					
Mercer Human Resources Co					
Norton Rose Fulbright Canada LLP					
Buchanan Ingersol & Rooney					
Freshfields Bruckhaus Deringer					
Other Foreign Legal Advisors					
	450,000	2,700,000	1,396,837	450,000	13,950,000
Monitor and Advisors					
Allen & Overy LLP					
Ernst & Young Inc.					
Goodmans LLP					
	1,340,000	8,040,000	7,251,723	1,340,000	41,540,000
Canadian Estate Allocation Dispute Support Services[1]	510,000	3,060,000	2,182,531	510,000	14,535,000
Canadian Debtors / Monitor Subtotal	2,300,000	13,800,000	10,831,091	2,300,000	70,025,000
Employee Advisors					
6038441 Canada Inc. (Financial Advisor)					
Koskie Minsky LLP					
DLA Piper LLP					
Wardle Daley Bernstein LLP					
Nelligan O'Brien Payne					
Shepell FGI					
Shibley Righton LLP					
The Segal Company					
Allocation Dispute Support Services[1]					
	320,000	1,920,000	1,445,010	320,000	9,695,000
Directors and Officers Advisors					
Osler Hoskin & Harcourt LLP					
	60,000	360,000	248,870	60,000	1,860,000
Ad Hoc Bondholder Group Advisors					
Bennett Jones LLP					
FTI Capital Advisors LLC					
Milbank Tweed Hadley & McCloy LLP					
	420,000	2,520,000	1,453,964	420,000	13,020,000
Total	3,100,000	18,600,000	13,978,934	3,100,000	94,600,000

1. Certain vendors that were presented as part of Allocation Dispute Support Services in prior Monitor's Reports are now presented in the Advisor Fees. This new presentation better reflects the nature of services these vendors provide to the Estate.

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 NORTEL NETWORKS CORPORATION *et al.*

Court File No: 09-CL-7950

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

ONE HUNDRED AND FOURTH REPORT OF THE MONITOR DATED MARCH 14, 2014

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THIS IS EXHIBIT "I"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CRYSTALLEX INTERNATIONAL CORPORATION,	:	
Plaintiff,	:	
v.	:	**Misc. No. 17-151-LPS**
BOLIVARIAN REPUBLIC OF VENEZUELA,	:	**PUBLIC VERSION**
Defendant.	:	

SPECIAL MASTER'S REPORT AND RECOMMENDATION
REGARDING PROPOSED SALE PROCEDURES ORDER

OF COUNSEL:

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Counsel for Special Master Robert B. Pincus

Dated: August 9, 2021
Public Version Dated: September 15, 2021

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EXHIBITS

I, Robert B. Pincus, solely in my capacity as special master (the "**Special Master**") for the United States District Court for the District of Delaware (the "**Court**") in *Crystallex International Corp. v. Bolivarian Republic of Venezuela* (D. Del. Case. No. 17-151-LPS) ("the "**Crystallex Case**"), hereby submit this report and recommendation ("**Report**")[1] to the Court in connection with the proposed sale procedures order filed contemporaneously herewith [D.I. No. 302] (the "**Sale Procedures Order**"):[2]

I. Preliminary Statement

1. Each of the interested parties in the Crystallex Case has argued that, if a sale of the PDVH Shares is to occur, the procedures for such sale should be designed to achieve a sale transaction that is fair, open, and maximizes the value of the PDVH Shares to be sold. Although parties may ultimately disagree on the method to achieve a value-maximizing transaction, I believe that all interested parties are, and remain, committed to the fundamental goal of designing a sale and marketing process that provides the best opportunity of achieving a value maximizing result.

2. With that guiding principle and the input of the Sale Process Parties (as defined below), my Advisors (as defined below) and I have designed the proposed Sale Procedures Order that strikes the balance between many competing interests in a dynamic and internationally sensitive set of circumstances to provide the best opportunity of achieving a value-maximizing Sale Transaction, while achieving fairness to all involved. I am submitting this Report to assist

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[1] This Report has been filed under seal pursuant to paragraph ¶3 of the *Special Master Confidentiality Order* [D.I. 291] (the "**Protective Order**"). As discussed further in paragraph ¶32 of this Report, the Special Master anticipates that the Sale Process Parties (as defined below) will jointly submit proposed redactions to this Report no later than five calendar days after the date hereof for the Special Master to file publicly on the docket in the Crystallex Case. Further, as this Report contains or reflects certain information that has been marked "highly confidential" by the Venezuela Parties and Crystallex, the Special Master will serve appropriate redacted version on each Sale Process Party that is specific to them.

[2] Capitalized terms used but not defined shall have the meaning ascribed to such terms below or, if not defined below, the meaning ascribed to such terms in the Sale Procedures Order.

the Court and other parties in interest in understanding the Special Master's process and the facts and circumstances considered in connection with proposing the Sale Procedures Order and the rationale for the provisions therein.

3. The focal point of discussion among the Sale Process Parties in preparation of the proposed Sale Procedures Order has been and remains when to ultimately launch the Marketing Process following entry of the order by the Court. Given that current public guidance from the Department of the Treasury's Office of Foreign Assets Control ("**OFAC**") at FAQ 809 states that a specific license from OFAC is required "prior to conducting an auction or other sale… or taking other concrete steps in furtherance of a sale" of shares of a Government of Venezuela entity (such as the PDVH Shares), barring a change in circumstances, my recommendation is to launch the Marketing Process only once I am confident that I am able to provide Potential Bidders with comfort that they can participate in the process without subjecting themselves to the risk of violating U.S. sanctions. If we were to proceed based on OFAC's public guidance as of today, I do not believe that Potential Bidders will participate in the process for fear of violating such sanctions.

4. In the proposed Sale Procedures Order, I have proposed what I believe to be the most reasonable and workable solution: following entry of the Sale Procedures Order, unless otherwise directed by the Court, I intend to hold off on preparing for launch of the Marketing Process until I am comfortable that OFAC's posture will not impair a successful or value maximizing Sale Process. In the meantime, I will continue to take a proactive approach with respect to engagement with the United States Government regarding the OFAC decision-making process and obtaining assurances for Potential Bidders that they can participate in the sale process.

5. Notwithstanding OFAC-related temporary delay, I do not believe this time should be wasted by the Sale Process Parties. Based on my review of the facts, circumstances, and following numerous discussions with the Sale Process Parties, my assessment of the situation is that all interested stakeholders could benefit – and that substantial value could be unlocked – if the Sale Process Parties, in addition to the PDVSA 2020 Bondholders, were able to reach a voluntary negotiated outcome on a claims waterfall (such a resolution, a "**Negotiated Outcome**"). Based on my discussions with the Sale Process Parties, I believe this would be a welcome development for those parties and will make the best use of time prior to launching the Marketing Process. Of course, facilitating such discussions around a Negotiated Outcome is not an express component of my current mandate, however, it is a step that is likely to aid my mandate and, if the Sale Process Parties consent or the Court otherwise deems it appropriate in exchange for a short delay to implement the proposed Sale Procedures Order, as discussed more fully below, I have proposed and recommended a process for the parties to engage in such discussions with my assistance.

6. Except as otherwise indicated herein, this Report and the findings herein are based on the facts as presented, identified, and determined by me, with the assistance of my Advisors, and the circumstances relating to the Crystallex Case, PDVH, CITGO, my review of relevant pleadings and documents, information provided to me by the Sale Process Parties, publicly available information, or my opinion based upon my experience and knowledge. Contemporaneously herewith, William O. Hiltz of Evercore Group L.L.C. ("**Evercore**") has submitted the *Declaration of William O. Hiltz in Support of Special Master's Report and Recommendation Regarding Proposed Sale Procedures Order* in Support of this Report (the "**Hiltz Declaration**"), attached hereto as **Exhibit A**.

II. Overview of the Special Master's Process

A. Appointment of Special Master

7. On January 14, 2021, the Court issued an opinion and corresponding order [D.I. 234, 235] (the "**January 2021 Ruling**") following pleadings filed by Plaintiff Crystallex International Corporation ("**Crystallex**"), Defendant Bolivarian Republic of Venezuela (the "**Republic**"), Intervenor Petróleos de Venezuela, S.A. ("**PDVSA**"), Garnishee PDV Holding, Inc. ("**PDVH**"), Intervenor CITGO Petroleum Corporation ("**CITGO Petroleum**," and collectively with the Republic, PDVSA, and PDVH, the "**Venezuela Parties**"), non-parties Phillips Petroleum Company Venezuela Limited and ConocoPhillips Petrozuata B.V. (together, **ConocoPhillips**," and collectively with Crystallex and the Venezuela Parties, the "**Sale Process Parties**") and the United States.

8. The January 2021 Ruling set out "some contours of the sale procedures that [the Court would] follow in conducting a sale of PDVSA's shares in PDVH," including the appointment of a special master to "oversee the day-to-day and detailed implementation of the sales procedures" and to "prepare for and conduct the sale." [D.I. 234 at 34-35]. The Court further explained that "the Venezuela Parties will have a fair and reasonable opportunity to be involved in the prefatory procedures, the sale, and any negotiations, but the Court will retain control of the sale. The Venezuela Parties will have a seat at the table, but they will not be running the process."[3]

9. Consistent with the January 2021 Ruling, on April 13, 2021, the Court appointed me as Special Master to assist the Court with the sale of PDVSA's shares in PDVH [D.I. No. 258]. On May 27, 2021, the Court entered the *Order Regarding Special Master* [D.I. No. 277] (the "**May**

[3] [D.I. 234 at 36. *See also id.* at 37 ("Importantly, it would be inequitable to permit PDVSA to conduct the sale at this point . . . the Court is not going to permit a highly-recalcitrant judgment debtor to conduct its own sale process over the objection of its repeatedly-victorious judgment creditor").]

2021 Order") formalizing my appointment as Special Master and directing me to, among other things:

a. devise a plan for the sale of shares of PDVH (the "**PDVH Shares**") as necessary to satisfy the outstanding judgment of Crystallex and the judgment of any other judgment creditor added to the sale by the Court and/or devise such other transaction as would satisfy such outstanding judgment(s) while maximizing the sale price of any assets to be sold (collectively, the "**Sale Transaction**");

b. oversee the execution of a protective order;

c. work to become knowledgeable about the business operations and assets of CITGO and PDVH; and

d. ascertain the total amounts of the outstanding judgment owed to Crystallex by the Republic and the total amount of the outstanding judgment owed to ConocoPhillips by PDVSA.

10. The May 2021 Order further authorized me to retain, after consultation with the Sale Process Parties, counsel, financial advisors, and other professionals (collectively, including those already retained by the Special Master, the "**Advisors**") to assist and advise me with respect to the performance of my duties as Special Master.

B. Retention of Advisors

11. Immediately upon my appointment as Special Master, it was clear that retaining skilled counsel and advisors that have the resources, experience, and expertise in the sale of complex and large assets, particularly in a Court supervised process and distressed situation, would be critical to maximizing the value of the PDVH Shares. Accordingly, I immediately took steps to retain counsel and advisors that are subject matter experts with relevant experience and expertise.

12. In retaining counsel, I interviewed and met with several leading law firms with the relevant experience, expertise and reputation. In consultation with the Sale Process Parties,

I selected, in each case based on their excellent reputation and strong track record of relevant experience, Weil, Gotshal & Manges LLP to serve as lead transaction counsel, Potter Anderson & Corroon LLP to serve as Delaware counsel, and Jenner and Block LLP to serve as OFAC counsel. Each law firm has been retained on an hourly basis and performs work at my direction.

13. In consultation with my counsel, I determined that engaging a highly qualified investment banker to advise me in fulfilling my mandate—familiarizing myself with the CITGO business and designing and overseeing a sale process for the PDVH Shares—was critical in accomplishing the Court's goals. Undertaking a sale of this complexity and magnitude without engaging an investment banker on whose advice and experience I would be entitled to rely upon would be essentially impossible and, in my opinion, result in a chaotic, inefficient process, and ultimately would not reach the goal of generating a value maximizing outcome. Further, I believe foregoing the engagement of an investment banker would likely increase the risk of litigation, appeal and challenge to any eventual outcome of the Sale Procedures.

14. Accordingly, following my retention of counsel and upon their input and guidance, I solicited proposals from several market-leading investment banking advisory firms and conducted an interview of each firm that submitted a proposal. After a round of interviews and several follow-up discussions, I selected Evercore based on their extensive experience and excellent reputation in providing high quality investment banking services in (a) complex and financially distressed situations, including their extensive experience in advising debtors, creditors, and other constituents in court-supervised sale processes and restructurings; and (b) applicable subject matter investment banking advisory roles in a variety of downstream oil and gas transactions. The resources, capabilities, and experience of Evercore in advising me in connection with the tasks identified above is critical to obtaining a value-maximizing Sale

Transaction (as explained in greater detail below). In accordance with the Court's mandate to conduct the sale, as discussed further below, I have proposed to engage Evercore now for the implementation of the Sale Procedures Order but would not direct Evercore to begin any work for that process until I am satisfied that I am able to provide Potential Bidders with comfort that they can participate in the process without subjecting themselves to the risk of violating U.S. sanctions.

15. Since being engaged, my Advisors have acquired significant knowledge of the Crystallex Case and have conducted the requisite due diligence review of the businesses of PDVH and CITGO, including their business operations, capital structure, key stakeholders, financing documents and other related material information, necessary for the design of the Sale Procedures Order, but have not completed all diligence required for launching the Marketing Process. My Advisors have advised me in all aspects of preparing and designing the proposed Sale Procedures Order, including analyzing and evaluating potential sale structures, analyzing the proposals from each of the Sale Process Parties, and assisting me with various other activities related to the Special Master process. On my instructions, my Advisors have been actively involved in discussions and outreach to the Sale Process Parties and in coordinating with the United States Government, including representatives from the Department of Justice, Department of the Treasury and Department of State (collectively, the "**USG**").

16. As a result of the work performed in connection with designing the proposed Sale Procedures Order and the significant knowledge gained therefrom, I believe that my Advisors are in the best position to advise me and the Court in connection with entry of the Sale Procedures Order and the ultimate implementation thereof. Since I expect that the Sale Process Parties will be focused on monitoring the expenses of my Advisors in connection with such implementation, the proposed Sale Procedure Order provides for the provision of a rolling 13-week Budget (with

applicable revisions) to the Sale Process Parties of my anticipated expenses immediately following entry of the Sale Procedures Order. I anticipate providing such a Budget to the Sale Process Parties each month. *See* Sale Procedures Order at ¶48.

17. With respect to Evercore, their current engagement ends upon entry of the Sale Procedures Order. As previously mentioned, I will not be able to fulfill my duties under the January 2021 Ruling and May 2021 Order without a skilled and competent investment banker. Since their engagement, Evercore has become intimately familiar with the sale process, the Crystallex Case, PDVH, CITGO, and the other circumstances of the current situation. It would be damaging to the Special Master process if I were required to retain a new investment banker at this stage. In particular, Evercore will be critical in connection with, among other things:

- reviewing and analyzing PDVH and CITGO's business, operations, and financial projections;
- preparing for and implementing the Marketing Process;
- identifying interested parties and/or potential acquirers and, at my request, contacting such interested parties and/or potential acquirers;
- reviewing any Non-Binding Initial Indications of Interest, Stalking Horse Bids, or other Bids that are received pursuant to the Bidding Procedures;
- structuring and effectuating a Sale Transaction;
- advising my Advisors and I in connection with negotiations with potential interested parties and/or acquirers and aiding in the consummation of a Sale Transaction;
- if requested by the Court or the Sale Process Parties, facilitating discussions in furtherance of a Negotiated Outcome and advising my Advisors and I in connection with such a process;
- advising on tactics and strategies for negotiating with Bidders and Potential Bidders; and

- participating in discussions with and otherwise interacting with the Sale Process Parties and the United States Government (explained in more detail below).

18. Accordingly, I propose to engage Evercore to advise me in connection with implementation of the Sale Procedures Order. For the period following entry of the Sale Procedures Order, I negotiated a new engagement letter with Evercore (the "**Proposed Evercore Engagement letter**"), a copy of which is attached as Exhibit 3 to the Sale Procedures Order, and am proposing that I be granted the authority to enter into that engagement letter under the proposed Sale Procedures Order.

19. As is typical and customary for retention of an investment banker, the Proposed Evercore Engagement Letter contains a fee structure where the majority of Evercore's compensation is structured as a "success fee" that is payable based on the "Aggregate Consideration" provided by a buyer in connection with the applicable Sale Transaction (the "**Sale Fee**").[4] As Evercore's primary compensation will be tied to the success of the sale process, I believe the Sale Fee properly incentives Evercore to facilitate a value-maximizing Sale Transaction. Unsurprisingly, consistent with sale processes of this type and complexity where an investment banker is engaged, every investment banker that I interviewed insisted on such a construct as their primary form of compensation.

[4] As used in the Proposed Evercore Engagement Letter, the term "Aggregate Consideration" means "the total fair market value (determined at the time of the closing of a Sale) of all consideration paid or payable, or otherwise to be distributed to, or received by, directly or indirectly, the Court (or the Special Master) in connection with the Sale Transaction or the Company, its bankruptcy estate (if any), its creditors and/or the security holders of the Company in connection with a Sale, including all (i) cash, securities and other property, (ii) Company debt assumed, satisfied, or paid by a purchaser or which remains outstanding at closing (including, without limitation, the amount of any indebtedness, securities or other property "credit bid" in any Sale) and any other indebtedness and obligations, including litigation claims and tax claims that will actually be paid, satisfied, or assumed by a purchaser from the Company or the security holders of the Company and (iii) amounts placed in escrow and deferred, contingent and installment payments."

20. In addition to the Sale Fee, under the Proposed Evercore Engagement Letter, Evercore is entitled to a monthly fee of $200,000 (each, a "**Monthly Fee**"). The first nine (9) Monthly Fees actually paid are 50% creditable against any Sale Fee earned by Evercore in connection with a Sale Transaction. The first Monthly Fee will be due and payable on the date that I instruct Evercore to begin assisting me in preparing for the Marketing Process or I otherwise request their services (such as in connection with facilitating discussions regarding a Negotiated Outcome). Further, at any time after the Monthly Fees begin to accrue, if implementation or consummation of a Sale Transaction is stayed or otherwise delayed for any reason (other than a delay caused by a necessary regulatory approval unrelated to required OFAC authorization or guidance), I am entitled to send a notice that, three business days after it is received by Evercore, will have the effect of ending the accrual of Monthly Fees until such time as I rescind the notice. Finally, the Proposed Evercore Engagement Letter further provides for reimbursement of reasonable and customary out-of-pocket expenses incurred by Evercore in connection with their engagement thereunder.

21. In light of this structure and following consultation with the Sale Process Parties, I have submitted a copy of the Proposed Evercore Engagement Letter for approval by the Court. I believe that my continued retention of Evercore is necessary and the terms on which I propose to engage them is consistent and comparative with market terms for an engagement of this nature.

22. As required by the May 2021 Order, I have consulted with the Sale Process Parties regarding my proposed engagement of Evercore following entry of the proposed Sale Procedures Order.[5] To varying degrees, each of the Sale Process Parties have raised concerns regarding the

[5] [*See* May 2021 Order at 13 ("The Special Master is authorized to enter into any agreements with such Advisors on terms that he, after consultation with the Parties and ConocoPhillips, believes are appropriate.")]

Proposed Evercore Engagement Letter. I have attempted to resolve each of their objections, including through further negotiation with Evercore. The Proposed Evercore Engagement Letter reflects these efforts, which are summarized as follows:

- Delaying the incurrence of any Monthly Fees owed to Evercore under the Proposed Evercore Engagement Letter until I provide Evercore with notice of my determination to begin preparations for the Marketing Process;[6]
- Reducing Evercore's Sale Fee in the event the only bona fide Bid generated by the Marketing Process is a credit bid by Crystallex;
- Modifying the timing of payment of the Sale Fee to be no more than $7,000,000 at announcement and signing of any Sale Transaction (the "**Upfront Amount**"); and
- Excusing Crystallex or ConocoPhillips from the obligation to pay the Upfront Amount if, based on the implied value of the Sale Transaction, they are "out of the money" and unlikely to receive any of the proceeds from the Sale Transaction.

I am hopeful that the foregoing amendments will resolve the objections of Crystallex and ConocoPhillips.[7] Nonetheless, I anticipate that certain objections of the Venezuela Parties may remain unresolved. As such, I will address the Venezuela Parties' objections briefly now, and will respond more fully to any objections with whatever evidence the Court deems appropriate, if any party prosecutes an objection.

23. The Venezuela Parties have ostensibly raised concern that the proposed Sale Fee (or any "success fee") paid to Evercore will create an "incurable" conflict of interest that taints

[6] The Proposed Evercore Engagement Letter further provides that if the Court or the Sale Process Parties request that I participate or otherwise assist with facilitating a Negotiated Outcome (as discussed more fully below), then, I may request Evercore's services and, in which case, Monthly Fees will be incurred in connection therewith. Depending on the proposed course of negotiations, it may also necessitate the need to negotiate a "Restructuring Fee" (as defined in the Proposed Evercore Engagement Letter) in consultation with the Sale Process Parties.

[7] If, prior to entry of the Sale Procedures Order, a Sale Process Party (other than the Venezuela Parties) does not wish to be involved in the process, either as a consultation party or otherwise, and elects to withdraw from inclusion in the Marketing Process, then such party presumably would request that the Court revisit the fee apportionment so that it is no longer required to pay for the expenses of the sale process.

both me as Special Master and any advice or services rendered by Evercore. More specifically, they argue that by linking Evercore's compensation to the success of the Sale Transaction, Evercore will, for their own personal gain, encourage me to recommend to the Court a process that ensures the sale of 100% of the PDVH Shares.[8] On such basis, the Venezuela Parties have stated that if Evercore is retained I will be disqualified from serving as Special Master in the Crystallex Case because I have been tainted by Evercore's alleged conflict of interest. *See* Federal Rule 53(a)(2) (subjecting masters appointed under Federal Rule 53 to disqualification in the same circumstances as a judge would be disqualified under 28 U.S.C. § 455).

24. In support of their proposition, the Venezuela Parties referred me to the Third Circuit Court of Appeals' decision in *In re Kensington Intern. Ltd.*, 368 F.3d 289 (2004) ("**Kensington Decision**"). My counsel and I have reviewed the Kensington Decision and believe there are fundamental differences between the facts of that case and the circumstances here, rendering the Kensington Decision's import regarding my retention of Evercore inapposite.

25. In *Kensington*, the Bankruptcy Court had appointed consultants to assist him as neutral-advisors in the administration of five separate asbestos-related bankruptcy cases. Two such advisors simultaneously served as advocates—in a fiduciary capacity—on behalf of asbestos claimants in a separate, yet related, bankruptcy case. As a result, the Third Circuit in the Kensington Decision found that these two advisors faced competing fiduciary obligations that created a clear conflict of interest for both advisors, which arose primarily out of the close relationship between the future asbestos claimants and the issues in the five asbestos cases and the

[8] Tellingly, the Venezuela Parties' argument is premised on a gross mischaracterization of the sale process that I have recommended to the Court. The proposed Sale Procedures Order that I have recommended does not require 100% of the PDVH Shares to be sold. The proposed Bidding Procedures clearly require me to select a Bid for a lesser percentage of the PDVH Shares if, *ceteris paribus*, it satisfies at least as much of the Attached Judgments as a Bid for a greater percentage of the PDVH Shares.

separate bankruptcy case. *See* Kensington Decision at 11. Because these two advisors were no longer disinterested parties, it was determined that the Bankruptcy Court was tainted by the appearance of a conflict because of the special position of trust and influence they had over the Bankruptcy Court. As a result, the Bankruptcy Court Judge was subject to disqualification from serving as judge in such cases by application of 28 U.S.C. § 455(a). *Ibid* at 14. Here, neither I nor Evercore face any competing fiduciary obligations in the design of the Sale Procedures Order or implementation of the Marketing Process.

26. Equally as important, the procedural posture of the Kensington Decision is categorically different than the Crystallex Case. At the time of the Kensington Decision, it was anticipated that the Bankruptcy Court would continue to rule on issues and the merits of disputes in the applicable bankruptcy cases. Here, as the Court noted in the January 2021 Ruling, the Third Circuit has left the Court with "***nothing left to do but execute***" the sale of the PDVH Shares. *See* January 2021 Ruling at 19. Neither Evercore nor I will be ruling on the merits of any dispute in the Crystallex Case.[9] Moreover, Evercore's retention on a "success fee" basis is occurring only once the Court has already approved the Sale Procedures Order and the Bidding Procedures pursuant to which Bids will be solicited from Potential Bidders.

27. The inapposite Kensington Decision aside, respectfully, it is not, in my view, credible for the Venezuela Parties to argue that retaining an investment banker that is compensated by a success fee for executing the Court's judgment after merits have been decided creates a conflict of interest in this case. The proposed compensation structure for Evercore is reflective of

[9] Moreover, as the Venezuela Parties insisted, the Court is required to review *de novo* all factual and legal positions contained in any recommendation I submit to the Court. *See* May Order at ¶ 12.] [*See In re Zenith Elecs. Corp.*, 241 B.R. 92, 102 (Bankr. D. Del. 1999) ("many retention agreements with investment bankers, financial advisors (and even counsel) contain such [success fee] arrangements. That does not, per se, disqualify such firm from testifying as an expert witness.")

industry standards for investment bankers serving in similar advisory roles both in and out of court supervised contexts. In addition to being the industry standard, the open and transparent manner of the proposed Court-approved engagement of Evercore pursuant to the Proposed Evercore Engagement Letter that the Sale Process Parties have all had an opportunity to provide input on further disavows the notion of a conflict of interest. Crystallex and ConocoPhillips have each argued that Evercore should not receive any Sale Fee unless the Marketing Process is ultimately successful in generating bona fide Bids. Tellingly, each Sale Process Party that desires a successful Sale Transaction to occur supports linking Evercore's compensation to the ultimate success of the Marketing Process. This is in stark contrast to the position of the Venezuela Parties.

28. I also believe retention of Evercore on a "success fee" basis comports with applicable law and the practice of other Courts. Courts have appointed trustees, brokers, fiduciaries or liquidators that are paid on a success fee or contingency fee basis – particularly bankruptcy cases – to sell assets without finding that such a compensation structure creates a conflict of interest for such professionals. *See e.g.*, *In re: Caritas Health Care, Inc.*, *et al.,* 2011 WL 4442884 (Bankr. E.D.N.Y.) (Court-appointed broker retained pursuant to retention letter that provided for a 1.5% sale commission in connection with the sale of property). Indeed, this practice is further codified in the Bankruptcy Code that such persons must be found by the Court to be "disinterested persons" and that such disinterested persons may be paid on a percentage fee basis in an analogous context. *See* 11 U.S.C. § 327(a) ("Except as otherwise provided in this section, the trustee, with the court's approval, may employ one or more attorneys, accountants, appraisers, auctioneers, or other professional persons, that do not hold or represent an interest adverse to the estate, **and that are disinterested persons**, to represent or assist the trustee in carrying out the trustee's duties under this title"); 11 U.S.C. § 328(a) ("The trustee, or a committee appointed under

section 1102 of this title, with the court's approval, may employ or authorize the employment of a professional person under section 327 or 1103 of this title, as the case may be, on any reasonable terms and conditions of employment, including on a retainer, on an hourly basis, on a fixed **or percentage fee basis, or on a contingent fee basis**") (emphasis added). Of course, Evercore's retention by estate fiduciaries in such cases has frequently and routinely been approved by Delaware Courts. *See, e.g.*, *In re: GNC Holdings, Inc., et al.*, Case No. 20-11662-KBO (Bankr. D. Del. 2020) [D.I. 467]; *In re: Chisholm Oil and Gas Operating, LLC*, *et al.*, Case No. 20-1159-BLS (Bankr. D. Del. 2020) [D.I. 203]; *In re: FAH Liquidating Corp. (f/k/a Fisker Automotive Holdings, Inc.)*, *et al.*, Case No. 13-13087 (KG) (Bankr. D. Del. 2013) [D.I. 756]; and *In re: Delta Petroleum Corporation*, *et al.*, Case No. 11-14006 (KJC) (Bankr. D. Del. 2011) [D.I. 185].

29. I believe, as noted above, the heart of the Venezuela Parties' objections on this issue relate to the mistaken assumption that I have recommended to the Court to sell-off 100% of the PDVH Shares instead of only so many of those shares as are necessary. However, as I make clear throughout this Report, I have recommended a process to only sell so many shares as are necessary to satisfy the judgment(s) attached in accordance with applicable law. Thus, such contention is misplaced.

30. Relatedly, in their feedback to the draft Sale Procedures Order, the Venezuela Parties argued that my role should be limited to overseeing CITGO's implementation of the sale process, similar to how a board of directors oversees a management team. As the Court already rejected arguments that the Venezuela Parties should be the party conducting the sale process in the January 2021 Ruling, I do not know if they will continue to press these arguments again before the Court. Regardless, although I readily embrace that I will be working in close coordination

with CITGO and its management team[10] in executing the sale, in the context here—executing on a judgment that it wants to stop through continuous litigation and appeals—I do not believe having CITGO execute the process with oversight from the Special Master would be a workable outcome and, as noted above, I believe Evercore fulfills a critical need that complements the services offered by my other Advisors.[11]

C. Entry of Protective Order

31. On June 16, 2021, following consultation with the Sale Process Parties, I filed a proposed confidentiality order with the Court [D.I. 283], which was entered by the Court, with certain modifications, on July 6, 2021. *See* Protective Order [D.I. 291]. The Protective Order provides for certain information to be marked as "Confidential" and "Highly Confidential." I have relied on certain Confidential and Highly Confidential material in preparing this Report and, accordingly, have filed it under seal in accordance with the procedures set forth in the Protective Order.

32. Although each of the Sale Process Parties should have access to this Report,[12] I anticipate certain Sale Process Parties will propose that certain (and minimal) aspects of this Report should remain under seal and should not be accessible to Potential Bidders in the sale

[10] Thus far, the members of CITGO's management team have been cooperative and helpful in connection with our initial due diligence requests.

[11] If the Court believes that Evercore should be retained on a fixed fee regardless of the outcome of the sale process, I understand that Evercore would consider working on a fix fee basis. However, such fixed fee would presumably be based on assuming a successful outcome of the sale process. Accordingly, I do not believe the other Sale Process Parties would support the payment of such a fee irrespective of the ultimate outcome. Even in the fixed fee context, unless the Court orders the Sale Process Parties to pay the fixed fee in advance, Evercore's compensation would still be tied to an outcome regardless of whether it was value maximizing. Indeed, other Sale Process Parties have proposed the exact opposite, that Evercore should be paid less if the outcome of the sale process results in a sale from a credit bid, which is feedback that I incorporated and successfully negotiated into the Proposed Evercore Engagement Letter.

[12] I believe each Sale Process Party should have full access to this Report. I strongly encourage each Sale Process Party that has designated information contained in this report "highly confidential" to consent to the sharing of unredacted version of this Report with the other Sale Process Parties.

process, particularly the portions that include my commentary and the views of myself and my Advisors on the strategy underlying the sale process. In connection with the Marketing Process described more fully below, I believe it is important that Potential Bidders receive a clear and consistent message after my Advisors and I have had an opportunity to complete the due diligence and preparation stage. As such, I may also propose additional (and minimal) redactions after I receive the proposed redactions to this Report from the Sale Process Parties pursuant to paragraph ¶3 of the Protective Order.[13]

33. With respect to the entire proposed Sale Procedures Order, I have initially filed it under seal pursuant to paragraph ¶5 of the May Order solely out of an abundance of caution. I propose to file an unredacted version of the proposed Sale Procedure Order on Friday, August 13, 2021.[14] Although I have filed it initially under seal out of an abundance of caution, I do not believe that the Sale Procedures Order contains any information that is subject to paragraph 3 of the Protective Order. As such, following the filing of this Report, I intend to work with the Court regarding service of the Intervenor Bondholders (as defined in the Court's Memorandum Order dated July 6, 2021 [D.I. 290]) in light of their August 25, 2021 deadline to object to the proposed Sale Procedures Order.[15]

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[13] I understand that there is a public interest in viewing the pleadings and am cognizant of the Court's prior rulings. *See Memorandum Order* dated July 6, 2021 [D.I. 290] ("All involved in the Special Master proceedings should understand, however, that the Intervenor Bondholders, the media, and the public have certain rights. Any or all of those entities may seek to effectuate those rights, which could eventually lead the Court to require disclosure (on a redacted or unredacted basis) of material marked 'Highly Confidential'").

[14] If any Sale Process Party believes that a portion of the proposed Sale Procedures Order should be redacted, they should be prepared to explain the legal basis for such redactions in writing in connection with proposing any such redactions.

[15] *See* Rule 5 of the Federal Rule of Civil Procedure ("Unless these rules provide otherwise . . . papers must be served on every party").

D. Proposed Sale Process Party Engagement

34. Since entry of the May 2021 Order, I have worked diligently with my Advisors to develop the Sale Procedures Order in accordance with the January 2021 Ruling and the May 2021 Order. After retaining Advisors, my first steps taken in the process were to familiarize myself with the situation and review available information related to PDVH and CITGO, including prior pleadings filed by the Sale Process Parties in the Crystallex Case and other associated litigation. In connection therewith, I consulted and engaged with each of the Sale Process Parties on numerous occasions and, as a result, the proposed Sale Procedures Order is informed by my own and my Advisors' due diligence into PDVH and CITGO as well as discussions and other communications my Advisors and I have had with each of Sale Process Parties. By way of example, since entry of the May 2021 Order, my Advisors and I have:

- held scheduled calls with counsel to the Venezuela Parties, in addition to numerous informal communications;
- held scheduled calls with counsel to Crystallex, in addition to numerous informal communications;
- held scheduled calls with counsel to ConocoPhillips, in addition to numerous informal communications;
- sent formal request letters to the Sale Process Parties; and
- directed numerous diligence related requests and questions to CITGO.

35. After my Advisors and I familiarized ourselves with the relevant facts and circumstances of the current situation, my first formal step in the outreach process was to solicit informal input from the Sale Process Parties, which I did through a "listening tour" in the first two weeks of June 2021. Over the course of the listening tour, I met and conferred with counsel to each Sale Process Party and solicited their views and input on my initial impressions regarding the potential structure of the process and any other considerations they thought relevant to design of

the Sale Procedures Order. Following those conversations, my Advisors and I considered the initial informal input of the Sale Process Parties, balanced against our collective analysis and understanding of the available information; I then began to formulate my own views with respect to the design of the Sale Procedures Order.

36. To ensure that I fully understood each Sale Process Parties' position, I further solicited written proposals from each Sale Process Party to provide them with a thorough opportunity to outline their specific views regarding the Sale Procedures Order and any information they believed should be considered by me in relation to the development of the Sale Procedures Order. I ultimately received a timely written response and proposal (the "**Alternative Proposals**") from each Sale Process Party (Crystallex's written proposal was received during my listening tour and Crystallex was offered an opportunity to supplement thereafter), which I have taken into account in designing the Sale Procedures Order.[16] The Alternative Proposals were largely similar to the proposals made by the Sale Process Parties in the pleadings filed with the Court leading up to the January 2021 Ruling. I sought to incorporate as many applicable comments into the Sale Procedures Order as I considered reasonable.

37. Following my review of the Alternative Proposals, in particular, I support the pursuit of a Negotiated Outcome (prior to commencing the Marketing Process) whereby voluntary settlement discussions among the Parties, ConocoPhillips, and the PDVSA 2020 Bondholders are pursued with my assistance as Special Master. I respectfully submit that, given the intractable nature of the dispute among all parties to date, the Court's enforcement of the Sale Procedures Order and the involvement of a third party, my assistance as Special Master may provide a fresh opportunity for all parties to maximize value. Further, I anticipate that in any sale process, bidders

[16] I have retained copies of the Alternative Proposals and can share them with the Court, if requested.

may well propose compromises for various parties if value proves insufficient to satisfy all of CITGO's and its immediate parent companies' obligations, thus my involvement in these discussions as they affect the sale process will only prove useful to the Court, the Parties, and ConocoPhillips.

38. I believe that having these negotiations may provide the best opportunity for Crystallex and ConocoPhillips to realize the greatest value of their judgments by reaching a negotiated claims waterfall, which my Advisors and I also believe should have the advantage of being more likely endorsed by OFAC. *See* OFAC FAQ 595 ("To the extent an agreement may be reached on proposals to restructure or refinance payments due to the [PDVSA 2020 Bondholders] . . . OFAC would encourage parties to apply for a specific license and would have a favorable licensing policy toward such an agreement"). Although the Parties have been unable to reach a consensual resolution on their own following ten years of litigation, recent developments in the Crystallex Case and the opportunity for the settlement process with my oversight as Special Master provides an opportunity for consensual resolution. Accordingly, attached as **Appendix B** hereto is my recommended approach for pursuit of a voluntary settlement process should the Court and the Parties, ConocoPhillips, and the PDVSA 2020 Bondholders wish to pursue such a path.

E. United States Government Outreach

39. In tandem with my consultation with the Sale Process Parties, my Advisors and I also met with representatives from the USG, including representatives from the Department of Justice, Department of the Treasury and the Department of State, on three separate occasions.

- At the first meeting, on June 6, 2021, I introduced myself and my Advisors and we provided the USG with an overview of the Special Master process and outlined a number of considerations upon which their input would be welcomed.

- At the second meeting, on July 12, 2021, I provided the USG with an outline and overview of my preliminary conclusions with respect to the design of the Sale Procedures Order and, again, outlined a number of considerations for their specific input, including the timing and milestones contemplated by the Court's schedule and embedded in the Sale Procedures Order.
- Finally, at the third meeting on July 15, 2021, my Advisors and I answered follow-up questions the USG representatives had regarding the information presented at the prior meetings and specifically solicited any feedback regarding the USG's position with respect to the Special Master process. We also asked about the status of the USG decision-making processes, particularly as relevant to OFAC guidance or authorization. At the conclusion of the meeting, we agreed to schedule a follow-up meeting once I have filed the proposed Sale Procedures Order with the Court.

40. At each meeting, I provided the USG representatives with an opportunity to give input into the design of the Sale Procedures Order. At no point did the USG express any objection to the proposed process that my Advisors and I presented to them and, at the third meeting, they indicated they had no further questions and that they did not require any additional information at that time. Further, on July 14, 2021, I understand that OFAC advised the Venezuela Parties that they did not require an OFAC license to pay certain expenses in connection with the Special Master process incurred as of the date thereof.

41. Although I have not received formal USG feedback, the USG, including OFAC, is aware of the process being proposed and to be implemented pursuant to the Sale Procedures Order, including its specific terms and timetable. I have consistently, unambiguously, and proactively solicited their input. I understand that the USG's policy process remains ongoing and I will continue to proactively engage with the USG representatives with respect to the implementation of the Sale Procedures Order. I intend to schedule a fourth meeting with the USG representatives shortly after the filing of the proposed Sale Procedures Order and this Report.

F. Due Diligence of PDVH and CITGO

42. Consistent with the Court's mandate in the May 2021 Order, I have worked to become knowledgeable about the business operations and assets of PDVH, including CITGO, through a review of both publicly available information and information produced by PDVH and CITGO.

43. On June 8, 2021, through my Advisors, I delivered a thorough due diligence request list to counsel to PDVH and CITGO. On June 23, 2021, PDVH and CITGO made a dataroom available to my Advisors, which they have since populated with certain responsive information on a rolling basis. In addition to the information produced in the dataroom, on July 1, 2021, my Advisors and I met with members of the CITGO management team, including its most senior members.

44. To date, my Advisors and I have conducted a review of publicly available information and information provided to me by CITGO relevant to the design of the Sale Procedures Order, which has entailed a review of the Company's corporate and capital structure, historical and projected financial performance, a review and analysis of CITGO's business operations, other relevant business due diligence, and a review of certain of its material contracts, including its funded debt facilities. I further instructed my Advisors to conduct diligence on the competitive market and Potential Bidders to ensure that the procedures contemplated by the Sale Procedures Order best reflected a fair and optimal sale process given the market dynamic and most likely participants therein. At this stage, my Advisors and I focused on due diligence that was necessary for the design of the Sale Procedures Order; however, we have not yet conducted all of the due diligence and analysis necessary in preparation for launch of the sale process, including items such as preparing the "teaser," confidential information memorandum (or "**CIM**"), and other marketing materials to send to Potential Bidders. My Advisors and I will complete the due

diligence necessary to launch and implement the Sale and Marketing Process prior to launching any sale process. The Sale Procedures Order also provides for a period of "reverse-diligence" on Potential Bidders to ensure their wherewithal and ability to close on a winning bid from a regulatory perspective. I anticipate that the diligence and analysis necessary to prepare for launch of the Marketing Process will take at least 45 days and as much as 90 days to complete.

G. Relevant Claims and Interests

45. Consistent with the Court's mandate in the May 2021 Order, I have begun work to "ascertain the total amounts of the outstanding judgment owed to Crystallex by the Republic of Venezuela and the total amount of the outstanding judgment owed to ConocoPhillips by PDVSA." I have also reviewed and analyzed certain other claims and interests relevant to design of the Sale Procedures Order, particularly the claims of those certain PDVSA 2020 Bondholders (as defined below) and Rosneft Trading S.A. ("**RTSA**") that purport to be secured by a pledge of the equity interests of CITGO Holding, Inc. ("**CITGO Holding**" and together with CITGO Petroleum, "**CITGO**," and the pledge of CITGO Holding's equity interests, the "**Structurally Senior Liens**").

46. On June 15, 2021, I sent a letter to both Crystallex and ConocoPhillips requesting they each provide a written statement of the amount that they assert remains outstanding with respect to their respective claims, together with relevant supporting documentation, as applicable. ConocoPhillips responded by written letter on June 25, 2021 (as further supplemented on July 20, 2021 and July 27, 2021) and Crystallex responded on July 9, 2021 (as further supplemented on August 6, 2021). Thereafter, my Advisors and I reviewed the information provided and compared it with publicly available information that I have obtained and, with respect to Crystallex, information received from the Venezuela Parties regarding the amount of their outstanding claims.

1. Crystallex's Judgment

47. Crystallex is a Canadian corporation, headquartered in Toronto, Canada, that engaged in gold mining and exploration in Venezuela. As the Third Circuit observed, Crystallex spent hundreds of millions of dollars developing a gold mine at Las Cristinas, Venezuela, which Venezuela subsequently nationalized and seized. In response, Crystallex successfully invoked a bilateral investment treaty between Canada and Venezuela and filed for arbitration before the International Centre for Settlement of Investment Disputes (the "**ICSID**"). The arbitration took place in Washington, D.C., following which the ICSID arbitration panel awarded Crystallex damages in the amount of $1,202,000,000 (plus interest) for Venezuela's expropriation of its investment (the "**Crystallex's ICSID Arbitral Award**").

48. On March 25, 2017, the United States District Court for the District of Columbia confirmed Crystallex's ICSID Arbitral Award and directed entry of a judgment in the amount of $1,202,000,000, plus (i) pre-award interest from April 13, 2008 to April 4, 2016 (the date of the award) at a rate of 6-month average U.S. Dollar LIBOR plus 1%, compounded annually, (ii) post-award interest on the total amount awarded, inclusive of pre-award interest, at a rate of 6-month average U.S. Dollar LIBOR plus 1% compounded annually, from April 4, 2016 until April 7, 2017, (iii) post-judgment interest on the total amount awarded at the rate set forth in 28 U.S.C. § 1961 (the "**Federal Judgment Rate**"), from April 7, 2017 until the date of full payment, and (iv) the costs of the proceeding ("**D.C. Order Directing Judgment**"). On April 7, 2017, the Clerk of the Court for the United States District Court for the District of Columbia entered the judgment (the "**D.C. Judgment**") and, as noted below, appears to have unintentionally omitted items (ii)-(iv) noted above from the D.C. Order Directing Judgment. Crystallex thereafter commenced the Crystallex Case and registered the D.C. Judgment with the Court on June 19, 2017 [D.I. 1].

49. On August 6, 2021, I received a signed letter from counsel to Crystallex, which amended an earlier letter that I received from them that was dated July 9, 2021, asserting that the amount of the D.C. Judgment which remains outstanding totals $969,918,374.24 as of August 6, 2021. Based on information provided to me by Crystallex and certain of the Venezuela Parties, Crystallex has received (or seized) at least $500,078,632.14 in payments or additional consideration from Venezuela on account of the D.C. Judgment (of which many such payments were reportedly made in Euros). The following chart shows the reported payments and the applicable conversion rate to U.S. Dollars:

Date received	EUR Amount Received	EUR/USD (BBG)	USD Amount Received/Seized	USD-equivalent Amount Received
2/16/2018	€4,218,393.72	1.24064		$5,233,507.98
3/5/2018	€4,061,738.42	1.23359		$5,010,519.90
4/10/2018			$20,832,165.50	$20,832,165.50
4/13/2018	€12,213,989.09	1.23307		$15,060,703.53
8/31/2018	€4,255,681.33	1.16016		$4,937,271.25
8/31/2018	€4,306,261.33	1.16016		$4,995,952.14
8/31/2018	€17,041,967.91	1.16016		$19,771,409.49
10/2/2018			$319,579,394.70	$319,579,394.70
10/15/2018	€45,685,716.75	1.15794		$52,901,318.85
11/23/2018	€45,650,618.57	1.13375		$51,756,388.80
			Total:	$500,078,632.14

50. My Advisors and I have reviewed the information provided by Crystallex and certain other information provided by certain of the Venezuela Parties and, based on the information received, have determined that Crystallex has accurately accounted for the disclosed payments and the accrual of interest at the Federal Judgment Rate, although we have not checked the underlying security documents and, although I do not dispute with Crystallex's conclusions at this time, there are two nuances that I note for the Court's attention:

- First, there appears to be a clerical error in the D.C. Judgment entered by the Clerk of the Court for the United States District Court for the District of Columbia in that the D.C.

Judgment omits the post-award interest that is clearly provided for in the D.C. Order Directing Judgment. *Cf. D.C. Order Directing Judgment* with *D.C. Judgment*. This error was carried over into the judgment that the Court ultimately ordered to be attached to the PDVH Shares. If Crystallex's Judgment is calculated without including the post-award interest, Crystallex's outstanding judgment as of July 9, 2021 is $936,689,442.92, which is $33,3228,931.32 less than if the post-award interest were to be included. In light of the clear language of the D.C. Order Directing Judgment, I do not believe the D.C. Judgment intentionally omitted the post-award interest; and

- Second, approximately $319,579,394 of the disclosed consideration received by Crystallex was paid in the form of securities issued by either PDVSA or the Republic (the "**Transferred Securities**") pursuant to a settlement agreement between Crystallex and the Republic in 2018 (the "**2018 Crystallex Settlement**"). The Transferred Securities have a face amount of $1,347,195,942, but, due to the discount at which the Transferred Securities were trading at the time of the 2018 Crystallex Settlement, the parties agreed to a stipulated value of $319,579,394. My Advisors and I have reviewed publicly available information and believe that the stipulated value reasonably reflects the market price of the Transferred Securities at the time of the 2018 Crystallex Settlement. Further, counsel to Crystallex has informed my Advisors that Crystallex continues to hold the Transferred Securities as of the date hereof.

2. ConocoPhillips' Judgment

51. ConocoPhillips has initiated arbitral proceedings against Venezuela, PDVSA, and several PDVSA subsidiaries. Relevant to the Sale Procedures Order, ConocoPhillips has obtained confirmation and recognition of the following arbitral awards in the United States District Court for the Southern District of New York[17] (collectively, the "**ConocoPhillips' Judgment**"):

[17] *See* Phillips *Petroleum Company Venezuela Limited et al. v. Petróleos De Venezuela, S.A., et al.*, C.A. No. 1:18-cv-03716 (S.D.N.Y. 2018).

Plaintiff(s)	Defendant(s)[18]	Confirmed Amount
Phillips Petroleum Company Venezuela Limited	Corpoguanipa, S.A. and PDVSA	$1,498,399,209, plus simple interest at a rate of 3-month LIBOR, running from April 26, 2018 to August 22, 2018 (and the Federal Judgment Rate thereafter)
ConocoPhillips Petrozuata B.V.	PDVSA Petroleo. S.A. and PDVSA	$434,884,356, plus simple interest at a rate of 12-month LIBOR, running from April 26, 2018 to August 22, 2018 (and the Federal Judgment Rate thereafter)
Phillips Petroleum Company Venezuela Limited and ConocoPhillips Petrozuata B.V.	PDVSA, PDVSA Petroleo. S.A, and Corpoguanipa, S.A.	$231,200, plus simple interest at a rate of 12-month LIBOR, running from April 26, 2018 to August 22, 2018 (and the Federal Judgment Rate thereafter)

52. On July 27, 2021, I received a signed letter from counsel to ConocoPhillips (which supplemented prior letters received from ConocoPhillips on June 25, 2021 and July 27, 2021) asserting that the amount of the ConocoPhillips' Judgment that remains outstanding totals $1,287,664,420 as of July 20, 2021. Based on information provided to me by ConocoPhillips, ConocoPhillips has received (or seized) at least $753,998,726 in consideration from PDVSA on account of the ConocoPhillips' Judgment. The following chart shows the reported payments and the applicable conversion rate to U.S. Dollars:

Date received	Amount Received
8/18/2018	$288,337,707.33
9/25/2018	$100,000,000.00
11/14/2018	$100,000,000.00
2/8/2019	$88,553,673.00
5/23/2019	$88,553,673.00
8/23/2019	$88,553,673.00
Total:	$753,998,726.33

53. My Advisors and I have reviewed the information provided by ConocoPhillips and, based on the information received, have determined that ConocoPhillips has accurately accounted for the disclosed payments and the accrual of interest at the Federal Judgment Rate. Further, the

[18] Each defendant is jointly and severally liable for the full amount of the award.

Venezuela Parties have indicated that they have reached an agreement with ConocoPhillips regarding the outstanding amount of ConocoPhillips' Judgment.

3. PDVSA 2020 Bondholders & CITGO Holding Pledge

54. In exercising my duties as set forth in the May 2021 Order, I am cognizant of the fact that the shares in CITGO Holding, which are 100% held by PDVH, are or may be subject to the Structurally Senior Liens. Treatment and resolution of the Structurally Senior Liens may have a material impact on the sale process and the potential for a value-maximizing Sale Transaction as such liens create uncertainty for Potential Bidders as to their ability to acquire an interest in CITGO upon consummation of a Sale Transaction. Accordingly, my Advisors and I have considered the Structurally Senior Liens in developing the Sale Procedures Order. I summarize my findings below.

- As discussed in greater detail in *Petroleos de Venezuela S.A. v. MUFG Union Bank, N.A.*, 495 F.Supp.3d 257 (2020) (the "**PDVSA 2020 Bondholder Decision**), PDVSA issued two series of bonds due 2017 in the aggregate principal amount of $9,150,000,000 (the "**2017 Bonds**"). The 2017 Bonds were scheduled to mature in April and November of 2017. In anticipation of an inability to repay the 2017 Bonds, and to avoid a potential default thereunder, Venezuela structured a bond-swap transaction (the "**Exchange Offer**") whereby the 2017 Bonds were exchanged for notes scheduled to come due in 2020 (the "**PDVSA 2020 Bonds**" and any such holder, the "**PDVSA 2020 Bondholders**"). In connection with the Exchange Offer, and as agreed to by the government of Venezuela at the time, the PDVSA 2020 Bonds were secured by a pledge of 50.1% of the equity in CITGO Holding held by PDVH (the "**CITGO Holding Pledge**"). *See* PDVSA 2020 Bondholder Decision at 1.
- According to the PDVSA 2020 Bondholder Decision, the District Court for the Southern District of New York found that PDVSA paid the first two installments of the principal payments on the PDVSA 2020 Bond in 2017 and 2018, and made interest payments in

2017, 2018, and the first half of 2019. However, PDVSA failed to make required payments on October 27, 2019, and thus defaulted on its obligations under the PDVSA 2020 Bonds.

- Thereafter, the Republic, PDVSA, and PDVSA Petróleo, S.A. sought a declaratory judgment finding that the PDVSA 2020 Bonds and related agreements (including the CITGO Holding Pledge) were null and void *ab initio* because they were entered without proper approval from Venezuela's National Assembly in violation of the Republic's constitution. In response, MUFG Union Bank, N.A., as trustee for the PDVSA 2020 Bonds, and GLAS Americas LLC, as collateral agent, sought an order finding that PDVSA was in default under the PDVSA 2020 Bonds.
- The litigation culminated in the PDVSA 2020 Bondholder Decision that awarded the PDVSA Bondholders' a judgment in the amount of $1,924,126,058 as of December 1, 2020. *See Judgment Pursuant to Fed. R. Civ. P. 54(b)*, Case 1:19-cv-10023-KPF, entered December 1, 2020 (D.I. 229). However, as of the date hereof, the PDVSA 2020 Bondholders' ability to exercise the CITGO Holding Pledge remains stayed pending appeal of the PDVSA 2020 Bondholder Decision.

55. As a result of the CITGO Holding Pledge, the PDVSA 2020 Bondholders may be able to exercise remedies with respect to the 50.1% interest in CITGO Holding stock secured thereunder should the current stay pending appeal of the PDVSA 2020 Bondholders Decision cease to remain in force. I believe that the impact of this potentiality on the viability of any sale process for the PDVH Shares is obvious and inevitable and will likely need to be addressed prior to or in conjunction with any actionable bids being received.

4. RTSA Loan & RTSA Pledge

56. Similar to the CITGO Holding Pledge, a purported pledge in favor of RTSA poses similar risk to Potential Bidders. On August 31, 2018, RTSA filed a motion [D.I. 100] (the "**RTSA Motion**") seeking to intervene in these proceedings to protect its interest in a purported pledge from PDVH of 49.9% of the equity of CITGO Holding (the "**RTSA Pledge**") pursuant to a pledge

agreement among PDVH, PDVSA, and RTSA. The Court granted RTSA's Motion to intervene on December 12, 2019 [D.I. 154].

57. In RTSA's Motion, RTSA alleged that the RTSA Pledge secured "certain obligations owed by PDVSA and its affiliates", but did not specify the amount owed. Publicly available information suggests that, at the time, the RTSA Pledge secured a $1.5 billion loan (the "**RTSA Loan**") made in 2016. Since then, in March of 2020, RTSA announced it was ceasing operations in Venezuela and selling, closing, or liquidating all of its assets related to Venezuela.[19]

58. According to the RTSA Motion, the RTSA Pledge provides RTSA with a number of remedies upon the occurrence of certain events, such as a bankruptcy or insolvency event in relation to PDVSA or PDVH, a change in the ownership chain including PDVH and the CITGO entities, and the occurrence of any event that has or is reasonably likely to have a material adverse effect on PDVSA's ability to perform under its commercial agreements. According to RTSA, in the event of such occurrences, the RTSA Pledge provides RTSA with certain remedies, including, (i) proceeding by suit to foreclose the agreement and sell the pledged CITGO Holding stock, (ii) triggering the sale of the pledged CITGO Holding stock at a public or private sale, and (iii) collecting all profits on the pledged CITGO Holding stock.

59. As of the date hereof, neither my Advisors nor I have been able to ascertain the outstanding balance, if any, under the RTSA Loan or any other obligations purported to be secured by the RTSA Pledge. Publicly available information suggests that the RTSA Loan was repaid in full. Following discussions with CITGO's management team, I understand that the RTSA Loan was scheduled to mature in November of 2020 and that CITGO is not aware of any events of

[19] *See https://www.spglobal.com/platts/en/market-insights/latest-news/oil/032820-rosneft-to-cease-venezuela-operations-sell-assets-to-russian-government*.

default or extensions thereunder, suggesting the RTSA Loan was repaid or otherwise satisfied in 2020. Further, following discussions with the Venezuela Parties, my Advisors and I understand that the RTSA's interest in the RTSA Pledge may have been assigned or otherwise transferred to a third-party. If such assignment occurred without OFAC's authorization and in violation of OFAC regulations, the lien on CITGO Holding's shares granted under the RTSA Pledge may be void or subject to avoidance. However, in light of RTSA's potential remedies, I believe that uncertainty as to the amount outstanding may unfairly chill bidding. Accordingly, the Sale Procedures Order provides a mechanism to assist me and the Sale Process Parties in obtaining information regarding any outstanding amounts that RTSA purports may still be secured by the RTSA Pledge by requiring that RTSA (and PDVSA) to declare any amounts owed or risk that the shares will be sold free and clear of the RTSA Pledge upon further entry of an order approving the Sale Transaction by the Court. *See* ¶¶ 35-37 of the Sale Procedures Order.

5. Additional Judgment Creditors of Venezuela and PDVSA

60. As the Court is aware, a number of other judgment creditors are seeking to attach their judgments against Venezuela and/or PDVSA to the PDVH Shares. The additional judgment creditors are at various stages in the attachment process, including two of which that are currently under consideration by the Court. *See e.g.*, *OI European Group B.V. v. Bolivarian Republic of Venezuela*, C.A. No. 19-mc-00290-LPS; *Northrop Grumman Ship Systems, Inc. v. The Ministry of Defense of the Republic of Venezuela*, C.A. No. 20-mc-00257-LPS. As of the date of this Report, only Crystallex has been granted an order attaching the applicable judgment to the PDVH Shares.

III. CITGO and Sale Process Design Considerations

61. As set out in more detail in the Hiltz Declaration, CITGO's complex corporate and capital structure poses a number of challenges to achieving a value-maximizing sale of the PDVH Shares, which I have worked to account for in the Sale Procedures Order and the procedures

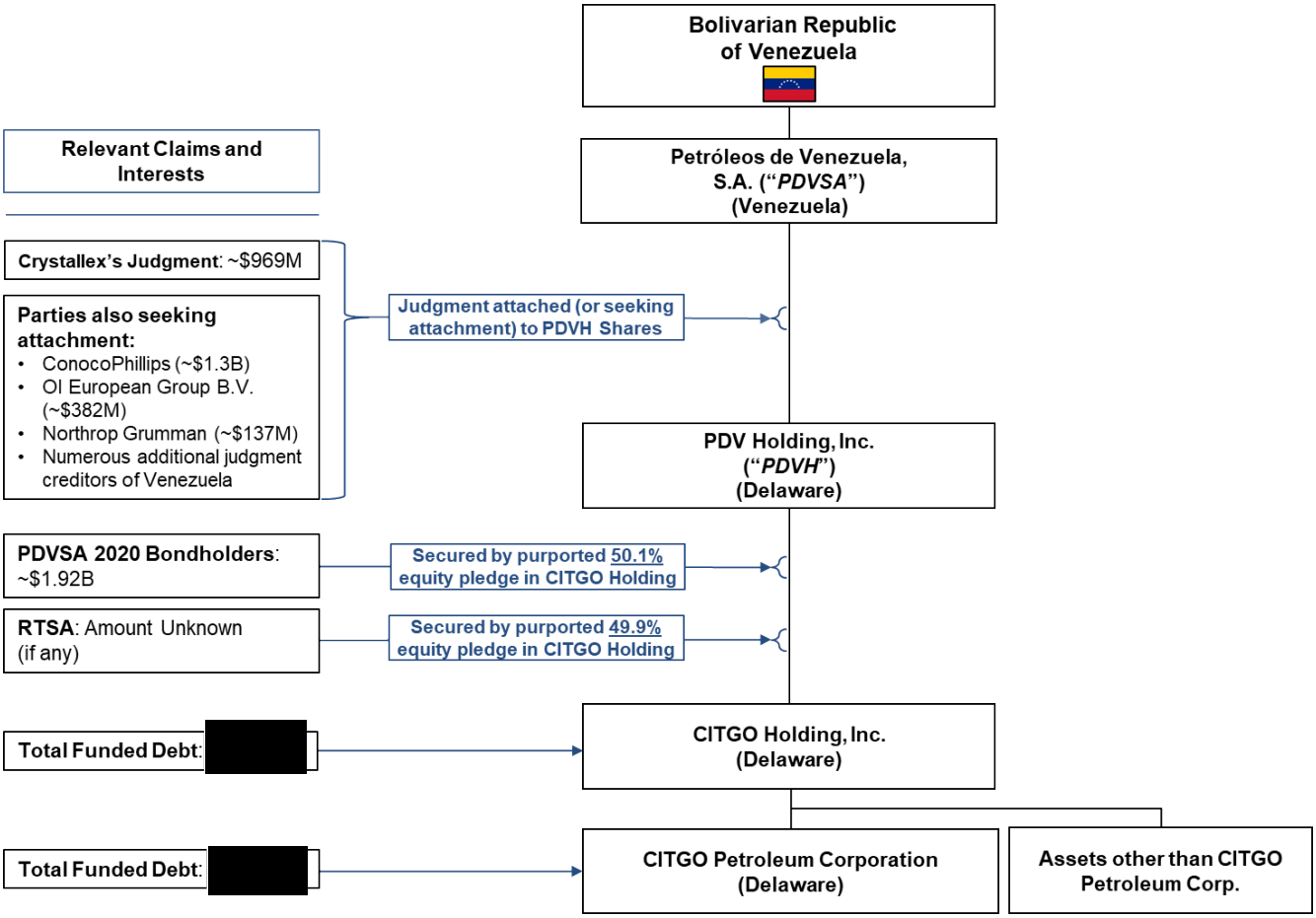
contemplated therein. The following section describes, at a high level, CITGO's complex structure and these challenges as they relate to the proposed design of the Sale Procedures Order, which is based on information I have obtained from the Sale Process Parties or otherwise obtained through public sources.

A. CITGO'S Complex Corporate and Capital Structure

62. PDVH is the parent company of CITGO Holding, which in turn is the parent company of CITGO Petroleum. CITGO Holding and CITGO Petroleum are incorporated in Delaware and both have headquarters in Houston, Texas. PDVH and CITGO each have a number of their own direct and indirect subsidiaries organized in various jurisdictions (collectively, the "**Company**" or "**CITGO**").

63. CITGO operates three complex large-scale petroleum refineries located in Lake Charles, Louisiana, Corpus Christi, Texas, and Lemont, Illinois. CITGO's refining operations are supported by an extensive distribution network, which provides access to the Company's refined product end markets. CITGO also has a recognized brand presence at the retail level in the United States through its network of locally owned and independently operated CITGO-branded retail outlet licensees.

64. The following chart shows, in abridged and annotated form, the corporate and capital structure of PDVH in the context of the relevant claims and interests described in the prior Section:



65. [redacted]

[redacted]

[redacted]

[redacted]

B. CITGO Sale Process Design Considerations

66. The potential for a value-maximizing Sale Transaction is complicated by the corporate and capital structure of CITGO set out above, the number of interested parties in the Crystallex Case, and the other dynamic and internationally sensitive circumstances implicating a potential sale of the PDVH Shares. The combination of these factors create unique challenges to achieving a value-maximizing Sale Transaction. I believe the Sale Procedures Order strikes an appropriate balance between these challenges, which are described in greater detail below.

[20] [redacted]

[21] [redacted]

1. OFAC Considerations

67. As has been briefed in numerous pleadings before the Court in the Crystallex Case and other associated cases, the PDVH Shares and other CITGO assets are "blocked property" pursuant to applicable OFAC regulations. *See e.g.*, 31 CFR § 591.201, § 591.407, § 591.509. Uncertainty surrounding what, if any, transaction OFAC will ultimately license creates an overhang that I believe will materially chill bidding. Accordingly, my Advisors and I have worked extensively to coordinate with the USG, including OFAC, in developing the Sale Procedures Order. While the USG's policy process and consideration of a potential Sale Transaction remains ongoing, I will continue to proactively engage with the USG's representatives following entry of the Sale Procedures Order and will seek explicit guidance or authorization from OFAC with respect to a potential Sale Transaction that is public or can be shared with Potential Bidders.

68. Following my interactions with the USG, including OFAC, which are described in detail above, it is my belief and the belief of my Advisors that the Court's entry of the Sale Procedures Order would assist with prompting USG action. In paragraph 6 of the proposed Sale Procedures Order, I have suggested a proposal for prompting the USG to provide their input into the process at the proposed Initial Status Conference. Alternatively, the Court could, on a more expedited basis, consider issuing the USG an order to show cause as to why the Court should not enter a sale procedures order that directs the Special Master to immediately prepare for and launch the Marketing Process or why such order would not be vested with the authority to transfer such shares.

2. Illustrative Clearing Price

69. Based on a review of information provided or otherwise available to me, a bidder will likely have to submit a bid with an implied total enterprise value of at least [redacted] to

generate sufficient consideration for Crystallex's Judgment to be satisfied in full (subject to certain exclusions and potential working capital adjustments), and ultimately [redacted] if ConocoPhillips's judgment is added to the Sale Transaction by the Court (subject to certain exclusions and potential working capital adjustments). *See* Hiltz Declaration at ¶19. Any additional judgments added to the Sale Transaction by the Court will further increase the clearing price.

70. Although neither my Advisors nor I have conducted a valuation of the PDVH Shares or CITGO, the illustrative clearing price is useful for the purposes of illustrating the importance of obtaining a Bid that results in sufficient proceeds to satisfy the relevant claims and interests described above. Bids with an implied enterprise value below the illustrative clearing price will likely require a compromise of claims for less than their face value before a Potential Bidder is willing to pay any material value for the PDVH Shares.

3. Structurally Senior Liens

71. As described above, resolution of the Structurally Senior Liens of the PDVSA 2020 Bondholders and RTSA will likely be necessary for minimizing uncertainty of the process and maximizing the value of any Sale Transaction. I do not believe that credible Potential Bidders will be willing to submit a bid for the PDVH Shares without an understanding as to how the Structurally Senior Liens will be resolved or otherwise addressed in connection with any Sale Transaction. For example, if the CITGO Holding Pledge of the PDVSA 2020 Bondholders remains outstanding following any Sale Transaction, the PDVSA 2020 Bondholders could at some point exercise remedies against 50.1% of the equity interests of CITGO Holding and ultimately seize a controlling stake in CITGO. The would-be purchaser of the PDVH Shares would then be relegated to an indirect owner of a minority stake in CITGO. Accordingly, Potential Bidders will either seek to have the uncertainty resolved or severely discount their Bids as a result.

72. The purported 50.1% pledge to the PDVSA 2020 Bondholders is further complicated by a purported 49.9% pledge in favor of RTSA. If both the PDVSA 2020 Bondholders and RTSA exercise remedies, then the buyer of the PDVH Shares will be left with no interest in CITGO. In light of these risks, I do not believe that any credible bidder will invest their time and resources into submitting a Bid unless and until uncertainty around these Structurally Senior Liens is resolved or proposed to be resolved as part of the party's Bid. *See* Hiltz Declaration at ¶¶ 15-16.

73. Accordingly, I anticipate that Potential Bidders will either (i) propose a solution to addressing or resolving the claims secured by the Structurally Senior Liens in connection with their Bid, or (ii) condition their Bid on the resolution of these issues by the Special Master, each of which likely require a negotiation to take place with the PDVSA 2020 Bondholders (or RTSA, if applicable). For this reason, the Sale Procedures Order is designed to provide my Advisors and I with the necessary flexibility to facilitate these discussions.

4. COVID-19's Impact on CITGO's Business and Operations

74. Any serious and credible bidder will need to invest substantial time and resources in understanding CITGO's business in order to formulate a credible Bid, which is complicated by the recent industry downturn and justifies a robust marketing process that provides Potential Bidders with sufficient time to perform the due diligence and analysis necessary to formulate a Bid. *See* Hiltz Declaration at ¶ 29. Based on information provided to my Advisors and I by CITGO, the novel coronavirus ("**COVID-19**") has had an adverse impact on CITGO's refinery utilization and operating margins since the outbreak developed into a pandemic in March of 2020. As a result of governmental stay-at-home orders and other social distancing measures, there was a rapid and significant decline in the demand for the refined petroleum products that CITGO manufactures and sells. Further, concerns over the negative effects of COVID-19 on global

economic and business prospects have contributed to increased market and oil price volatility, both of which have had a negative impact on CITGO's business and operations.

75. As a result of COVID-19, CITGO Petroleum's adjusted EBITDA dramatically declined from $1.92 billion and $1.18 billion in 2018 and 2019, respectively, to negative $432 million in 2020. [redacted]

76. [redacted]

77. Further, in consultation with my Advisors, I expect Potential Bidders will be focused on CITGO's recovery from the recent downturn in the refining industry, with a particular focus on the impact of new variants of the COVID-19 virus, such as the Delta variant, which have been widely reported to spread more easily than previous strains of the virus.

78. Guiding bidders through CITGO's recent financial performance and future projections will require substantial work and time on both the part of myself and my Advisors, and the CITGO management team. The proposed Marketing Process is designed to address such requirements by providing ample time for Potential Bidders to perform necessary due diligence.

5. Management and CITGO's Cooperation

79. Given the size and complexity of any potential Sale Transaction, the cooperation of CITGO's management team will be critical to value maximization and the successful

implementation of the Sale Procedures. Further, it will be an expected component of any process by Potential Bidders and crucial to obtaining actionable bids that are not subject to ongoing "diligence outs." To date, my Advisors and I have engaged constructively with CITGO's counsel and representatives since my appointment as Special Master, including two productive meetings held with the most senior members of CITGO's management team on July 1, 2021. I am hopeful and optimistic that the CITGO management team will continue to support my Advisors and I in the exercise of my duties pursuant to the Sale Procedures Order.

80. However, out of an abundance of caution, due to the potential for a negative impact on the sale process, the Sale Procedures Order contains cooperation provisions that would compel, if it becomes necessary, the cooperation of the CITGO management team. *See* ¶¶ 32-33 of the Sale Procedures Order. I believe that these provisions, which, hopefully, will never need to be enforced by the Court, are appropriate and send a positive message to Potential Bidders that, if they invest their time and resources into formulating a Bid, they will have access to and receive the necessary cooperation from the CITGO management team. For the avoidance of doubt, I do not intend to employ this relief at the whim of Potential Bidders. Instead I will rely heavily on the counsel of my Advisors to ensure that requests of Potential Bidders for information or access are measured and reasonable and not designed to frustrate the process, pursue ulterior motives, or unnecessarily burden CITGO or its employees.

6. Ability to Purchase A Controlling Stake in CITGO

81. In my discussions with the Venezuela Parties, they have sought to characterize my recommended process as one that is indubitably structured to ensure that 100% of the PDVH Shares are sold. This could not be farther from the truth. Based on my review and analysis of available information and discussions with my Advisors, I believe that Potential Bidders are much more likely to (a) participate in the process, and (b) pay more for a controlling stake in CITGO

than they would for a minority stake, particularly if PDVSA remains the majority shareholder of the Company. *See* Hiltz Declaration at ¶¶ 22-23. As a result, uncertainty around the ability of Bidders to submit Bids and ultimately consummate a transaction for a majority stake or full-company bid will discourage value-maximizing Bids from being submitted. Accordingly, I have recommended Bidding Procedures that do not place a restriction or limitation at the outset of the Marketing Process as to the percentage of PDVH Shares that Potential Bidders could include in their Bid. Instead, on the back-end, the Bidding Procedures contain specific procedures for the consideration and evaluation of Bids once they are received.

82. I am also cognizant of the interests of the Venezuela Parties, and the Court's January 2021 Ruling which called for the design of sale procedures that result in the sale of only so many shares as are necessary to be sold. *Cf.* May 2021 Order at ¶ 2 with section 324 of the Delaware General Corporation Law (permitting a "sufficient" amount of shares to satisfy the applicable debt to be sold) and 28 U.S.C. §§ 2001, 2004 (granting Federal District Courts broad power to order the sale of shares independent of section 324 of the Delaware General Corporation Law). As further discussed in paragraphs 31 to 33 of the Hiltz Declaration, the Sale Procedures Order balances these competing considerations through the appointment of a Stalking Horse Bidder, an overbid process and related procedures for comparing Bids for varying percentages of the PDVH Shares based on the implied equity value of the applicable Bids.

7. Broader Powers and Process May Ultimately Be Required

83. I do not believe that entry of the proposed Sale Procedures Order (or the Court's January 2021 Ruling) will limit the Court's broad power and authority to enforce its judgment or otherwise supplement its prior orders, particularly in response to a change in circumstances or if implementation of the prior order becomes infeasible. Federal courts have inherent authority "to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *See*

Chambers v. NASCO, Inc., 501 U.S. 32, 43 (1991) (quoting *Link v. Wabash R. Co.*, 370 U.S. 626, 630–631 (1962)); *Lemon v. Kurtzman*, 411 U.S. 192, 200 (1973) ("In shaping equity decrees, the trial court is vested with broad discretionary power."); *see also Swann v. Charlotte-Mecklenburg Bd. of Educ.*, 402 U.S. 1, 15 (1971) (Where "a right and a violation have been shown, the scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."). The Court's inherent power to enforce its judgments is further bolstered by the All Writs Act. This authority includes the power to enforce and protect federal court orders, including against non-parties. *See United States v. New York Tel. Co.*, 434 U.S. 159, 172 (1977) ("This Court has repeatedly recognized the power of a federal court to issue such commands under the All Writs Act as may be necessary or appropriate to effectuate and prevent the frustration of orders it has previously issued in its exercise of jurisdiction otherwise obtained"); *See Berger v. Zeghibe*, 666 Fed.Appx. 119, 123 (3d Cir. 2016) ("The All Writs Act authorized the District Court to enjoin Jatinder, a nonparty, because, as demonstrated at the preliminary injunction hearing, she is in a position to frustrate Judgment Creditors' attempts to collect on their judgment by receiving income from Chawla family businesses in which Ravinder may have an interest."); *see also Catalytic, Inc. v. Monmouth & Ocean Cty. Bldg. Trades Council*, 829 F.2d 430, 434 (3d Cir. 1987) (holding that the All Writs Act empowers federal courts to enjoin nonparties to enforce orders in civil cases). The Court's broad authority takes on even greater significance where, as here, a judgment debtor has an established pattern or practice of delaying or attempting to avoid the judgment. *See Gregris v. Edberg*, 645 F. Supp. 1153, 1157 (W.D. Pa. 1986) ("The courts of the United States have inherent statutory power and authority to enter such orders as may be necessary to enforce and effectuate their lawful orders and judgments, and to prevent them from being thwarted and interfered with by force, guile, or otherwise, whether or not

the person charged with the violation of the judgment or decree was originally a party defendant to the action").

84. At this time, I am not asking the Court to approve the tools necessary to address the unforeseen contingencies or impediments that may arise in the sale process; however, the Sale Procedures Order includes a provision entitling the Special Master to, upon notice of the Sale Process Parties, seek to revisit the scope of the Sale Procedures Order and/or revisit the Special Master's mandate. If the circumstance presents itself, my Advisors and I will craft the appropriate request tailored to the particular circumstance necessitating any such request to the Court.

IV. Sale Procedures Order and Bidding Procedures Summary

85. The Sale Procedures Order, including the bidding procedures and notices attached thereto as **Exhibit 1** (the "**Bidding Procedures**"), set forth the proposed procedures for the sale and marketing process to be conducted by the Special Master (the "**Marketing Process**"). As noted above, I have developed and designed these procedures, with the assistance of my Advisors, with the objective of providing for the best opportunity of achieving a value maximizing Sale Transaction. Accordingly, the Bidding Procedures are designed to promote a competitive and expedient bidding process and to generate the greatest level of interest in the PDVH Shares.

86. The Sale Procedures Order and Bidding Procedures establish the following key dates and deadlines for the Marketing Process:

Key Event	Deadline
Special Master to Launch Marketing Process and Establish Data Room in accordance with terms of the Sale Procedures Order	Launch ("**L**")[22]
Deadline to Submit Non-Binding Indications of Interest	L+ 45 days

[22] Prior to launch of the marketing process, a notice will be filed on the docket of the Crystallex Case setting forth the specific date of each deadline.

Key Event	Deadline
Deadline to Submit Stalking Horse Bids	L+ 90 days
Deadline for Special Master to Designate Stalking Horse Bidder and Enter into Stalking Horse Agreement	L + 150 days
Deadline for Special Master to File Notice of Stalking Horse Bidder	As soon as reasonably practicable following designation by the Special Master
Deadline to Submit Bids	L + 210 days
Deadline for Special Master to Notify Bidders of Status as Qualified Bidders	L + 217 days
Auction to be conducted at the offices of Potter Anderson & Corroon LLP (1313 N. Market Street, 6th Floor, Wilmington, DE 19801-6108) or such other location as is mutually agreeable to the Special Master and each of the Sale Process Parties	L + 230 days
Deadline to File Notice of Successful Bid	As soon as reasonably practicable following conclusion of the Auction or, if no Auction, selection of the Successful Bid
Deadline to File Objections to Sale Transaction	L + 250 days
Deadline for Parties to Reply to Objections to Sale Transaction	L + 263 days
Sale Hearing	L + 270 days

87. In formulating the Marketing Process, in consultation with my Advisors, I balanced the need to provide adequate and appropriate notice to parties in interest and Potential Bidders with the need to quickly and efficiently run a value-maximizing sale process. The Bidding Procedures are tailored to account for the sale process design considerations described in the prior Section and are, at their core, designed to promote a competitive and expedient sale process for the PDVH Shares that encourages all prospective bidders to submit value-maximizing bids.

88. The material terms of the Sale Procedures Order and Bidding Procedures are summarized in the following chart along with an explanation of the rationale underlying certain of the provisions:

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
Overview of Sale Process		
Launch Date & Preparation Launch Date	• The Special Master shall launch and conduct the Marketing Process at the earlier of (i) when (x) the Special Master determines, in his sole discretion but in consultation with the Sale Process Parties, (y) the Special Master and his Advisors have performed sufficient due diligence necessary or desirable to launch a value-maximizing sale process, and (z) the Special Master is satisfied with the authorization, FAQs, or other applicable guidance issued by OFAC regarding the launch and viability of the Marketing Process, including any lack of Executive Branch objection to a potential future order to show cause as to why the launch and participation of prospective bidders in the Marketing Process is not authorized; and (ii) such other time as ordered by the Court (the date on which the Marketing Process is launched, the "**Launch Date**").	• As stated above, if we were to proceed based on OFAC's public guidance as of today, I do not believe that Potential Bidders will participate in the process for fear of violating such sanctions. *See* OFAC FAQ 809 (stating that a specific license from OFAC is required "prior to conducting an auction or other sale… or taking other concrete steps in furtherance of a sale" of shares of a Government of Venezuela entity (such as the PDVH Shares). Accordingly, the proposed Sale Procedures Order provides for launch of the Marketing Process to be delayed until I am satisfied that Potential Bidders will participate in the Marketing Process because of revised guidance or comfort gained from the Court's Order. • In paragraph 6 of the proposed Sale Procedures Order, in consultation with my Advisors, I have proposed a mechanism for soliciting feedback and input from the USG with the Court's assistance, if it becomes necessary.
Preparation Launch Date	• Prior to the Launch Date, the Special Master shall not prepare in a material way for the Marketing Process or take material steps toward implementation of the Sale Procedures until the Special Master is satisfied with the	• For the same reason as above and following consultation with the Sale Process Parties, I do not believe that it makes practical sense for me incur the substantial fees and expenses that will be necessary to prepare for the

[1] This summary is qualified by reference to the Sale Procedures Order (including the Bidding Procedures). To the extent there is an inconsistency between this summary and the Sale Procedures Order, the Sale Procedures Order shall govern.

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
	authorization, FAQs, or other applicable guidance issued by OFAC regarding preparation for launch of the Marketing Process or the launch and viability of the Marketing Process, including any lack of Executive Branch objection to a potential future order to show cause as to why the launch and participation of prospective bidders in the Marketing Process is not authorized (the date on which the Special Master is satisfied, the "**Preparation Launch Date**"); *provided*, that, notwithstanding the foregoing, the Special Master shall be authorized to (i) proactively engage with representatives from the Executive Branch (as defined below) and to take all steps or actions reasonably in furtherance of the issuance of OFAC guidance and/or authorization, (ii) proactively engage with the Sale Process Parties and their advisors, (iii) prepare for and participate in any discussions with the Court and/or any hearing held by the Court, including the Initial Status Conference, and (iv) participate in any settlement discussions with parties regarding a global claims waterfall or related issues is so directed by the Court. On and after the Preparation Launch Date, the Special Master and the Special Master's Advisors are hereby directed to prepare for the Marketing Process and take all such preliminary actions in connection therewith, including conducting or performing appropriate due diligence and related analysis.	ultimate launch of the Marketing Process until I am satisfied that Potential Bidders will participate in the Marketing Process. Thereafter, I anticipate that it will only take 45 to 90 days to prepare for and ultimately launch the Marketing Process or in connection with settlement discussions, as needed. As a result, delaying launch as set forth in the proposed Sale Procedures Order will not materially delay the process.

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
Sale Process Phases	The proposed Marketing Process includes two bidding phases and a call for overbids (and an Auction) pursuant to the Bidding Procedures and the Timeline described above: • **Phase I**: The Special Master will seek Bids for the PDVH Shares and may designate a Stalking Horse Bidder based on the bids received on or prior to the Stalking Horse Bid Deadline. • **Phase II**: The Special Master will conduct a second phase marketing process seeking Bids that have a greater equity value than the equity value implied by the total enterprise value of any Stalking Horse Bid. The Special Master will specifically market for any Bids for less than 100% of the shares of PDVH (and also any full-company overbids), *provided* that a Bid for less than 100% must match or falls within an acceptable deviation from the equity value implied by the Stalking Horse Bid Implied Value. Thereafter the Special Master will conduct an Auction with appropriate procedures matching the circumstances. • Following the Bid Deadline (and Auction, if applicable), the Special Master will select the highest Qualified Bid(s) that the Special Master reasonably believes to be capable of being timely consummated after taking into account the factors set forth in the Bidding Procedures as the Successful Bid.	• The proposed two-phase process is intended solicit the best price for PDVH Shares on a per-share basis and subsequently market test any Stalking Horse Bid selected to ensure that any Sale Transaction will be value maximizing. • The procedures for comparing Bids based on their implied equity value ensures that the Bid ultimately selected as the Successful Bid will be one that is value maximizing. In evaluating any Bid (including a Stalking Horse Bid), the Special Master will take into account, among other things, (i) the treatment of any assumed debt and/or treatment of any claims secured by Structurally Senior Liens in calculating the Stalking Horse Implied Value, and (ii) conditions or assumptions included the Bid regarding third parties or obligations owed by parties other than PDVH. • Provides Potential Bidders with roughly 12 weeks from receiving initial information to conduct diligence to submit a Stalking Horse Bid and provides a second opportunity to Bid in the overbid process and ensures that only so many shares as are necessary to be sold are actually sold. • Overbid process ensures a final market check for the highest bid prior to a Successful Bid being selected

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
Shares to be Sold	• Interested parties may submit bids for the purchase and sale of up to 100% the PDVH Shares in accordance with the terms and conditions set forth in the Bidding Procedures. To avoid any ambiguity, parties may submit bids for less than 100% of the shares of PDVH so long as such bid satisfies the Attached Judgments.	• A value maximizing transaction is one that ensures the most suitable bidders participate in the process. Suitable bidders participate when the offer is enticing. The more enticing the offer the greater likelihood of participation. Accordingly, the Special Master wishes to make the most enticing offer available in the circumstances: an offer of 100% of the PDVH Shares. • Notwithstanding the offer of 100% of the PDVH Shares, Potential Bidders are encouraged to submit any and all types of Bids consistent with the Bidding Procedures, which encourages value-maximizing Bids of any sort; however, foreclosing the option to purchase a controlling stake or Bids for less than 100% of the PDVH Shares will discourage bidding. • As explained in greater detail in ¶ 81 of the Report and ¶¶ 21-23 of the Hiltz Declaration, a Bid for 100% of the PDVH Shares (or at least a controlling stake) is likely to achieve Bids with a higher implied equity value. Accordingly, such Bids should be encouraged as value maximizing.
Designation of Stalking Horse Bidder	• At the conclusion of the first phase of the sale process, the Special Master may, in the exercise of his judgment and at his sole discretion, designate a Stalking Horse Bidder and enter into a Stalking	• Designation of a Stalking Horse Bid will promote a competitive and robust bidding process and will facilitate a final market check and overbid process before a Successful Bid is ultimately selected.

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
	Horse Agreement in accordance with the terms of the Sale Procedures Order and Bidding Procedures. • The Special Master will consider all Stalking Horse Bids received, including any bid that contemplates a Credit Bid, for designation as a Stalking Horse Bid, but shall not be required to designate any bid as a Stalking Horse Bid. • The Special Master may, subject to the Bidding Procedures and approval of the Court: • establish an initial overbid minimum and subsequent bidding increment requirements not to exceed 5.00% of the Stalking Horse Bid Implied Value, subject to adjustment for any Bids for a lesser percentage of the PDVH Shares than the Stalking Horse Bid; • offer any Stalking Horse Bidder a break-up fee in an amount agreed to by the Special Master in consultation with the Sale Process Parties but not to exceed 3.0% of the Stalking Horse Bid Implied Value (a "**Termination Payment**") payable either (a) in the event that an overbid is consummated, out of the proceeds from the consummation of such overbid and (b) by PDVH, CITGO Holding, and CITGO Petroleum in circumstances where any of PDVH, CITGO Holding, and/or CITGO Petroleum	• More specifically, designation of a Stalking Horse Bid early in the process, will, among other things, provide transparency and foster competitive bidding by exposing the highest bid to a subsequent round of bidding, set an easily identifiable bid floor for the remainder of the sale process, and facilitate the form of definitive sale agreement that other bidders can utilize in submitting their Bids. • The Stalking Horse Bid Protections are reasonably calculated to incentivize Potential Bidders to participate in a competitive bidding process, designed to encourage robust bidding by compensating a bidder whose definitive agreement in connection with a Sale Transaction is terminated for the risks and costs incurred in signing and announcing an agreement for a transaction that may not ultimately be completed, and reasonably calculated so as to not unreasonably deter Qualified Bidders from submitting a Qualified Bid. • Finally, selection of a Stalking Horse Bid will provide certainty that a Sale Transaction will take place, meeting the expectations of certain parties that relief granted by the Court with respect to their Attached Judgment claims will be honored through to remedy.

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
	is materially responsible for the events that give rise to a Termination Payment; • provide that, if the Stalking Horse Bidder bids on PDVH Shares at the Auction, the Stalking Horse Bidder will be entitled to a credit in the amount of its Termination Payment against the increased purchase price for the PDVH Shares; • provide for the reimbursement of reasonable and documented fees and expenses actually incurred by the Stalking Horse Bidder by PDVH, CITGO Holding and CITGO Petroleum solely under certain circumstances in which the transactions contemplated by the Stalking Horse Agreement are not consummated; • provide that any sale order will seek to transfer the PDVH Shares free and clear of any claims upon them; and • in consultation with the Sale Process Parties, provide other appropriate and customary protections to a Stalking Horse Bidder. • The Special Master is authorized to offer the Stalking Horse Bid Protections at his sole discretion if he determines that such Stalking Horse Bid Protections would be in furtherance of a value maximizing transaction and argue that any sale order	

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
	shall seek to transfer the PDVH Shares free and clear of any claims upon them.	

Credit Bidding	• Crystallex and any other party holding an attached judgment may submit a Credit Bid under the following conditions:
	  • Any Credit Bid must include a cash component or other funding mechanism sufficient to pay (or otherwise contemplate payment in full in cash in a manner acceptable to the Special Master): (i) any applicable Termination Payment, (ii) all Transaction Expenses, and (iii) all obligations secured by senior liens on the PDVH Shares (if any); and
	  • Any party seeking to submit a Credit Bid must cause two of its representatives to each submit a sworn statement and affidavit unequivocally and unconditionally stating (i) the amount of such party's judgment as of the date of the Credit Bid and (ii) that such representative submits to the personal jurisdiction of the Court in connection with making such statement and affidavit.
		• The Court has authorized Crystallex to credit bid the D.C. Judgment. *See* May 27th Order.
		• The conditions imposed for submitting a Credit Bid ensures that the Sale Transaction selected as the Successful Bid will ultimately be feasible.
		• The Sale Procedures Order authorizes parties with Attached Judgments, including Crystallex, to Credit Bid in a way that does not deter bidding and will provide certainty in the implementation of the sale process.

Criteria for Selecting Successful Bid	• The Special Master may select, in the exercise of his judgment, and recommend to the Court for confirmation the highest bid resulting from the public process described above that the Special Master reasonably believes to be capable of being timely consummated	• The Bidding Procedures provide parties with notice of the clear framework that the Special Master will utilize to ultimately select the Successful Bid. I believe that an open and transparent process is important for all

Summary of Sale Procedures Order and Bidding Procedures[1]		
Term / Provision	**Description**	**Primary Rationale and Considerations**
	after taking into account the factors set forth in the Bidding Procedures. • The Special Master may, in consultation with the Sale Process Parties and in accordance with the Bidding Procedures, identify the highest Qualified Bid capable of being timely consummated, other than the Stalking Horse Bid, if any, as the Successful Bid. If a Stalking Horse Bid was designated in such a case, the Special Master will designate the Stalking Horse Bid as a Back-Up Bid. If a Sale Transaction with a Successful Bidder is terminated prior to the Back-Up Bid Expiration Date, the Back-Up Bidder shall be deemed a Successful Bidder and shall be obligated to consummate the Back-Up Bid as if it were a Successful Bid.	participants, including Potential Bidders and the Sale Process Parties. • The flexibility in selecting the highest bid capable of being timely consummated after taking into account the factors set forth in the Bidding Procedures ensures that I, in consultation with the Sale Process Parties, may select the best overall bid and am not forced to select a bid that is not feasible. Common reasons that a Bid may not be feasible include risks associated with Qualified Bidders' financing source(s) (particularly if it is contingent) or regulatory risks, such as antitrust, OFAC, or CFIUS concerns. Upon receipt of any such Bids, my Advisors and I will review and evaluate these such Bids in consultation with the Sale Process Parties.
Court Approval of Sale Transaction	• Following selection of the Successful Bid, the Special Master will submit the proposed Sale Transaction to the Court for approval.	• Although the Special Master is granted flexibility to conduct and implement the Sale Procedures Order, any Sale Transaction is subject to approval by the Court.
Mechanics of Sale Process		
Non-Binding Indications of Interest	• Parties wishing to participate in the sale of PDVH Shares are encouraged to submit a Non-Binding Indication of Interest that identifies the percentage of PDVH shares they are seeking to purchase. The Special Master requests (and strongly encourages) Potential Bidders to include in their Non-Binding Indication of	• To maximize participation of credible and eligible bidders, I believe it makes sense to implement certain procedural characteristics of a traditional sale process. The proposed requirements of a Non-Binding Indication of Interest are intended to collect information necessary to ensure that a Potential Bidder will be able to

Summary of Sale Procedures Order and Bidding Procedures[1]		
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	Interest, at a minimum, the items enumerated in the Bidding Procedures.	successfully close a Sale Transaction if selected as the Successful Bidder. The information requested is customary of a traditional sale process and/or may become necessary in light of the regulatory approvals required to consummate a Sale Transaction in light of the circumstances.
Form and Content of a Bid	• To be considered for selection as a Stalking Horse Bid and/or to constitute a "Qualified Bid," a Bid must include, at a minimum, the items enumerated in the Bidding Procedures.	• Implementation of these procedural characteristics of a traditional sale process will ensure that my Advisors and I have adequate information with respect to all Bids. • These procedures further encourages participation of credible and eligible bidders
Mandatory Requirements of Qualified Bid	• Solely if the Court has approved of the Special Master entering into a Stalking Horse Agreement and such Stalking Horse Agreement has been executed, no other Bid shall be considered a Qualified Bid unless such Bid meets the following "Mandatory Requirements" set forth in the Bidding Procedures: • The Bid must have a greater Implied Value than the Stalking Horse Bid Implied Value or be within a range of such Implied Value which, in the Special Master's judgment, is sufficient to meet the requirements of obtaining a value maximizing Sale Transaction;	• If a Stalking Horse Bid has been selected, the Mandatory Requirements are intended to provide for a true market-test of such Stalking Horse Bid. • The Mandatory Requirements further encourage Potential Bidders to submit topping bids that satisfy as much or more of the Attached Judgments than the Stalking Horse Bid (or the same amount of the Attached Judgments for less of the PDVH Shares).

Summary of Sale Procedures Order and Bidding Procedures[1]		
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	• In addition to the minimum amount of consideration necessary to satisfy the foregoing requirement, the Bid must provide for additional consideration sufficient to pay in full in cash all Stalking Horse Bid Protections, including any Termination Payment and Expense Reimbursement amounts payable; • The Bid must provide for either (i) sufficient proceeds to pay no less of the Attached Judgments than the Stalking Horse Bid or (ii) proceeds in excess of the proceeds provided for in the Stalking Horse Bid after payment of all Stalking Horse Bid Protections.	
Sale Notice Procedures and Requirements	• The Special Master will cause a notice of the sale process and Bidding Procedures, substantially in the form attached to the Sale Procedures Order, to be published (i) following the launch of the sale process, and (ii) prior to any Auction or designation of any Stalking Horse Bidder as the Successful Bidder, in each case for two successive weeks. • A copy of the Sale Procedures Order shall be served by e-mail on counsel to the Venezuela Parties. If any Sale Process Party believes that further service of the Sale Procedures Order, the Sale Notice or any additional publication or notice is necessary or appropriate, such Sale Process Party shall, within 10 calendar days of entry thereof, provide the Special Master with a specific list of specific actions or service that the Sale Process	• The Notice Procedures in the proposed Sale Procedures Order are designed to ensure that each Sale Process Party has ample opportunity to provide input on the form of service and publication notice that I ultimately employ. For example, the proposed form of Sale Notice, which each Sale Process Party has had an opportunity to comment on and provide input on, is attached as Exhibit 2 to the proposed Sale Procedures Order. I believe it makes sense for the Court to approve the form in advance, with input from the Sale Process Parties, to mitigate "foot fault" arguments that may be raised later. • Section 324 of the Delaware Corporation Law proscribes certain notice and service requirements for notice of any Auction, which I have incorporated into the Proposed Sale Procedures Order to the extent set forth therein. Due

Summary of Sale Procedures Order and Bidding Procedures[1]		
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	Party believes should be undertaken, subject to order of the Court or with the consent of the Special Master.	to the judgment debtor's (the Republic's and PDVSA's) active participation in the Crystallex Case and the other unique circumstances and sensitive political issues at play, I believe it is prudent to obtain their input on the specific notice procedures to be incorporated into the proposed Sale Procedures Order with respect to service on and notice in Venezuela (particularly with respect to any required publication notice in Venezuela).

Good Faith Deposit	• A cash deposit (that is refundable under the circumstances described in the Bidding Procedures) in the amount of 10% of the Implied Value of the applicable Bid will be paid by:
	  • the Stalking Horse Bidder upon entry into a Stalking Horse Agreement, unless otherwise agreed to by the Special Master, in consultation with the Sale Process Parties and the Stalking Horse Bidder; and
	  • any other Potential Bidder, unless otherwise agreed to by the Special Master, in consultation with the Sale Process Parties and a Potential Bidder; *provided* that, a Potential Bidder submitting a Credit Bid shall only be required to provide a deposit in the amount of 10% of the cash component of such Bid.
		• The Court previously held that "bidders will be required to make a substantial good faith deposit, which will be refundable to all but the winning bidder. The winning bidder may be required to make an additional non-refundable deposit to provide adequate incentive to close the deal." The Good Faith Deposit limits the execution risk and ensures that only credible bids that can ultimately be consummated are taken into consideration. (*See* ¶37 of the Hiltz Declaration).

Sale Process Parties	• At all times during the bidding process, the Special Master will consult with the Court and the Sale Process Parties and may do so on an *ex parte* basis *in camera*. In	• Consistent with the Court's mandate, my Advisors and I intend to consult with various parties in interest

Summary of Sale Procedures Order and Bidding Procedures[1]		
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	addition, throughout the bidding process, the Special Master and his Advisors will regularly and timely consult with the following parties (through their applicable advisors): (i) the Venezuela Parties, including PDVH and CITGO; (ii) Crystallex; and (iii) ConocoPhillips. • The Special Master shall use reasonable efforts to timely provide copies of any Non-Binding Indications of Interest, Bids, Stalking Horse Bids, and other relevant documents to the Sale Process Parties, *provided* that the Special Master shall not consult with or provide copies of any Non-Binding Indications of Interest, Bids, or Stalking Horse Bids to any Sale Process Party pursuant to the terms of these Bidding Procedures if such Sale Process Party has a Bid pending, or has expressed any written interest in bidding for the PDVH Shares. • If a Sale Process Party chooses not to submit any Bid, then such party may receive copies of all Bids following expiration of the latest possible Bid Deadline (as such Bid Deadline may be extended by the Special Master pursuant to the terms of these Bidding Procedures); *provided,* that (i) such Sale Process Party shall be required to hold any Bids or other documents received in strict confidence in accordance with the terms of the *Special Master Confidentiality Order* [D.I. 291], and (ii) upon a Sale Process Party's receipt of a copy of any Bid, such Sale Process Party shall thereafter be	throughout the sale process and balance competing interests. • To maintain the integrity of the sale process and to facilitate a competitive, fair and value-maximizing Sale Transaction, I do not believe it is prudent to consult with any Sale Process Party regarding Bids or strategies with respect to Potential Bidders if that Sale Process Party has also submitted a Bid or expressed any written interest in bidding for any of the assets. For this reason, the Bidding Procedures contain a customary and typical limitation on my obligation to consult with any such Sale Process Party that intends to or has submitted a Bid.

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	precluded from submitting any bid or other offer for the PDVH Shares. For the avoidance of doubt, if the only Bid that a Sale Process Party receives is a copy of the Stalking Horse Bid designated by the Special Master, such Sale Process Party may submit a Bid like any other Potential Bidder pursuant to the terms of the Bidding Procedures.	
Auction	• If the Special Master receives more than one Qualified Bid (inclusive of any Stalking Horse Bid) for the PDVH Shares, the Special Master will conduct the Auction. • Only a Qualified Bidder will be eligible to participate at the Auction, subject to such limitations as the Special Master may impose in good faith. • The Special Master may, in consultation with the Sale Process Parties, adopt rules for the Auction, subject to the limitations set forth in the Bidding Procedures, at any time that the Special Master reasonably determines to be appropriate to promote a spirited and robust Auction.	• To facilitate a value-maximizing Sale Transaction through the proposed two-phase sale process, the Special Master will hold an Auction consistent with customary sale procedures if he receives one or more Qualified Bids (including any Stalking Horse Bid). The procedures and forum of such Auction shall be determined by the Special Master to suit the circumstances and ensure a value maximizing Sale Transaction.
Data Room Access	• As soon as reasonably practicable, the Special Master will provide each Potential Bidder access to the Data Room; provided that, such Data Room access and access to any other due diligence materials and information	• Consistent with the January 2021 Ruling, Potential Bidders will expect a robust data room to perform due diligence.

Summary of Sale Procedures Order and Bidding Procedures[1]		
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	may be terminated by the Special Master in his sole discretion at any time for any reason whatsoever. • The Special Master may restrict or limit access of any Potential Bidder to the Data Room if the Special Master determines, based on his reasonable judgment (or after consultation with the Sale Process Parties), that certain information in the Data Room is sensitive, proprietary or otherwise not appropriate for disclosure to such Potential Bidder. • Each of the Sale Process Parties may recommend to the Special Master documents or additional information to be included in the Data Room.	
Attached Judgments		
Satisfaction of All Attached Judgments	• Nothing in the Sale Procedures Order prohibits or in any way impairs the rights of the Venezuela Parties to satisfy Crystallex's Judgment (or any other Attached Judgment) in full prior to consummation of a Sale Transaction. If at any time all Attached Judgments become satisfied in full (or otherwise are consensually resolved), then the Special Master shall cease implementation of the Sale Procedures and seek further orders from the Court. • The Sale Process Parties shall remain liable for any Transaction Expenses through the date that is two	• The proposed Sale Procedures Order and Bidding Procedures are designed to preserve the Venezuela Parties' right to end the sale process through satisfaction of all Attached Judgments at any time.

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	business days after the Special Master receives notice of satisfaction of all Attached Judgments.	
Attached Judgments	• By no later than a date established by the Court, the Court will decide which, if any, Additional Judgments are to be added to Sale Transaction. Except as otherwise ordered by the Court, following the Additional Judgment Deadline, the Special Master shall implement the Sale Procedures, based on the Attached Judgments as of the Additional Judgment Deadline. • For the avoidance of doubt, the outside date will not impair or in any way limit a person's or entity's right to seek attachment to any proceeds following consummation of the Sale Transaction.	• Consistent with the Court's mandate, the Sale Procedures Order provides that the Special Master will implement the sale process in satisfaction of Crystallex's Judgment and any other judgment attached by the Court. In implementing the Additional Judgment Deadline, the Special Master will have the certainty required to appropriately implement the sale process in carrying out his duties.
Amendments and Additional Powers of Special Master		
Additional Guidance from the Court	• If the Special Master, in his sole discretion, but after consultation with the Sale Process Parties, determines that (i) a material modification or amendment of the Sale Procedures Order or the Sale Procedures (including the Bidding Procedures) that is not otherwise permitted or (ii) additional powers or guidance from the Court, is reasonably necessary or desirable for any reason, including to (a) ensure a value maximizing sale process or (b) effectuate a value maximizing sale process through a Sale Transaction, the Special Master may seek	• Providing a streamlined process for the Special Master to seek additional guidance and/or an amendment to the Sale Procedures Order ensures that the Court will be apprised if an amendment of the Sale Procedures Order becomes warranted under the circumstances.

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	such proposed amendment or additional powers or guidance, as applicable, by filing a request or recommendation with the Court with notice to the Sale Process Parties.	
Requests of the Special Master	• In addition to the cooperation provisions in the May 2021 Order, the Sale Process Parties, including CITGO and PDVH, and each of their subsidiaries, including their directors, officers, managers, employees, agents, and advisors, shall promptly cooperate and comply with the requests of the Special Master. If the Special Master specifically invokes paragraph 32 of the Sale Procedures Order in connection with any such request, then the person or entity that is the subject or recipient of such request shall comply no later than five business days after the date upon which the request was made, unless the Special Master sets a different deadline for which a response is due. • If any person objects to a request by the Special Master that specifically invokes paragraph 32 of the Sale Procedures Order, including objections based on a belief that such request is unreasonable, such person shall file a motion with the Court seeking relief from the Special Master's request. Absent a motion seeking relief from the Court, the Special Master may (but shall have no obligation to) explain the basis of his request to the subject or recipient; *provided*, that, if requested by the	• In connection with carrying out his duties, the Special Master will likely need to request information or make other requests upon the Sale Process Parties or their representatives. Establishing a process to compel compliance with such requests will streamline the process for making any such requests and will mitigate the likelihood that potentially uncooperative parties can jeopardize the process by withholding necessary information (or otherwise).

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	subject or recipient, the Special Master shall meet and confer with such person at least one business day before such person's deadline to file a motion seeking relief from the Special Master's request. • The Special Master may, in his sole discretion, recommend to the Court appropriate sanctions with respect to any person or entity that fails to promptly comply with a request absent a timely request for relief from the Court.	
CITGO Management Team	• If requested by the Special Master, CITGO shall use reasonable efforts to make members of the CITGO management team available for meetings with bidders or potential bidders, which may include, in the Special Master's sole discretion, the most senior members of the CITGO management team. The CITGO shall further use reasonable efforts to timely respond to the Special Master's diligence requests or bidder-specific questions, including, if applicable, by providing accurate and complete due diligence materials, documentation, and backup support requested by the Special Master.	• As discussed above (*see supra* ¶¶79-80), the cooperation of the CITGO management team is critical to the value maximization of the PDVH Shares.
Additional Powers of the Special Master	• The Special Master shall have all of the powers and duties set forth in prior orders of the Court, including the May 2021 Order. Without limiting the foregoing, the Special Master may issue, without limitation, orders, subpoenas and interrogatories in the course of performing his duties. Further, the Special Master may,	• In connection with implementing the Sale Procedures Order, I may need to obtain or seek information from third-parties or address unforeseen situation. These additional powers will provide the flexibility and discretion necessary to address such situations in connection with carrying out his mandate under the Sale

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	in his sole discretion and consistent with Rule 53 of the Federal Rules, issue orders to compel delivery of information from any person or entity in connection with implementing the Sale Procedures, including to ensure a comprehensive and value-maximizing sale process, to ensure that property that is directly or indirectly the subject of the Sale Procedures Order is not transferred or otherwise encumbered by the Venezuela Parties or to determine the amount of claims against the Venezuela Parties. Following consultation with the Sale Process Parties, the Special Master may by order impose on a party any non-contempt sanction provided by Rule 37 or Rule 45 of the Federal Rules, and may recommend a contempt sanction against a party and sanctions against a nonparty, consistent with Rule 53(c) of the Federal Rules.	Procedures Order and, ultimately, a value maximizing Sale Process.
Additional Provisions		
Rosneft Trading S.A.	• By no later than twenty-one calendar days following entry of the Sale Procedures Order and service thereof by the Special Master on counsel of record for both (i) RTSA and PDVSA, each of RTSA and PDVSA shall deliver to the Special Master a separate Disclosure Statement indicating the amount of any outstanding balance of obligations, if any, purported to still be secured by a pledge of the equity of CITGO Holding as	• As discussed above (*see supra* ¶¶71-73), the uncertainty surrounding the outstanding obligations, if any, secured by the RTSA Pledge will likely deter bidding and materially hamper the sale process. Accordingly, the Special Master requires Court authority to confirm the outstanding obligations, if any, secured thereby.

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	well as copies of any documents evidencing any obligations whether now or previously owed. • If RTSA or PDVSA fail to respond or otherwise provide sufficient documentation of any alleged obligations, the Special Master shall file a report and recommendation with the Court that includes a proposed order to be issued by the Court in response to the failure of either RTSA or PDVSA to comply with the Sale Procedures Order, which may include, with respect to RTSA, a permanent injunction enjoining RTSA and any entity or person directly or indirectly controlled by RTSA from enforcing any pledge or claim against the equity of CITGO Holding.	
Status Conferences	• Unless otherwise ordered by the Court, the Court will hold a status conference approximately every thirty days for the Special Master to provide an update to the Court and other interested parties regarding implementation of the Sale Procedures Order; *provided*, that, subject to the Court's availability, the Special Master or the Sale Process Parties may request that the status conference occur more or less frequently or on an as-needed basis; *provided* that nothing shall impede the Special Master's right to meet *in camera* or share information with the Court to provide updates on the process.	• Regular status conferences will permit interested parties, including the Sale Process Parties, to bring any issues to the attention of the Special Master and the Court so that they may resolve any dispute as early as possible in the process instead of waiting until the Sale Hearing. • If, on the other hand a party does not bring its complaint or issue to the attention of the Court at a status conference (assuming it cannot be resolved between them and the Special Master in lieu of raising it), then the Court may make whatever inference it wishes regarding that party's decision to wait until the Sale Hearing to raise it.

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Dispute Resolution	• All bidders that participate in the sale process shall be deemed to have (i) consented to the jurisdiction of the Court to enter any order or orders, which shall be binding in all respects, in any way related to the Sale Procedures or Bidding Procedures, the bid process, the Auction, the Sale Hearing, or the construction, interpretation, and enforcement of any agreement or any other document relating to a Sale Transaction; (ii) waived any right to a jury trial in connection with the same; and (iii) consented to the entry of a final order or judgment in any way related to the same if it is determined that the Court would lack jurisdiction to enter such a final order or judgment absent the consent of the parties.	• To implement a value maximizing Sale Process, Potential Bidders must have certainty in the outcome of that process, and the dispute resolution mechanics to be implemented in connection with the same, in order to generate the highest offer for PDVH Shares capable of being timely consummated after taking into account the factors set forth in the Bidding Procedures.
Communication and Negotiation with Third Parties	• The Special Master is authorized and empowered, in his sole discretion and at any time, to communicate and, as applicable, negotiate with any bidder, potential bidder, or governmental or regulatory body. Further, in consultation with the Sale Process Parties, the Special Master is authorized and empowered, in his sole discretion and at any time, to communicate and, as applicable, negotiate with any other person or entity, including any contract counterparty, any indenture trustee, administrative agent, or collateral agent, any PDVSA 2020 Bondholder.	• Communication of the Special Master with third parties, including contract counterparties of CITGO, will be necessary in connection with implementing the sale procedures and ensuring that any Sale Transaction is feasible, including with respect to negotiation of any "change-of-control" or other restrictions in any of CITGO's contracts. • At this stage I propose to conduct any negotiations or discussions regarding the change, modification, or amendment of any contract of PDVH or CITGO in connection with any Bid in cooperation with and the consent of PDVH and CITGO (as applicable). If this

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	• If the Special Master determines it is reasonably necessary or desirable to negotiate a change, modification, or amendment to, or seek a consent or waiver under, any contract of PDVH, CITGO, or any of their subsidiaries in connection with any Bid or Potential Bid or implementation of the Sale Procedures or any Sale Transaction, including with respect to any "change-of-control" provisions in any contract, the Special Master shall work with PDVH and CITGO, as applicable, to negotiate such change, modification, amendment, consent, or waiver. If either PDVH or CITGO, as applicable, does not cooperate with or otherwise consent to any particular negotiation, change, modification, amendment, consent, or waiver, the Special Master shall seek additional guidance from the Court.	proves to be an unworkable construct, the proposed Sale Procedures Order provides that I will seek additional guidance or input from the Court at a later date.
Communication with Potential Bidders	• The Sale Process Parties shall not, directly or indirectly, contact or otherwise communicate with any potential bidders regarding the Sale Procedures Order, the Sale Procedures, any bid or potential bid or any Sale Transaction, other than as expressly permitted in writing by the Special Master. For the avoidance of doubt, the Sale Procedures Order will not prevent or prohibit contact or communications in the ordinary course of business or consistent with past practice on matters unrelated to the Sale Procedures Order, the Sale Procedures, any Bid or potential bid or any Sale	• For my Advisors and I to effectively oversee the sale process and ensure that all bids are properly and fairly evaluated, I must be authorized to oversee all communication with Potential Bidders. Providing Potential Bidders with a clear and consistent message will be critical to obtaining value-maximizing Bids. • It is my strong preference that PDVH and CITGO work cooperatively and constructively with my Advisors and I with respect to communications with Potential Bidders, but, out of an abundance of caution I believe it is prudent

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	Transaction; *provided* that such communications (i) do not involve or relate to colluding in connection with a Bid that has been submitted or may be submitted by the applicable Sale Process Party or a Bid by any Potential Bidder; and (ii) are not intended to frustrate the Marketing Process or the Sale Procedures.	for the Court to channel all communications with Potential Bidders through myself and my Advisors.
Sharing of Information with Potential Bidders	• Upon giving notice to the applicable Sale Process Party, the Special Master shall be permitted, in his sole discretion, to share any and all information obtained related to the Sale Process Parties, regardless of whether marked "highly confidential" pursuant to the *Special Master Confidentiality Order* [D.I. 291], with any bidder or potential bidder that has entered into a confidentiality arrangement, a form of which will be attached to the Sale Procedures Order; *provided* that the Special Master shall be authorized to make reasonable changes to the extent requested by a Potential Bidder. The Special Master shall exercise reasonable care in providing confidential information to bidders and Potential Bidders and, if applicable, shall use reasonable efforts to consult any Sale Process Party that marks or designates any information as "Confidential" or "Highly Confidential" prior to its disclosure to any Potential Bidder. The Special Master shall use reasonable efforts to consult PDVH and CITGO in connection with sharing competitively sensitive information and, if determined to be appropriate by the Special Master, to establish	• My Advisors and I will need to have the discretion to share information related to CITGO with Potential Bidders in order facilitate their due diligence. I do not believe that permitting PDVH or CITGO to control what information may be shared through designations of information as "confidential" or "highly confidential" will be a workable construct and, accordingly, in the proposed Sale Procedures Order I have proposed a mechanic for sharing such information. As set forth in the order, I will exercise reasonable care and use reasonable efforts to consult with PDVH and CITGO in connection with sharing any competitively sensitive information. I am hopeful that none of these provisions will be necessary, particularly if the CITGO management team continues to cooperate with my process in connection with sharing due diligence information. As set forth above, it is my strong preference that we work together cooperatively and constructively with respect to communications with Potential Bidders, but, out of an abundance of caution, I believe it is prudent for the Court to authorize the sharing of information in my discretion

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	firewall protections or "clean team" protocols with respect to any Potential Bidder that is a competitor, customer or supplier or under such other circumstances as the Special Master determines to be appropriate.	pursuant to the procedures set forth in the proposed Sale Procedures Order.
Sharing of Information with the United States	• The Special Master shall be authorized to share with the United States information obtained related to the Sale Process Parties and any bidder or potential bidder that the Special Master determines, in his sole discretion, is reasonably necessary or desirable in connection with the issuance of any regulatory approval or is reasonably necessary or desirable in connection with implementation of the Sale Procedures and any Sale Transaction, including any guidance or license from OFAC, *provided* that the Special Master shall request confidential treatment of information shared with the United States that has been designated as confidential or highly confidential by a Sale Process Party.	• As a result of the regulatory considerations and requirements that impact the Sale Procedures and potential consummation of a Sale Transactions, the Special Master requires authority to share information with regulators (including OFAC) regarding the same.
Judicial Immunity & Exculpation	• The Special Master is entitled to judicial immunity in performing his duties pursuant to the Sale Procedures Order, including all actions taken to implement the Sale Procedures, and all other orders of the Court. The Special Master's Advisors are entitled to judicial immunity in connection with all actions taken at the direction of, on behalf of, or otherwise in connection with representation of or advising the Special Master.	• Judicial Immunity is customary for special masters and essential for facilitating the retention of my Advisors. • I believe the procedures for enforcing the judicial immunity and exculpation are also appropriate in light of my Court proscribed duties and mandate and the absence of customary identification that my Advisors would receive when advising on a typical transaction.

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	• No person or entity shall be permitted to pursue any cause of action or commence or prosecute any suit or proceeding against the Special Master or the Advisors, or their respective employees, officers, directors, attorneys, auditors, representatives, agents, successors or assigns, for any reason whatsoever relating to the Crystallex Case, implementation of the Sale Procedures, or in connection with any Sale Transaction, or the performance of the Special Master's and his Advisors' duties pursuant to this Order or any other orders of the Court, or any act or omission by the Special Master or any Advisor in connection with the foregoing. All interested persons and entities, including but not limited to the Sale Process Parties, any purchaser or prospective purchaser of the shares, and all persons acting in concert with them, are hereby enjoined and restrained from pursuing any such cause of action or commencing any such action or proceeding. If any person or entity attempts to pursue any such cause of action or commence any suit or proceeding against the Special Master or any of the Advisors with knowledge of this Order (or continues to pursue or prosecute any cause of action, suit or proceeding after having received notice of this Order), the Court shall issue an order to show cause to such person or entity and a hearing will be scheduled to consider appropriate relief, which may include payment of fees and expenses incurred by the Special Master or any of the Advisors in connection therewith.	

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	To the maximum extent permitted by applicable law, neither the Special Master nor his Advisors nor their respective employees, officers, directors, attorneys, auditors, representatives, agents, successors and assigns will have or incur, and are hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, remedy, loss, and liability for any claim in connection with or arising out of all actions taken to implement the Marketing Process, Sale Procedures, Bidding Procedures, or Sale Transaction, or the performance of the Special Master's and his Advisors' duties pursuant to this Order and all other orders of the Court.	
Payment of Transaction Expenses	• The Special Master shall be compensated and reimbursed for all Transaction Expenses. • The Special Master shall have the discretion to seek from the Court to reallocate payment of any Transaction Expenses if the circumstances require (*e.g.*, if any single Sale Process Party generates an inordinate number of disputes or if a Sale Process Party's position in a dispute is found to be unreasonable).	• The payment of Transaction Expenses complies with the May 2021 Order, which set forth certain procedures for the compensation and reimbursement of expenses by the Sale Process Parties.
Location of PDVH Shares	• By no later than 30 calendar days after entry of Sale Procedures Order, the Venezuela Parties, including PDVSA, shall inform the Special Master as to the specific and precise physical location of the PDVH	• In its prior pleadings with the Court, PDVSA has stated that it does not know the location of the actual PDVH Shares. The purpose of this provision is to ensure that, when it comes time to sell the PDVH Shares, all parties

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	Shares held by PDVSA or any other facts relevant for determining the physical location of the PDVH Shares held by PDVSA and the custodian of the shares. If the applicable Venezuela Party is unaware of the location of the PDVH Shares, such party shall inform the Special Master as such in writing. If at any point thereafter the applicable Venezuela Party becomes aware of any change in circumstance regarding the location of the PDVH Shares, then such party shall update the Special Master in writing. • If the location of the PDVH Shares cannot be located with reasonable precision or if the Special Master reasonably determines that the custodian of the PDVH Shares is unlikely to cooperate in connection with an order compelling the person or entity to transfer the PDVH Shares in connection with any Sale Transaction, the Special Master shall file a recommendation with the Court in advance of the Sale Hearing regarding the appropriate steps to be taken to ensure that the Successful Bidder is able to actually purchase the applicable PDVH Shares in connection with the applicable Sale Transaction. The Special Master's recommendation may include, if appropriate, an order compelling PDVH to issue new certificates or uncertificated shares to the applicable Successful Bidder and cancel the registration of the shares attached to the books of PDVH.	have the appropriate information and can ensure that an appropriate procedure is put in place for issuing new PDVH Shares, if necessary.

V. Recommendation

89. I believe that the proposed Sale Procedures Order strikes the appropriate balance among the many competing interests in a dynamic and internationally sensitive set of circumstances and provides for the best opportunity for achieving a value-maximizing Sale Transaction. Accordingly, pursuant to the Court's May 2021 Order and based on the facts and circumstances as I currently understand them, I hereby submit and recommend the proposed Sale Procedures Order to the Court. I reserve the right to clarify or supplement any statements made in this Report at any time or otherwise respond to any objections or pleadings filed in response to the proposed Sale Procedures Order or this Report.

/s/ Robert B. Pincus
Robert B. Pincus
Special Master for the United States District Court
for the District of Delaware

EXHIBIT A

Hiltz Declaration

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CRYSTALLEX INTERNATIONAL CORPORATION,	:	
Plaintiff,	:	
v.	:	**Misc. No. 17-151-LPS**
BOLIVARIAN REPUBLIC OF VENEZUELA,	:	**FILED UNDER SEAL**
Defendant.	:	**HIGHLY CONFIDENTIAL PURSUANT TO SPECIAL MASTER CONFIDENTIALITY ORDER (D.I. 291)**

DECLARATION OF WILLIAM O. HILTZ
IN SUPPORT OF SPECIAL MASTER'S REPORT AND
RECOMMENDATION REGARDING PROPOSED SALE PROCEDURES ORDER

I, William O. Hiltz, pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true to the best of my knowledge, information, and belief:

1. I am a Senior Managing Director at Evercore Group L.L.C. ("**Evercore**"), a financial advisory and investment banking firm with offices around the world and investment banker to the Special Master in the above-captioned case.

2. On June 2, 2021, Evercore was engaged to provide investment banking and advisory services in connection with the Special Master's design of a plan for the sale of shares (the "**PDVH Shares**") of PDV Holding, Inc. ("**PDVH**") held by Petróleos de Venezuela, S.A ("**PDVSA**") as necessary to satisfy the outstanding judgment of Crystallex International Corporation ("**Crystallex**") and the judgment of any other judgment creditor added to the sale by the Court (each, an "**Attached Judgment**") and/or devise such other transaction as would satisfy

such outstanding judgment(s) while maximizing the sale price of any assets to be sold (collectively, the "**Sale Transaction**").

3. On August 9, 2021, the Special Master filed the *Proposed Order (A) Establishing Sale and Bidding Procedures, (B) Approving Special Master's Report and Recommendation Regarding Proposed Sale Procedures Order, (C) Affirming Retention of Evercore as Investment Banker by Special Master and (D) Regarding Related Matters* (the "**Proposed Sale Procedures Order**") (D.I. 302) and *Special Master's Report and Recommendation Regarding Proposed Sale Procedures Order* (the "**Report**").[1]

4. I submit this declaration (the "**Declaration**") to the Special Master in support of the Report. I am authorized by the Special Master to submit this Declaration and, unless otherwise indicated, all facts set forth in this Declaration are based upon my personal knowledge, my experience, my review of relevant documents, information provided to me by Evercore employees working under my supervision, or information provided to me by the Special Master or his advisors or the Company or their advisors. If called upon to testify, I could and would testify to the facts and opinions set forth herein.

Qualifications

5. I am a Senior Managing Director of Evercore's corporate advisory business and head of the General Advisory Group. I am also Chairman of Evercore's Special Committee Execution Group, which oversees all of Evercore's Special Committee transactions. I joined Evercore in 2000 and have 44 years of experience in investment banking. Prior to joining Evercore, I was Head of the Global Energy Group at UBS Warburg and, prior to UBS' acquisition

[1] Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Proposed Sale Procedures Order or the Report, as applicable.

of Dillon Read & Co. Inc., Head of the Energy Group at Dillon Read since 1995. From 1982 to 1995, I was a Managing Director at Smith Barney where at various times I headed the Energy Group, the High Yield and Merchant Banking Group, the Transportation Group, and the General Industrial Group. I received an A.B. in History and Government from Dartmouth College and an M.B.A. from The Wharton School at the University of Pennsylvania. A copy of my curriculum vitae is attached hereto as **Exhibit A** and incorporated herein by reference.

6. I have worked on and been involved in the design of numerous mergers and acquisitions transactions, including the Chrysler and Fiat merger, the sale of Dell, the sale of McMoRan to Freeport-McMoRan, the sale of ACS to Xerox, the sale of EDS to Hewlett Packard, the CVS and Caremark merger, and the sale of Aquila to Great Plains. I have further advised Aetna on its sale to CVS, T Mobile on its acquisition of Sprint, Whole Foods on its sale to Amazon, Takeda on its acquisition of Shire, and Energy Futures Holdings on the sale of ONCOR to Sempra Energy, among others. In addition, I have worked on several restructurings, including Energy Future Holdings, General Motors, CIT, Northwest Airlines, Continental Airlines, and Eastern Airlines.

7. Evercore is one of the world's leading independent investment banking groups that serves a diverse set of clients around the world with over 20 offices in North America, Europe, South America and Asia, including an office located at 55 East 52nd Street, New York, NY 10055. Evercore has expertise in domestic and cross border restructurings, mergers and acquisitions, debt and equity capital markets transactions, and other financial advisory services. Evercore has served as an experienced bankruptcy and restructuring advisor to debtors, bondholders, creditors' committees, single creditor classes and secured creditors, shareholders,

and boards of directors in a variety of industries. Evercore is a member of the Financial Industry Regulatory Authority and the Securities Investor Protection Corporation.

Background

8. Since June 2, 2021, I have worked closely with the Special Master and his other Advisors to assist him with, among other things, designing a sale process in accordance with his mandate and which balances many competing interests while seeking to provide the best opportunity for achieving a value-maximizing Sale Transaction. This work has involved significant outreach to and numerous meetings with the stakeholders and their advisors in the Crystallex Case, including (a) Crystallex, (b) the Bolivarian Republic of Venezuela (the "**Republic**"), (c) Intervenor PDVSA, (d) Garnishee PDVH, (e) Intervenor CITGO Petroleum Corporation ("**CITGO Petroleum**," and together with the Republic, PDVSA, PDVH, and CITGO Holding, the "**Venezuela Parties**"), (f) non-parties Phillips Petroleum Company Venezuela Limited and ConocoPhillips Petrozuata B.V. (together, **ConocoPhillips**," and collectively with Crystallex and the Venezuela Parties, the "**Sale Process Parties**") and (g) the United States Government, including representatives from the Department of Justice, Department of the Treasury (including representatives from the Office of Foreign Assets Control ("**OFAC**")), and Department of State (collectively, the "**USG**").

9. In rendering services to the Special Master in connection with the Crystallex Case and Evercore's involvement in the engagement with the foregoing parties, I and other members of the Evercore team have become knowledgeable about the Crystallex Case and the business operations and assets of PDVH, CITGO Holding, Inc. ("**CITGO Holding**," and together with CITGO Petroleum, "**CITGO**") and CITGO Petroleum. To date, I, or other members from Evercore working at my direction, have conducted a detailed review of publicly

available information and information produced by CITGO relevant to the design of the Proposed Sale Procedures Order, which has entailed a review of the Company's corporate and capital structure, historical and projected financial performance, a review and analysis of CITGO's business operations other relevant business due diligence, and a review of CITGO's corporate and funded debt facilities and certain other relevant claims and interests. Further, in connection with the Special Master's due diligence process, on July 1, 2021, I, along with the Special Master and his other advisors, met with a number of members of the CITGO management team, including its most senior members, during which CITGO provided a detailed overview of CITGO's business, including its strategic plan and projected financial performance.

10. In addition to due diligence related to PDVH and CITGO, I, and other members of the Evercore team working at my direction, have conducted due diligence on the competitive market and potential bidders that may be interested in bidding on the PDVH Shares to ensure that the procedures contemplated by the Sale Procedures Order best reflect a fair and optimal sale process given the market dynamic and most likely bidding participants.

11. As a result of this diligence and the work performed in connection with advising the Special Master in connection with designing the Proposed Sale Procedures Order, Evercore has developed relevant experience and expertise regarding the Crystallex Case, PDVH, and CITGO that makes it well-suited to advise the Special Master and the Court in connection with entry of the Sale Procedures Order and the ultimate implementation thereof.

PDVH and CITGO's Complex Corporate and Capital Structure

12. I and other members of the Evercore team have reviewed and analyzed publicly available information and information produced by PDVH and CITGO regarding their corporate and capital structure. The corporate and capital structure of PDVH, in an abridged and

annotated form, in the context of the relevant claims and interests is shown in paragraph 64 of the Report.

13. PDVH is the parent company of CITGO Holding, which in turn is the parent company of CITGO Petroleum (collectively, PDVH, CITGO, and each of their subsidiaries, the "**Company**"). CITGO operates three complex large-scale petroleum refineries located in Lake Charles, Louisiana, Corpus Christi, Texas, and Lemont, Illinois. CITGO's refining operations are supported by an extensive distribution network, which provides access to the Company's refined product end markets. CITGO also has a recognized brand presence at the retail level in the United States through its network of locally owned and independently operated CITGO-branded retail outlet licensees.

14. [redacted]

15. I, and other members of the Evercore team have further reviewed, among other things, available information related to the claims of those certain PDVSA 2020 Bondholders and Rosneft Trading S.A. ("**RTSA**") that purport to be secured by a 50.1% and 49.9% pledge of the equity interests of CITGO Holding, respectively (the "**Structurally Senior Liens**"). I offer no view regarding whether such liens are legally enforceable or avoidable and I am advised by counsel to the Special Master that the PDVSA 2020 Bondholders have obtained a judgment against PDVSA in the amount of $1,924,126,058 as of December 1, 2020 that is secured by a Structurally Senior Lien on 50.1% of the equity interests of CITGO Holding (the "**CITGO Holding Pledge**"). *See Judgment Pursuant to Fed. R. Civ. P. 54(b)*, Case 1:19-cv-10023-KPF, entered December 1, 2020 (D.I. 229). However, I understand that, as of the date hereof, the PDVSA 2020 Bondholders' ability to exercise the CITGO Holding Pledge remains stayed pending appeal. Neither I nor any other members of Evercore have been able to discern the amount outstanding, if any, that may be secured by a Structurally Senior Lien in favor of RTSA and inquiries to the Company and its advisors regarding the obligations, if any, owed to RTSA have not clarified this point.

16. I believe that resolution of the Structurally Senior Liens, and particularly the CITGO Holding Pledge, will be critical for minimizing uncertainty of the sale process and obtaining a value maximizing Sale Transaction. If, for example, both the PDVSA 2020 Bondholders and RTSA were able to exercise remedies with respect to their purported pledges, the buyer of the PDVH Shares may be left with no interest in CITGO. In light of this significant risk, and based on my own experience, I do not believe that Potential Bidders will be willing to invest their time and resources into submitting a bid for the PDVH Shares without an understanding as to how the Structurally Senior Liens will be resolved or otherwise addressed in connection with any Sale Transaction, or at the very least, the extent of their valid and enforceable obligations.

Sale Process Design Considerations

17. The complex corporate and capital structure of CITGO, combined with the number of interested parties in the Crystallex Case and the other dynamic and internationally sensitive circumstances, poses a number of unique challenges to achieving a value-maximizing Sale Transaction. I have identified certain of these considerations below that I believe are relevant to design of the Proposed Sale Procedures.

A. OFAC Considerations

18. Based on discussions with counsel to the Special Master regarding the U.S. sanctions-related prohibitions and associated authorizations and guidance (and the associated ambiguity of such guidance) issued by OFAC related to the sale process, I believe that uncertainty surrounding what, if any, transaction OFAC will ultimately approve creates an overhang that may materially chill bidding. For this reason, over the past several months, the Special Master and his Advisors, including myself, have met with representatives from the USG, including OFAC, on

three (3) separate occasions to outline certain considerations of the proposed sale process and solicit feedback. I believe that obtaining explicit, or at the very least tacit, guidance or authorization from OFAC prior to launching the Marketing Process will be critical for fostering a competitive bidding environment and to ultimately obtain value-maximizing Bids. I anticipate that potential bidders will inquire as to the status of OFAC authorization for the process and any ultimate transaction. Accordingly, it will be crucial to ensuring participation that potential bidders can be given necessary comfort to participate in the sale process knowing it is not futile and without risk of penalty.

B. Illustrative Clearing Price

19. Based on a review of information available related to the CITGO Funded Debt Facilities and the Structurally Senior Liens, absent a negotiated compromise with any other CITGO stakeholders, a bidder will likely have to submit a Bid with an implied total enterprise value of at least [redacted] to generate sufficient consideration for Crystallex's Judgment to be satisfied in full, and ultimately [redacted] to satisfy both Crystallex and ConocoPhillips's judgment, if ConocoPhillips' judgment is ultimately added to the Sale Transaction by the Court (the "**Illustrative Clearing Price**"). Any additional judgments added to the Sale Transaction by the Court will further increase the Illustrative Clearing Price. The Illustrative Clearing Price may further be increased by any accrued interest on relevant claims or other contractual obligations of CITGO or certain potential working capital adjustments.

20. In calculating the Illustrative Clearing Price, neither Evercore nor the Special Master conducted a valuation of the PDVH Shares or CITGO. The Illustrative Clearing Price is useful solely for the purposes of illustrating the importance of obtaining a Bid that results in sufficient proceeds to satisfy the relevant claims and interests described above, including

judgments attached by the Court and any claims secured by the Structurally Senior Liens. Bids with an implied enterprise value below the Illustrative Clearing Price will likely require a compromise of outstanding claims for less than their face value before a Potential Bidder is willing to pay any material value for the PDVH Shares.

C. Ability to Purchase A Controlling Stake in CITGO

21. Based on my review of the facts and circumstances, a value-maximizing sale will likely require an offer to sell 100% of the PDVH Shares, at least in the first instance. In my experience, a value maximizing sale process is one that ensures the most suitable bidders participate in the process. In my experience, suitable bidders participate when the offer is enticing. The more enticing the offer, the greater likelihood of participation by potential bidders. Based on the circumstances of the situation, I believe the approach most likely to result in a value maximizing Sale Transaction in this case is to make the most enticing offer available to Potential Bidders: an offer of 100% of the PDVH Shares. I believe that restricting the percentage of PDVH Shares that Potential Bidders may submit a Bid for will severely curtail the universe of Potential Bidders and would be unlikely to result in value-maximizing Bids, for several important reasons.

22. First, I believe that Potential Bidders are likely to pay more for a controlling stake in CITGO than they would for a minority stake, particularly if PDVSA remains the majority shareholder. The universe of bidders for an asset such as CITGO is already necessarily limited to large U.S. and international strategic buyers and select investment firms, who will be most likely to engage on a traditional M&A process structure with a clear path to 100% ownership. As a result, I believe the ability to purchase a controlling stake in the Company increases the market of Potential Bidders, as the potential for a controlling stake will be critical for attracting strategic buyers seeking to take advantage of synergies from a combination. Further, in

my experience, buyers are typically willing to pay a premium for control. Historically, control transactions in the public space have commanded a premium of between fifteen and twenty-five percent, while sales of minority stakes have commanded up to a ten percent discount. Finally, Potential Bidders may place value on the ability to optimize and improve the Company's financial debt capital structure without the perceived credit risk resulting from PDVSA's ownership.

23. Second, a sale of less than 100% of PDVH Shares would require a Potential Bidder to partner with the Republic as a co-owner, which, in my belief and based on my understanding of the competitive market, drastically limits the universe of potential buyers who may be interested in acquiring the PDVH Shares. As this case demonstrates, the Republic has a history of difficult relationships with international companies and foreign investors that will likely discourage Potential Bidders from submitting Bids that results in a new partnership. In addition, I believe that the reported political and economic instability in Venezuela and ongoing United States sanctions limits the ability of United States persons from engaging in business dealings with entities affiliated with the Venezuelan government.

24. Third, a partial sale provides less flexibility to address the Structurally Senior Liens in connection with any Bid. A sale of the full Company provides the best opportunity of generating sufficient proceeds or some other negotiated outcome with respect to the claims purported to be secured by Structurally Senior Liens. A refinancing or other restructuring of CITGO's balance sheet will be more difficult in the context of a partial sale compared to a comprehensive sale of the Company.

25. For these reasons, I believe offering Potential Bidders to specify the percentage of shares of PDVH that they are interested in purchasing, including the option to Bid on 100% of the PDVH Shares, provides for the best opportunity of obtaining value maximizing

Bids under the circumstances of the Crystallex Case. For the avoidance of doubt, offering 100% of the PDVH Shares would not necessarily preclude scenarios where a Potential Bidder initially bids on 100% of the PDVH Shares but, following discussion or negotiation with the Special Master, ultimately decide to accept less than 100% of the PDVH Shares for a revised bid; it does however, enhance the chances that those bidders do not opt out of the sale process altogether.

D. COVID-19's Impact on CITGO's Business and Operations

26. Any serious and credible bidder will need to invest substantial time and resources in understanding CITGO's business in order to formulate a credible Bid, which is complicated by the recent industry downturn. Based on my review of information provided by CITGO and other publicly available information, the novel coronavirus ("**COVID-19**") has had an adverse impact on CITGO's refinery utilization and operating margins since the outbreak developed into a pandemic in March of 2020. As a result of governmental stay-at-home orders and other social distancing measures, there was a rapid and significant decline in the demand for the refined petroleum products that CITGO manufactures and sells. Further, concerns over the negative effects of COVID-19 on global economic and business prospects have contributed to increased market and oil price volatility, both of which have had a negative impact on CITGO's business and operations.

27. As a result of COVID-19, CITGO Petroleum's adjusted EBITDA dramatically declined from $1.92 billion and $1.18 billion in 2018 and 2019, respectively, to negative $432 million in 2020. [redacted]

28. [redacted]

[redacted]

29. Further, I expect Potential Bidders will be focused on CITGO's recovery from the recent downturn in the refining industry, with a particular focus on the impact of new variants of the COVID-19 virus, such as the Delta variant, which have been widely reported to spread more easily than previous versions of the virus. Guiding bidders through CITGO's recent financial performance and future projections will require substantial work and time on both the part of the Special Master and his Advisors, including Evercore, and the CITGO management team. I believe that the foregoing justifies a robust marketing process that provides Potential Bidders with sufficient time to perform the due diligence and analysis necessary to formulate a Bid. The proposed two-staged Marketing Process (described in greater detail below) is designed with this in mind by providing ample time for Potential Bidders to perform necessary due diligence.

E. Management and CITGO's Cooperation

30. Given the size and complexity of any potential Sale Transaction, the cooperation of CITGO's management team will be critical to value maximization and the successful implementation of the Sale Procedures. Potential Bidders will expect input and involvement from the most senior members of CITGO's management team. Thus far in the process, CITGO's management team has cooperated with all of our requests for meetings and information. However, if the management team were not to cooperate, I expect that Potential

Bidders will submit Bids that are subject to ongoing "diligence outs." I believe that the provisions in the Proposed Sale Procedures Order that provide, if necessary, a mechanism for compelling cooperation from CITGO's management team (even if never used) will send a positive message to Potential Bidders that, if they invest their time and resources into formulating a Bid, they will have access to and receive the necessary cooperation from the CITGO management team.

Proposed Sale Procedures

31. I, and other members of the Evercore team, have been a part of formulating, and thus have reviewed, the Proposed Sale Procedures Order and Bidding Procedures. Based on information known as of the date hereof and in light of the numerous competing interests and unique circumstances of the Crystallex Case and my experience outlined above in designing marketing and other sale processes, I believe that the Proposed Sale Procedures Order and Bidding Procedures (and the process contemplated thereby) reflect the best process, in the view of myself, the Evercore team, the Special Master's Advisors, and the Special Master, for both facilitating a value-maximizing Sale Transaction and minimizing potential risks as best can be done under the circumstances, including risks of delay, confusion, and the chilling of bidding. The Proposed Sale Procedures Order balances these considerations and risks through a two-stage process that includes, among other things, the potential for appointment of a Stalking Horse Bidder, an overbid process, and related procedures for comparing Bids for varying percentages of the PDVH Shares based on the implied equity value of the applicable Bids.

32. The Bidding Procedures prescribe, among other things, procedures for parties to access due diligence, the process for submitting a Non-Binding Indication of Interest, the requirements of a Qualified Bid (including the requirement to submit a good faith deposit), the receipt and negotiation of Bids received, the conduct of an Auction if the Special Master receives

more than one Qualified Bid (inclusive of any Stalking Horse Bid), the procedures for designation of a Stalking Horse Bid, the selection and approval of a Successful Bidders, and the deadlines in connection with the foregoing.

33. The Bidding Procedures are designed to encourage Potential Bidders to submit value-maximizing Bids without placing untested advance restrictions on the type of Bids that may be submitted in the first instance. Under the Bidding Procedures, Potential Bidders may submit Bids for the purchase of the PDVH Shares. Importantly, Potential Bidders have flexibility to specify the exact percentage of PDVH Shares that the Potential Bidders desire to bid on, which may include a Bid of up to 100% of the PDVH Shares. The overbid process will allow interested parties to bid on less than 100% of the PDVH Shares, both in connection with submitting a Stalking Horse Bid or after one is selected (if any). Conversely, I believe structuring the process to market less than 100% of the PDVH Shares up front would be detrimental to obtaining value maximizing Bids as it will likely, among other things, drastically (and unnecessarily) limit the universe of Potential Bidders willing to participate in the process.

34. The Bidding Procedures establish the following key dates and deadlines, which will be specifically tied to the date on which the Special Master elects to launch the Marketing Process:

Key Event	**Deadline**
Special Master to Launch Marketing Process and Establish Data Room in accordance with terms of the Sale Procedures Order	Launch ("**L**")
Deadline to Submit Non-Binding Indications of Interest	L+ 45 days
Deadline to Submit Stalking Horse Bids	L+ 90 days
Deadline for Special Master to Designate Stalking Horse Bidder and Enter into Stalking Horse Agreement	L + 150 days

Deadline for Special Master to File Notice of Stalking Horse Bidder	As soon as reasonably practicable following designation by the Special Master
Deadline to Submit Bids	L + 210 days
Deadline for Special Master to Notify Bidders of Status as Qualified Bidders	L + 217 days
Auction to be conducted at the offices of Potter Anderson & Corroon LLP (1313 N. Market Street, 6th Floor, Wilmington, DE 19801-6108) or such other location as is mutually agreeable to the Special Master and each of the Sale Process Parties	L + 230 days
Deadline to File Notice of Successful Bid	As soon as reasonably practicable following conclusion of the Auction or, if no Auction, selection of the Successful Bid
Deadline to File Objections to Sale Transaction	L + 250 days
Deadline for Parties to Reply to Objections to Sale Transaction	L + 263 days
Sale Hearing	L + 270 days

35. The time periods set forth in the Bidding Procedures balance the need to provide adequate and appropriate notice to parties in interest and Potential Bidders with the need to efficiently run a sale process. I believe the proposed timeline is reasonable and will provide Potential Bidders with ample time to access the datatroom set up by the Special Master, subject to execution of an appropriate confidentiality agreement, to conduct necessary diligence and develop credible Bids.

36. The two-stage stalking horse process provides a number of benefits in the context of the Crystallex Case. If a Stalking Horse Bid is selected, all Potential Bidders will have the opportunity to become a Qualified Bidder and participate in a formal Auction process thereafter. The second stage of the marketing process will provide a final "market check" for the

highest or otherwise best bid prior to a Successful Bid being selected and, accordingly, ensures that any Sale Transaction will be value maximizing. Further, through the requirement that parties first submit Non-Binding Indications of Interest during the first stage, the Bidding Procedures ensure that CITGO's management team will only have to spend meaningful time with each Potential Bidder that has shown credible interest.

37. I believe that the Bidding Procedures strike the appropriate balance regarding the appropriate time to require Potential Bidders to submit a good faith deposit. In my experience, bidders that submit deposits are most likely to be motivated and efficient in diligence and closing efforts and are also able to fund the acquisition. At the same time, forcing a deposit to be placed too early can, in my experience, hurt the sale process by discouraging bidding. Based on my review of the facts and circumstances, I believe the optional time for requiring a deposit is upon designation of a Stalking Horse Bid by the Special Master and any subsequent bid after such designation.

38. In light of the foregoing, based on my review and understanding of the facts and circumstances, I believe the Sale Procedures, including the Bidding Procedures, are fair, reasonable, appropriate, designed to promote a competitive and robust bidding process to generate the greatest level of interest in the PDVH Shares and result in the highest offer in connection with the Sale Transaction and reasonably calculated to balance the many competing interests in a dynamic and internationally sensitive set of circumstances.

39. I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 9, 2021, in New York, NY.

/s/ William O. Hiltz
William O. Hiltz

Exhibit A

Curriculum Vitae

William Hiltz Curriculum Vitae

William Hiltz
Senior Managing Director

William Hiltz is a Senior Managing Director of the firm's corporate advisory business and head of its General Advisory Group and its Special Committee practice.

Prior to joining Evercore, Mr. Hiltz was Head of the Global Energy Group at UBS Warburg and, prior to UBS' acquisition of Dillon Read & Co. Inc., Head of the Energy Group at Dillon Read since 1995. From 1982-1995, Mr. Hiltz was a Managing Director at Smith Barney where at various times he headed the Energy Group, the High Yield and Merchant Banking Group, the Transportation Group and the General Industrial Group. Mr. Hiltz has 44 years of experience in the investment banking business, beginning in 1976 when he first joined Dillon Read.

Mr. Hiltz is a former Director of Davis Petroleum Corp. and Energy Partners, Ltd. He is a former Trustee of the Salisbury School and currently serves as a Trustee of Lenox Hill Hospital in New York where he served as Chairman from 2003-2014. He also serves as a Trustee and member of the Executive Committee of the North Shore LIJ Health System. He serves as Vice Chairman of the National Park Foundation. He is a member of The Council on Foreign Relations. He received a B.A. in History and Government from Dartmouth College and an M.B.A. from The Wharton School at the University of Pennsylvania.

Evercore Notable Transactions

- The Board of Aetna on the $78 billion sale to CVS Health
- The Special Committee of T-Mobile on the $59 billion merger with Sprint
- Takeda on the $80 billion acquisition of Shire
- The Special Committee of KKR on its conversion from a limited partnership to a C Corporation.
- General Mills on its acquisition of Pillsbury, the divestiture of its interest in Ice Cream Partners and the divestiture of its interest in SVE to PepsiCo
- CVS on its acquisition of Eckerd, its acquisition of Albertson's free standing drugstores and its $27 billion merger with Caremark
- EDS on the sale of UGS PLM and on its $14 billion sale to Hewlett-Packard
- Swiss Re on its acquisition of GE's reinsurance business
- Tyco on its split-up into three separately traded companies
- Credit Suisse on its sale of Winterthur
- Novelis on its sale to Hindalco and Aquila on its sale to Great Plains
- GM on its $173 billion restructuring and its $23.1 billion IPO
- Energy Futures Holdings on its $48 billion Chapter 11 reorganization and its sale of ONCOR to Sempra Energy for $18 billion
- CIT on its $54 billion restructuring
- The Special Committee of ACS on its $8.3 billion sale to Xerox
- BP in its negotiations with the U.S. Government concerning the creation and structure of the $20 billion trust fund related to the Gulf of Mexico oil spill
- Kraft on the spin-off of its $36 billion North American Grocery business
- The Special Committee of McMoRan Exploration on its $4 billion sale to Freeport McMoRan
- The Special Committee of Dell on its $24 billion LBO
- The Disinterested Directors of Chrysler Group LLC on the purchase by Fiat S.p.A of the VEBA's 41.5% member interests for $3.65 billion
- Oxy on its $14 billion spin off of California Resources, Corp
- CVS Health on its $13 billion acquisition of Omnicare
- Broadcom on its $37 billion sale to Avago Technologies
- FMC Technologies on its $13 billion merger with Technip
- The Special Committee of Facebook on its $300 billion recapitalization
- The Special Committee of Hilton on the sale of a 25% position to HNA
- The Special Committee of Fortress on the sale to Softbank
- The Special Committee of Pilgrim's Pride on its purchase of Moy Park
- Whole Foods on its $14 billion sale to Amazon

EXHIBIT B

Recommended Voluntary Settlement Process Timeline

For consideration by the Court and willing participants in the process, the settlement discussions could be evaluated and pursued initially in the three-month period that immediately follows entry of the Sale Procedures Order (the "**Settlement Period**"), with the tension of the imposition of the impending sale process serving as a catalyst for parties to settle and also providing a mechanism to maximize value depending on any Negotiated Outcome.[1] During the Settlement Period, the Special Master will continue to engage with the United States Government regarding obtaining appropriate regulatory approval, but the Marketing Process shall not be launched until the earlier of (a) expiration of the Settlement Period, (b) voluntary termination of the Settlement Period by each of the Parties and ConocoPhillips, or (c) a determination by the Special Master that further discussions would be futile. In the event that following the initial three-month Settlement Period, the Parties and ConocoPhillips believe that it is beneficial to continue discussions, the Settlement Period will continue for an additional three months, if necessary.

Reimbursement of Fees and Expenses During the Settlement Period

Recognizing that Crystallex and ConocoPhillips may view the Settlement Period as another attempt by the Venezuela Parties to delay or otherwise hinder or elude implementation of the Marketing Process, the Special Master recommends that all costs and expenses incurred by the Special Master during the Settlement Period be paid by the Venezuela Parties.[2]

In addition, if that certain ad hoc group of PDVSA 2020 Bondholders represented by Paul, Weiss, Rifkind, Wharton & Garrison LLP (the "**Ad Hoc Group**") elects to participate in the settlement process in good faith prior to the Bondholder Participation Deadline, the Special Master recommends that the Venezuela Parties reimburse the Ad Hoc Group for their reasonable fees and expenses incurred in connection with participating in good faith in the settlement discussions.

Key Event	Deadline
Entry of the Sale Procedures Order.	("T")
Special Master to provide budget for Settlement Period	T+5
Settlement Procedures • Special Master to propose voluntary settlement procedures for consideration by the Parties and ConocoPhillips, to be implemented during the Settlement Period (the "**Settlement Procedures**")	T+15

[1] During the Settlement Period, the Special Master will continue to submit monthly reports to ensure that the Court is apprised of any progress.

[2] Further, the Special Master recommends that the Venezuela Parties provide security or some other form of assurance for the payment of such obligations, which may be in the form of an advance payment or an escrow account, established by the Special Master, in an amount equal to the amount to be set forth in the Special Master's initial Budget for first month of the Settlement Period (and thereafter on a go-forward basis in accordance with the updated Budget provided by the Special Master pursuant to the proposed Sale Procedures Order).

Key Event	Deadline
• Parties and ConocoPhillips to schedule an initial settlement conference (the "**Initial Settlement Conference**")	
Occurrence of the Initial Settlement Conference and deadline to finalize the Settlement Procedures	T+25
Joint Proposal • Parties and ConocoPhillips prepare a joint proposal for delivery by the Special Master to counsel to the PDVSA 2020 Bondholders regarding resolution of the PDVSA 2020 Bondholders' purported lien on CITGO Holding in connection with any sale of the PDVH Shares and/or any Negotiated Outcome (the "**Joint Proposal**") • The Joint Proposal will include an invitation for the PDVSA 2020 Bondholders to participate in the settlement discussions pursuant to the Settlement Procedures	T+55
Deadline for Ad Hoc Group of PDVSA 2020 Bondholders to indicate willingness to participate in settlement discussions in good faith and opt-in to fee reimbursement structure ("**Bondholder Participation Deadline**")	T+60
Deadline to hold initial settlement conference with the Ad Hoc Group of PDVSA 2020 Bondholders	T+65
• Deadline to reach either (a) an agreement regarding settlement of the judgments held by Crystallex and/or ConocoPhillips or (b) agreement on a three-month extension of the Settlement Period • If the Parties and ConocoPhillips are unable to reach a consensual arrangement regarding either scenario above, the Special Master will turn his sole focus toward the process contemplated by the Sale Procedures Order entered by the Court	T+90

THIS IS EXHIBIT "J"
TO THE AFFIDAVIT OF SCOTT REID
SWORN BEFORE ME OVER VIDEOCONFERENCE
ON OCTOBER 29, 2021

Commissioner for Taking Affidavits

Christopher Armstrong

Sep 24, 2021

Citgo Hires JPMorgan to Deal With Creditors Trying to Take Over

Nicolle Yapur and Ezra Fieser, Bloomberg News

An idled oil pumping unit in Cabimas, on the East coast of Lake Maracaibo, Venezuela. Photographer: Ana Maria Otero Borjas/Bloomberg , Photographer: Ana Maria Otero Borjas/Bloomberg

(Bloomberg) -- Citgo Petroleum Corp. hired JPMorgan Chase & Co. as an adviser as part of attempts by Venezuela's political opposition to keep control of the U.S. oil refiner amid mounting legal claims from creditors.

The company, which is controlled by opposition, contracted the bank this year to consult on potential negotiations with

Commodities Videos

companies that have pending claims, according to Yon Goicoechea, an adviser for the opposition-led National Assembly on its assets held abroad. JPMorgan was hired about three months ago, but the relationship was not widely known until Goicoechea discussed it in a public address in Caracas Friday to the U.S.-recognized legislature.

The New York-based bank has presented a set of plans for negotiating with creditors, but the assembly has yet to approve them, according to Goicoechea. “Once the National Assembly gives the go ahead, the companies could explore with creditors possibilities of negotiation,” he said. “The process needs to be fast because we don’t have much time.”

Spokespeople for JPMorgan and Citgo declined to comment, while a representative for the government-controlled Ministry of Communication and Information didn’t have an immediate comment.

The hiring is part of the opposition’s attempt to fend off creditors who are pushing to sell Citgo’s parent company to settle debts. The opposition was given control of Citgo after the U.S. recognized Juan Guaido as Venezuela’s interim leader, severing ties with President Nicolas Maduro. Venezuela’s international assets are among the subjects being discussed by representatives from the government and opposition in political negotiations set to resume later Friday in Mexico.

Chief among the creditors pursuing Citgo are Crystallex International Corp., which is owed nearly $1 billion for an expropriated gold mine, the oil company ConocoPhillips -- owed about $1.3 billion for seized assets -- and holders of defaulted PDVSA bonds that are partially secured by shares of Citgo Holding.

Investors have pushed the price of the bonds, which matured in 2020, to above 28 cents on the dollar from around 20 cents in June amid optimism they will recover some value, according to data compiled by Bloomberg.

For now, any attempts to sell shares of Citgo’s parent company is prohibited as the U.S. Department of Treasury is protecting Citgo as part of the American strategy to back the opposition. However, the Treasury may reassess its position on a sale after January, according to a filing in Crystallex’s federal court case against Venezuela in Delaware.

In that case, a court-appointed special master is suggesting selling shares of Citgo’s parent company to the highest

bidder and using the proceeds to pay creditors, according to a copy of the proposed sales order unsealed this month.

Citgo, which owns three refineries and distributes gasoline in the U.S., has been owned by the Venezuelan government since the 1980s.

If the Treasury Department's Office of Foreign Assets Control does allow a sale, the investment bank Evercore Group LLC, which has been appointed as special master, would launch a process expected to take at least nine months, according to the proposal. It would accept bids for less than 100% of shares, as long as they satisfy pending claims, according to the document.

Pot Shots

End to banking hassles would be an advantage for us: Pot giant Cresco Labs' CEO

This U.S. legislation is a game changer: Curaleaf executive chairman

U.S. democratic senators to unveil draft cannabis reform bill on Wednesday: Report

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 CRYSTALLEX INTERNATIONAL CORPORATION

Court File No. CV-11-9532-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at Toronto

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(Sworn October 29, 2021)

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RESPONDING MOTION RECORD
(Returnable November 18, 2021)

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