**MODEL CCAA SUPPLEMENTAL RECOGNITION ORDER (FOREIGN MAIN PROCEEDING)[[1]](#footnote-1)**

*[Current to August 1, 2015]*

No.        
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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

AND

AND IN THE MATTER OF [LIST DEBTOR NAMES]

**ORDER MADE AFTER APPLICATION**

**(SUPPLEMENTAL RECOGNITION ORDER IN FOREIGN MAIN PROCEEDING**[[2]](#footnote-2)**)**

|  |  |  |
| --- | --- | --- |
| BEFORE THE HONOURABLE  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | )  )  ) | dd/mm/yyyy |

THE APPLICATION of [NAME OF FOREIGN REPRESENTATIVE], in its capacity as the foreign representative (the "**Foreign Representative**") of [LIST DEBTOR NAMES] (the “**Debtors**”), pursuant to Part IV of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**")[[3]](#footnote-3), coming on for hearing at Vancouver, British Columbia, on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 201\_\_\_, and on hearing \_\_\_\_\_\_\_\_\_\_\_, counsel for the Foreign Representative, and those other counsel listed on Schedule “A” hereto; AND UPON READING the material filed, including the affidavit of [NAME] sworn [DATE], the preliminary report of [NAME OF PROPOSED INFORMATION OFFICER], in its capacity as proposed information officer (the "**Proposed Information Officer**")[[4]](#footnote-4), dated [DATE], and the consent of [NAME OF PROPOSED INFORMATION OFFICER] to act as the information officer, each filed;

AND UPON HEARING the submissions of counsel for the Foreign Representative, [counsel for the Proposed Information Officer,] and counsel for [OTHER PARTIES];

THIS COURT ORDERS AND DECLARES that:

SERVICE

1. [ABRIDGING TIME FOR SERVICE.][[5]](#footnote-5)

INITIAL RECOGNITION ORDER

1. Any capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Order Made After Application (Foreign Main Proceeding) dated [DATE] (the "**Recognition Order**").
2. The provisions of this Supplemental Order shall be interpreted in a manner complementary and supplementary to the provisions of the Recognition Order, provided that in the event of a conflict between the provisions of this Supplemental Order and the provisions of the Recognition Order, the Recognition Order shall govern.

RECOGNITION OF FOREIGN ORDERS[[6]](#footnote-6)

1. The following orders (collectively, the "**Foreign Orders**") of [NAME OF FOREIGN COURT] made in the Foreign Proceeding are hereby recognized and given full force and effect[[7]](#footnote-7) in all provinces and territories of Canada,provided, however, that in the event of any conflict between the terms of the Foreign Orders and the Orders of this Court made in the within proceedings, the Orders of this Court shall govern with respect to Property (as defined below) in Canada:

[list Foreign Orders, or portions of Foreign Orders, copies of which should be attached as schedules to this Order]

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

1. Until \_\_\_\_\_\_\_\_\_\_\_\_[[8]](#footnote-8) (the “**Stay Period**”), no action, suit or proceeding in any court or tribunal in Canada (each, a “**Proceeding**”) against or in respect of any of the Debtors, or affecting the Debtors’ business (the “**Business**”) or their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”), shall be commenced or continued except with leave of this Court[[9]](#footnote-9), and any and all Proceedings currently under way against or in respect of any of the Debtors or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.
2. During the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Debtors, or affecting the Business or the Property, are hereby stayed and suspended except with leave of this Court.
3. Nothing in this Order, including paragraphs [4] and [5], shall: (i) prevent the assertion or the exercise of rights and remedies outside of Canada; (ii) empower the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on; (iii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iv) prevent the filing of any registration to preserve or perfect a mortgage, charge or security interest; or (v) prevent the registration or filing of a lien or claim for lien or the commencement of a Proceeding to protect lien or other rights that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such lien, claim for lien or Proceeding except for service of the initiating documentation on the applicable Debtor(s).

NO INTERFERENCE WITH RIGHTS

1. During the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Debtors and affecting the Business in Canada, except with leave of this Court.

CONTINUATION OF SERVICES

1. During the Stay Period, all Persons having oral or written agreements with the Debtors or mandates under an enactment for the supply of goods and/or services in Canada, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation, services, utility or other services to the Business or the Debtors, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with, or terminating the supply of such goods or services as may be required by the Debtors, and that the Debtors shall be entitled to the continued use in Canada of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Debtors in accordance with normal payment practices of the Debtors or such other practices as may be agreed upon by the supplier or service provider and the Debtors, or as may be ordered by this Court.[[10]](#footnote-10)

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

1. During the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Debtors with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Debtors whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations. Nothing in this Order, including in this paragraph, shall prevent the commencement of a Proceeding to preserve any claim against a former, current or future director or officer of any of the Debtors that might otherwise be barred or extinguished by the effluxion of time, provided that no further step shall be taken in respect of such Proceeding except for service of the initiating documentation on the applicable director or officer.[[11]](#footnote-11)

APPOINTMENT OF INFORMATION OFFICER[[12]](#footnote-12)

1. [NAME OF INFORMATION OFFICER] (the "**Information Officer**") is hereby appointed as an officer of this Court with the powers and duties set out herein.
2. The Information Officer:
   1. is hereby authorized to provide such assistance to the Foreign Representative in the performance of its duties as the Foreign Representative may reasonably request;
   2. shall report to this Court at least once every [NUMBER] months with respect to the status of these proceedings and the status of the Foreign Proceeding, which reports may include information relating to the Property, the Business or other matters relevant to the within proceedings and any stakeholders in Canada;
   3. in addition to the periodic reports referred to in paragraph [11(b)], above, may report to this Court at such other times and intervals and with respect to such matters as the Information Officer, in its discretion, deems appropriate;
   4. shall have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Debtors, to the extent necessary to enable the Information Officer to perform its duties arising under this Order; and
   5. shall be at liberty to engage independent legal counsel or such other persons as the Information Officer deems necessary or advisable respecting the exercise of its powers and performance of its duties under this Order.[[13]](#footnote-13)
3. The Debtors and the Foreign Representative shall (i) advise the Information Officer of all material steps taken by the Debtors or the Foreign Representative in the Foreign Proceeding and in these proceedings, (ii) co-operate fully with the Information Officer in the exercise of its powers and discharge of its duties, and (iii) provide the Information Officer with such assistance as is necessary to enable the Information Officer to adequately carry out its duties.
4. The Information Officer shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, or by inadvertence in relation to the due exercise of powers or performance of duties under this Order, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof, and nothing in this Order shall be construed as resulting in the Information Officer being an employer or a successor employer within the meaning of any statute, regulation or rule of law or equity, for any purpose whatsoever.
5. The Information Officer (i) shall post on its website at [WEBSITE ADDRESS] (the “**Information Officer’s Website**”)all Orders of this Court made in these proceedings, all reports of the Information Officer filed herein, and such other materials as this Court may order from time to time, and (ii) may post on its website any other materials that the Information Officer deems appropriate, including Foreign Orders or materials filed by any party in the Foreign Proceeding.
6. The Information Officer shall provide any creditor of a Debtor with information provided by the Debtors in response to reasonable requests for information made in writing by such creditor addressed to the Information Officer. The Information Officer shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Information Officer has been advised by the Debtors is privileged or confidential, the Information Officer shall not provide such information to creditors unless directed to do so by this Court or on such terms as the Information Officer, the Foreign Representative and the Debtors may agree.
7. The Debtors shall pay the Information Officer and counsel to the Information Officer, if any, their reasonable fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order, in each case at their standard rates and charges as part of the costs of these proceedings, subject to further Order of this Court. The Debtors are hereby authorized and directed to pay the accounts of the Information Officer and counsel for the Information Officer on a periodic basis during these proceedings as agreed among the Debtors and the Information Officer, and, in addition, the Debtors are hereby authorized to pay to the Information Officer and counsel to the Information Officer, retainers in the amounts of $[AMOUNT] and [AMOUNT], respectively, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.
8. The Information Officer and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Information Officer and its legal counsel are hereby referred to a judge of the British Columbia Supreme Court who may determine the manner in which such accounts are to be passed, including by hearing the matter on a summary basis or referring the matter to a Registrar of this Court. The accounts of the Information Officer and its counsel shall not be subject to approval in the Foreign Proceeding.
9. The Information Officer and counsel to the Information Officer, if any, shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property in Canada, which charge shall not exceed an aggregate amount of $[AMOUNT], as security for their respective fees and disbursements incurred in respect of these proceedings, both before and after the making of this Order and which are related to these proceedings. The Administration Charge shall have the priority set out in paragraphs **[21]** and **[23]** hereof.
10. No Proceeding shall be commenced or continued against or in respect of the Information Officer, except with leave of this Court. In addition to the rights and protections afforded the Information Officer herein or as an officer of this Court, the Information Officer shall have the benefit of all of the rights and protections afforded to a monitor under the CCAA, and shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

INTERIM FINANCING[[14]](#footnote-14)

1. [NAME OF INTERIM LENDER] (the “**Interim Lender**”) shall be entitled to the benefit of and is hereby granted a charge (the "**Interim Lender’s Charge**") on the Property in Canada, which Interim Lender's Charge shall be consistent with the liens and charges created by the [DESCRIBE INTERIM LOAN ORDER MADE IN THE FOREIGN PROCEEDING], provided that the Interim Lender's Charge (i) shall not secure an obligation that exists before this Order is made[[15]](#footnote-15), and (ii) with respect to the Property in Canada, shall have the priority set out in paragraphs [21] and [23] hereof. The Interim Lender's Charge shall not be enforced except with leave of this Court.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

1. The priorities of the Administration Charge and the Interim Lender’s Charge, as among them, shall be as follows:
   1. First – Administration Charge (to the maximum amount of $[AMOUNT]); and
   2. Second – Interim Lender’s Charge.[[16]](#footnote-16)
2. Any security documentation evidencing, or the filing, registration or perfection of, the Administration Charge and the Interim Lender’s Charge (together, the “**Charges**”) shall not be required, and the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered or perfected subsequent to the Charges coming into existence, notwithstanding any failure to file, register or perfect any such Charges.
3. Each of the Charges shall constitute a mortgage, security interest, assignment by way of security and charge on the Property in Canada and such Charges shall rank in priority to all other security interests, trusts, liens, mortgages, charges and encumbrances and claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”), in favour of any Person.[[17]](#footnote-17)
4. Except as otherwise expressly provided herein, or as may be approved by this Court, the Debtors shall not grant or suffer to exist any Encumbrance over any Property in Canada that ranks in priority to, or pari passu with, the Charges, unless the Debtors obtain the prior written consent of the Information Officer and the Interim Lender.
5. The Administration Charge and the Interim Lender’s Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, mortgage, security agreement, debenture, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any of the Debtors; and notwithstanding any provision to the contrary in any Agreement:
   1. the creation of the Charges shall not create or be deemed to constitute a breach by the Debtors of any Agreement to which any of them is a party;
   2. none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and
   3. the payments made by the Debtors to any of the Chargees pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.
6. Any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Debtor’s interest in such real property leases.

SERVICE AND NOTICE

1. The Debtors, the Foreign Representative and the Information Officer are each at liberty to serve this Order, any other materials and orders filed or made in these proceedings, and any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.[[18]](#footnote-18)
2. Any Person that wishes to be served with any application and other materials in these proceedings must deliver to the Information Officer by way of ordinary mail, courier, personal delivery or electronic transmission a request to be added to a service list (the “**Service List**”) to be maintained by the Information Officer. The Information Officer shall post and maintain an up to date copy of the Service List on the Monitor’s Website.
3. Any party to these proceedings may serve any court materials in these proceedings by emailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Information Officer shall post a copy of all prescribed materials on the Information Officer’s Website.
4. Notwithstanding paragraphs **[27]** and **[29]** of this Order, service of the Petition, the Notice of Hearing of Petition, any affidavits filed in support of the Petition and this Order shall be made on the Federal and British Columbia Crowns[[19]](#footnote-19) in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, and regulations thereto, in respect of the federal Crown, and the *Crown Proceeding Act*, R.S.B.C. 1996, c. 89, in respect of the British Columbia Crown.[[20]](#footnote-20)

GENERAL

1. The Information Officer may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
2. Nothing in this Order shall prevent the Information Officer from acting as an interim receiver, a receiver, a receiver and manager, a monitor, a proposal trustee, or a trustee in bankruptcy of any Debtor, the Business or the Property.
3. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the [JURISDICTION OF THE FOREIGN PROCEEDING], to give effect to this Order and to assist the Debtors, the Foreign Representative, the Information Officer, and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Debtors, the Foreign Representative, and the Information Officer, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant the Information Officer status in any foreign proceeding, or to assist the Debtors, the Foreign Representative, and the Information Officer and their respective agents in carrying out the terms of this Order.
4. Each of the Debtors, the Foreign Representative and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.
5. The Guidelines for Court-to-Court Communications in Cross-Border Cases developed by the American Law Institute and attached as Schedule [\*] hereto is adopted by this Court for the purposes of these recognition proceedings.[[21]](#footnote-21)
6. Any interested party may apply to this Court to vary or amend this Order or seek other relief on not less than seven (7) days’ notice to the Debtors, the Foreign Representative, the Information Officer and their respective counsel, and to any other party or parties likely to be affected by the order sought, or upon such other notice, if any, as this Court may order.

This Order and all of its provisions shall be effective as of [TIME] local Vancouver time on the date of this Order.[[22]](#footnote-22)

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

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| --- |
|  |
| Signature of 🞎 Party 🗹 Lawyer for the Foreign Representative |
|  |
| *<Print Name>* |
|  |
| Signature of 🞎 Party 🞎 Lawyer for <name of party(ies)> |
|  |
| *<Print Name>* |

|  |  |
| --- | --- |
|  | BY THE COURT |
|  | REGISTRAR |

**[ATTACH APPROPRIATE SCHEDULE(S)]**

1. This model Order is not in any way determinative of the applicant’s entitlement to the relief provided for in this model Order. It is the responsibility of counsel to ensure that the form of Order they propose is appropriate in the circumstances of the case and to justify the relief they are seeking, including by providing the necessary evidentiary support and judicial authority. [↑](#footnote-ref-1)
2. If the Canadian Court has made an Initial Recognition Order recognizing a foreign proceeding as a "main" proceeding, then subsection 48(1) of the CCAA specifies certain relief the Court must grant, subject to any terms and conditions it considers appropriate. The model Initial Recognition Order (Foreign Main Proceeding) includes all the mandatory relief contemplated by subsection 48(1) with respect to a foreign main proceeding. Section 49 of the CCAA allows the Court to make any order that it considers appropriate for the protection of the Debtor’s property or the interests of a creditor or creditors. This Supplemental Order includes discretionary relief that might be granted by the Court in appropriate circumstances. The relief included in this model Supplemental Order need not be sought or granted in every case, and there will be circumstances where other relief not included in this model Supplemental Order may be required, including orders dealing with the sale of assets, critical suppliers, a claims process or the recognition of orders of the foreign court concerning those or other matters. [↑](#footnote-ref-2)
3. Part IV of the CCAA governs cross-border insolvencies. [↑](#footnote-ref-3)
4. There is no express contemplation under the CCAA that an information officer be appointed. Counsel should in every case consider whether the appointment of an information officer is warranted having regard to, among other things, the assets of the Debtors in the jurisdiction, the extent of the Debtors’ operations in the jurisdiction, the number and amount of creditors’ claims in the jurisdiction and whether the Debtors have employees in the jurisdiction. Similarly, even if it is the Applicant’s intention to seek the appointment of an information officer, it is not always necessary or appropriate for the proposed information officer to file a preliminary report and counsel should consider the advisability of doing so bearing in mind any extraordinary relief being sought and the costs of preparation of a preliminary report. [↑](#footnote-ref-4)
5. It is presumed that the applicant will serve materials in accordance with all relevant deadlines, however, if that is not possible, counsel may consider including the following language in the Order:

   “The time for service of the Notice of Application and the Application Record is hereby abridged so that this application is properly returnable today.” [↑](#footnote-ref-5)
6. This model Order was developed in contemplation of the Foreign Proceeding being commenced in jurisdictions with insolvency frameworks similar to those in Canada. Those proceedings will typically involve court orders that the Foreign Representative will seek to have recognized and enforced in Canada. Other jurisdictions may have statutory or regulatory rights (rather than court orders) that need to be recognized in Canada. [↑](#footnote-ref-6)
7. In seeking an order recognizing and enforcing a Foreign Order, counsel should consider, among other things: (i) the limitations imposed by subsection 48(2), which provides that an order made under subsection 48(1) must be consistent with any order made under the CCAA; and (ii) the limitations imposed in section 61, which provides that the Court may apply legal or equitable rules that are not inconsistent with the CCAA, and further that the Court may refuse to do something that would be contrary to public policy. [↑](#footnote-ref-7)
8. The stay of proceedings should terminate no later than the date the stay of proceedings terminates in the Foreign Proceeding. If there is no termination date in the Foreign Proceeding, the language “such date as this Court may subsequently order” may be used. [↑](#footnote-ref-8)
9. If appropriate, counsel may seek an alternative order that permits the Foreign Representative and/or the Information Officer to consent to the stay of proceedings being lifted at the instance of a stakeholder. The same comment applies to each of paragraphs 5 and 7. [↑](#footnote-ref-9)
10. Section 11.01 of the CCAA provides that no order made under section 11 or 11.02 has the effect of (a) prohibiting a person from requiring immediate payment for good, services, etc. provided after the order is made, or (b) requiring the further advance of money or credit. It is unclear whether these provisions also apply to an order made pursuant to section 48 of the CCAA. [↑](#footnote-ref-10)
11. Counsel should consider and specifically address with the Court whether this provision is appropriate in the context of the proceedings and the Order being sought. [↑](#footnote-ref-11)
12. Although there is no specific requirement as such, Information Officers are normally trustees licensed under the *Bankruptcy and Insolvency Act*. [↑](#footnote-ref-12)
13. The duties and powers enumerated in this model Order are not exhaustive or necessarily appropriate in every case. There may be cases where the Information Officer’s role is more limited, or where the Court grants the Information Officer additional powers or duties. [↑](#footnote-ref-13)
14. This provision is optional and applies only if interim financing has been granted in the Foreign Proceeding. If separate interim financing is being sought in the recognition proceedings, or if more comprehensive interim financing provisions are required, reference should be made to the interim financing provisions of the model CCAA Initial Order. [↑](#footnote-ref-14)
15. This restriction reflects the provisions of subsection 11.2(1) of the CCAA. It is, however, uncertain whether this restriction applies in relation to the recognition of a foreign order that creates an Interim Lender's Charge securing pre-filing obligations. [↑](#footnote-ref-15)
16. The ranking of the Charges is for illustration purposes only, and while reflective of standard practice is not determinative. The relative rankings are subject to negotiations and, ultimately, the discretion of the Court. Also note that the CCAA permits the creation of other charges in favour of stakeholders, including without limitation directors and officers and critical suppliers, which, if granted, would have to be incorporated into this Order and given an appropriate relative priority. [↑](#footnote-ref-16)
17. This Model Order is not intended to be determinative of whether the Court has the jurisdiction to grant the Administration Charge and the Interim Lender’s Charge priority over the deemed trusts identified in subsection 37(2) of the CCAA. If the Petitioner seeks an order granting priority for such charges over any such deemed trusts, notice of the application should be given to the Federal and Provincial Crowns, as appropriate. If the Petitioner does not seek an order subordinating any such deemed trust to such charges, the following should be added to the end of paragraph 42: “with the exception of any deemed trust amounts provided for in subsection 37(2) of the CCAA.” [↑](#footnote-ref-17)
18. In all instances, counsel should address the manner of service with the Court, including advising as to how service was or is proposed to be effected, particularly where certain relief may only be granted upon service to appropriate parties. See, for example, CCAA subsections 11.2(1) and 11.52(1). [↑](#footnote-ref-18)
19. Counsel should consider whether the Debtors have property in any other Provinces and, if so, consider whether it is appropriate to include a reference to those Provinces and the relevant legislation of those Provinces with respect to service. [↑](#footnote-ref-19)
20. *The Crown Proceeding Act*, R.S.B.C. 1996, c. 89, s. 8 provides for service on the British Columbia Crown, as follows:

    8.A document to be served on the government

    (a) must be served on the Attorney General at the Ministry of the Attorney General in the City of Victoria, and

    (b) is sufficiently served if

    (i) left there during office hours with a solicitor on the staff of the Attorney General at Victoria, or

    (ii) mailed by registered mail to the Deputy Attorney General at Victoria.

    A similar provision relating to the Federal Crown is found at s. 23(2) of the *Crown Liability and Proceeding Act*, R.S. 1985, c. C-50, which provides for service on the Deputy Attorney General of Canada or the chief executive officer of the agency in whose name the proceedings are taken, as the case may be. The Federal Crown requests that service of documents be by delivery to Department of Justice, 900 - 840 Howe Street, Vancouver, B.C. V6Z 2S9. [↑](#footnote-ref-20)
21. The Guidelines are referenced in B.C. Supreme Court Practice Direction (PD – 6) which was put in place on July 1, 2010. [↑](#footnote-ref-21)
22. The time referenced in this Order should be the same time as the time referenced in the Recognition Order if the two Orders are made on the same date. [↑](#footnote-ref-22)