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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE	)	MONDAY THE 2nd DAY
MADAM JUSTICE CONWAY	)	OF DECEMBER, 2024
	)	

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

CRYSTALLEX INTERNATIONAL CORPORATION

Applicant

ORDER

THIS MOTION, made by the Applicant, Crystallex International Corporation ("**Crystallex**" or the "**Company**"), proceeded by way of judicial videoconference.

ON READING the Motion Record of Crystallex dated November 22, 2024, the factum of Crystallex, and the Forty-Fourth Report (the "**44th Report**") and Forty-Fifth Report (the "**45th Report**") of Ernst & Young Inc. (the "**Monitor**").

AND ON HEARING the submissions of counsel for the Applicant, counsel for the Monitor, counsel for Tenor Special Situation I, LP, in its capacity as the debtor-in-possession lender of the Applicant (the "**DIP Lender**") and counsel for Computershare Trust Company of Canada in its Capacity as Trustee (the "**Trustee**") for the Holders of

Crystallex 9.375% Senior Notes due December 23, 2011 (the “**Senior Notes**”) and the Ad Hoc Committee of Beneficial Owners of the Senior Notes (as specified on Schedule “A” hereto) (the “**Ad Hoc Committee**” and with the Trustee, the “**Noteholders**”) and no one else appearing although duly served as appears from the Affidavits of Service filed;

SERVICE

1. **THIS COURT ORDERS** that the time for service of the notice of motion, the motion record and factum is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that unless otherwise defined in this Order, capitalized terms used in this Order shall have the meanings given to them in the November Fung Affidavit (as defined below), the CCAA Financing Order this Court granted in these proceedings on April 16, 2012 (the "**CCAA Financing Order**") or in the Credit Agreement (as defined below), as applicable.

EXTENSION OF STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period (as defined in the Initial Order of the Honourable Justice Newbould made December 23, 2011) be and is hereby extended to and including December 18, 2025 (the "**Stay Extension**").

4. **THIS COURT ORDERS** that during the Stay Extension period:

(a) the Applicant or the Monitor shall provide regular public reporting to the Court and the stakeholders of the Applicant's then-current cash balance and

the DIP balance and updates of public information with respect to the Applicant and its enforcement activities, with such reporting to occur no less frequently than every six months;

(b) the Applicant or the Monitor shall report on a timely basis to the Court and the Applicant's stakeholders on any material changes to the business or affairs of Crystallex, which reports may be confidential or public depending on the nature of the material change (it being understood that the rights of any party to oppose any redaction or sealing are hereby reserved);

(c) the Applicant or the Monitor shall report, every six months, the then-current Cash Flow Variance for the prior six-month period and the Cash Flow Forecast for the upcoming six-month period;

(d) the Monitor shall, on a no less than quarterly basis, hold a meeting among the Applicant, the DIP Lender, representatives of the Ad Hoc Committee and representatives of any of the Applicant’s other stakeholders that indicate to the Monitor in writing that they wish to participate to provide updates of public information concerning the Applicant, including its enforcement activities; and

(e) subject to the prior orders and endorsements of this Court including the endorsement dated June 7, 2016, any party may come back to the Court to address any issues which arise during the Stay Extension period.

CONFIDENTIALITY

5. **THIS COURT ORDERS** that, subject to paragraph 6 hereof, as applicable, the following information (the "**Confidential Materials**") shall be sealed and filed under a protective order and not form any part of the public record in this proceeding except as otherwise provided herein:

(a) Confidential Motion Record of Crystallex dated November 22, 2024, including the Affidavit of Robert Fung sworn November 22, 2024 (the "**November Fung Affidavit**");

(b) Confidential versions of the 44th Report of the Monitor and the 45th Report of the Monitor; and

(c) Confidential version of the factum of Crystallex served in connection with this Motion.

6. **THIS COURT ORDERS** that the public, redacted versions of the materials listed in paragraph 5 shall remain public in these proceedings and be filed with the Court and uploaded to CaseLines.

7. **THIS COURT ORDERS** that the Confidential Materials shall not be copied or disseminated beyond counsel except as authorized by the Applicant or by further order of this Court.

8. **THIS COURT ORDERS** that, subject to the endorsement of this court dated June 7, 2016, any party may apply to the Court on proper notice to all parties in interest

to seek to vary the provisions in paragraphs 5 and 7 of this Order and nothing in this Order shall be deemed to prejudice their rights to bring a motion to seek such variation or to vary the finding that the Confidential Materials are confidential, provided that for certainty, a moving party shall have the onus on such motion(s) to justify any variation(s) sought.

EXTENSION AND AMENDMENT OF THE DIP CREDIT AGREEMENT

9. **THIS COURT ORDERS** that the Applicant is hereby authorized and empowered to enter into an amendment to the credit agreement dated as of April 23, 2012 between the Applicant and Tenor Special Situation Fund I, LLC (**"Tenor"**), which was assigned by Tenor to Tenor KRY Cooperatief U.A. (“**Tenor KRY**”) on such date, subsequently assigned by Tenor KRY to Luxembourg Investment Company 31 S.a.r.l. (“**Tenor Luxco**”) and ultimately assigned to the DIP Lender, as previously amended by the first credit agreement amending and confirming agreement dated May 15, 2012, the second amendment agreement dated June 5, 2013, the third credit agreement amendment agreement dated as of April 16, 2014, the fourth credit amendment agreement dated March 12, 2015, the fifth extension amendment agreement dated as of December 31, 2016, the sixth extension and amendment agreement dated as of June 30, 2017, the seventh credit agreement amendment dated as of December 27, 2017, the eighth credit agreement amendment dated as of February 28, 2018, the ninth credit agreement amendment dated as of May 9, 2018, the tenth credit agreement amendment dated as of October 31, 2018, the eleventh credit agreement amendment dated as of May 6, 2019, the twelfth credit agreement amendment dated as of November 6, 2019, the thirteenth credit agreement amendment dated October 28, 2020 and effective as of May

6, 2020, the fourteenth credit agreement amendment dated April 14, 2021 and effective as of November 6, 2020, the fifteenth credit agreement amendment dated October 21, 2021, 2021 and effective as of May 7, 2021, the sixteenth credit agreement amendment dated January 24, 2022 and effective as of November 5, 2021, the seventeenth credit agreement amendment dated January 25, 2023 and effective as of December 13, 2022, and the eighteenth credit agreement amendment dated April 29, 2024 and effective as of December 12, 2023 (collectively, the "**Credit Agreement**"), pursuant to and substantially in the form of the nineteenth credit agreement amendment between the DIP Lender and the Applicant (the "**Nineteenth Credit Agreement Amendment**") attached as an exhibit to the November Fung Affidavit, and all other documents contemplated or required by the DIP Lender in connection with the Nineteenth Credit Agreement Amendment.

10. **THIS COURT ORDERS** that the provisions and terms of the Nineteenth Credit Agreement Amendment, the Credit Agreement as amended by the Nineteenth Credit Agreement Amendment, and the other Credit Documents (including the Security Documents) are proper, fair and reasonable, and are hereby approved, and the Applicant is hereby authorized and directed to pay and perform all of its principal indebtedness, interest, expenses, fees, liabilities and other compensation and obligations to the DIP Lender under and pursuant to the Credit Agreement, as amended by the Nineteenth Credit Agreement Amendment, and the other Credit Documents, as and when the same become due and are to be performed.

11. **THIS COURT ORDERS** that the DIP Lender is entitled, in accordance with the provisions of the DIP Credit Agreement as amended by the Nineteenth Credit

Agreement Amendment, to all fees, interest, compensation and other amounts paid or payable under the Credit Agreement, as amended by the Nineteenth Credit Agreement Amendment.

12. **THIS COURT ORDERS** that:

(a) the DIP Charge shall secure all Obligations outstanding from time to time under the Credit Agreement, as amended by the Nineteenth Credit Agreement Amendment, or under any other Credit Document except for any obligation of the Applicant to pay Lender Additional Compensation, the Additional Principal Compensation Amount, the Second Additional Principal Compensation Amount, the Third Additional Principal Compensation Amount or the Fourth Additional Principal Compensation Amount to the DIP Lender;

(b) the Lender Additional Compensation Charge shall secure the obligation of the Applicant to pay to the DIP Lender the Lender Additional Compensation, the Additional Principal Compensation Amount, the Second Additional Principal Compensation Amount, the Third Additional Principal Compensation Amount and the Fourth Additional Principal Compensation Amount in accordance with the Credit Agreement, as amended by the Nineteenth Credit Agreement Amendment; and

(c) the DIP Charge and the Lender Additional Compensation Charge shall continue to have the priority set out in paragraph 17 of the CCAA Financing Order.

13. **THIS COURT ORDERS** that the Credit Agreement, the Nineteenth Credit Agreement Amendment, the other Credit Documents, the DIP Charge and the Lender Additional Compensation Charge, any advances made in good faith by the DIP Lender under the Credit Agreement, as amended by the Nineteenth Credit Agreement Amendment, and the Applicant's agreement to pay (and the payment of) Lender Additional Compensation, the Additional Principal Compensation Amount, the Second Additional Principal Compensation Amount, the Third Additional Principal Compensation Amount and the Fourth Additional Principal Compensation Amount to the DIP Lender are fair, reasonable and appropriate and shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender shall not otherwise be limited or impaired in any way by: (i) the pendency of these proceedings and the declarations of insolvency made herein; (ii) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the "**BIA**"), or any bankruptcy order made pursuant to such applications; (iii) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (iv) the provisions of any federal or provincial statutes or any common law; or (vi) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of encumbrances contained in any existing agreement (an "**Agreement**") which binds the Applicant and, notwithstanding any provision to the contrary in any Agreement:

(a) none of the execution, delivery or performance of the Credit Agreement, the Nineteenth Credit Agreement Amendment or the other Credit Documents shall create nor be deemed to constitute a breach by the Applicant of any Agreement to which it is a party;

(b) the Applicant shall not have any liability to any Person (as defined by the Initial Order) whatsoever as a result of any breach of any Agreement caused by or resulting from the execution, delivery or performance of the Credit Agreement, the Nineteenth Credit Agreement Amendment or the other Credit Documents; and

(c) the payments made by the Applicant pursuant to this Order, the Credit Agreement, as amended by the Nineteenth Credit Agreement Amendment, or the other Credit Documents, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law including common law.

14. **THIS COURT ORDERS** that each of the CCAA Financing Order and the Additional CCAA Financing Order issued by this Court in these proceedings on June 5, 2013, the Second Additional CCAA Financing Order issued by this Court in these proceedings on April 14, 2014, and the Approval Order issued by this Court in these proceedings on December 18, 2014 (collectively, the "**Additional CCAA Financing Orders**") shall continue in full force and effect and that all protections and other provisions

of the CCAA Financing Order and the Additional CCAA Financing Orders, as applicable, shall apply *mutatis mutandis* to all principal amounts, interest thereon, the Lender Additional Compensation, the Additional Principal Compensation Amount, the Second Additional Principal Compensation Amount, the Third Additional Principal Compensation Amount and the Fourth Additional Principal Compensation Amount and all other amounts owing to the DIP Lender under the Credit Agreement, as amended by the Nineteenth Credit Agreement Amendment, and the other Credit Documents and to all charges and other security therefor.

TOLLING

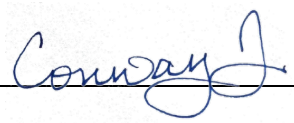
15. **THIS COURT ORDERS** that by agreement of the Applicant, the Trustee and the DIP Lender, the tolling of limitation periods provided for in paragraph 26 of the Stay Extension and Standstill Order of this Court dated June 5, 2013 (the "**Standstill Order**") shall continue until the date that is thirty (30) days following the expiration of the Stay Extension, provided that any limitation period applicable to a Claim (as defined in the Standstill Order) released pursuant to paragraph 29 of the Standstill Order shall not be tolled.

General

16. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, Tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, including the United States Bankruptcy Court for the District of Delaware (the "**Bankruptcy Court**"), to give effect to this Order and to assist the Applicant, the Monitor and their respective agents in carrying out the terms of this Order. All Courts, tribunals,

regulatory and administrative bodies are hereby respectfully requested to make orders and to provide such assistance to the Applicant and to the Monitor, as an Officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Applicant in any foreign proceeding, or to assist the Applicant and the Monitor and their respective agents in carrying out the terms of this Order.

17. **THIS COURT ORDERS** that each of the Applicant and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, including the Bankruptcy Court, for the recognition of this Order and for assistance in carrying out the terms of this Order.



SCHEDULE "A"

BENEFICIAL OWNERS OF SENIOR NOTES PART OF AD HOC COMMITTEE

1. QVT Fund LP
2. Quintessence Fund L.P.
3. QVT Family Office Fund LP
4. Greywolf Loan Participation LLC
5. Ravensource Fund
6. Stornoway Recovery Fund LP

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

Applicant

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PROCEEDING COMMENCED AT
TORONTO

ORDER

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