

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY AND INSOLVENCY  
(COMMERCIAL LIST)**

THE HONOURABLE MR. ) WEDNESDAY, THE 10<sup>TH</sup>  
 )  
JUSTICE CAVANAGH ) DAY OF FEBRUARY, 2021  
 )

**IN THE MATTER OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, RSC 1985, c B-3, AS AMENDED**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF ROCKSHIELD ENGINEERED WOOD PRODUCTS ULC  
OF THE CITY OF COCHRANE IN THE PROVINCE OF ONTARIO**

**ORDER  
(Extension of Time to File Proposal, Pre-Filing Payments, and Charges)**

**THIS MOTION** made by Rockshield Engineered Wood Products ULC (the “**Company**”) was heard this day by video conference due to the COVID-19 crisis.

**ON READING** the Affidavit of Tom Scott, affirmed February 8, 2021, the Supplementary Affidavit of Tom Scott, affirmed February 9, 2021, and the First Report of Dodick Landau Inc. in its capacity as proposal trustee (the “**Proposal Trustee**”), and any other person as listed on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of Shaun Parsons affirmed February 9, 2021 and February 10, 2021, filed:

## **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

## **EXTENSION OF TIME TO FILE A PROPOSAL**

2. **THIS COURT ORDERS** that pursuant to Section 50.4(9) of the BIA, the time for the Company entities to file a proposal with the Official Receiver be and is hereby extended up to and including April 24, 2021 (the “**Stay Period**”).

## **CONTINUATION OF SERVICES**

3. **THIS COURT ORDERS** that during the Stay Period, all persons having oral or written agreements with Company or statutory or regulatory mandates for the supply of goods and/or services 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 Company, provided in each case that the normal prices or charges for such goods or services received after the date of this Order are paid by the Company in accordance with normal payment practices of the Company or other practices as may be agreed upon by the supplier or service provider and each of the Company and the Proposal Trustee, or as may be ordered by this Court.

4. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Company shall be entitled, but not required, to pay with the approval of the Proposal Trustee amounts owing for goods or services actually supplied to the Company prior to February 8, 2021 if, in the

opinion of the Company, such payment is necessary to maintain the uninterrupted operations of the business.

#### **ADMINISTRATION CHARGE**

5 . **THIS COURT ORDERS** that the Proposal Trustee, counsel to the Proposal Trustee, and the Company's counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Company's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"), which charge shall not exceed an aggregate amount of \$150,000 as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraph 16 herein.

6 . **THIS COURT ORDERS** that the Proposal Trustee, counsel to Proposal Trustee and counsel to the Company shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Company as part of the costs of these proceedings. The Company is hereby authorized and directed to pay the accounts of the Proposal Trustee, counsel for the Proposal Trustee and counsel for the Company. The Proposal Trustee and its counsel shall be authorized to immediately apply any such payments made by the Company to their fees and disbursements and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

## **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

7. **THIS COURT ORDERS** that the Company shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Company after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

8. **THIS COURT ORDERS** that the directors and officers of the Company shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$370,000, as security for the indemnity provided in paragraph 7 of this Order. The Directors' Charge shall have the priority set out in paragraph 16 herein.

9. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Company' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 7 of this Order.

## **DIP FINANCING AND CHARGE**

10. **THIS COURT ORDERS** that the Company is hereby authorized and empowered to obtain and draw upon a credit facility from The Bank of Nova Scotia (the "**DIP Lender**"), and such credit facility shall not exceed \$1,500,000 unless permitted by further Order of this Court.

11. **THIS COURT ORDERS THAT** such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Company and the DIP Lender dated as of February 9, 2021 (the “**Commitment Letter**”), filed.

12. **THIS COURT ORDERS** that the Company is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the “**Definitive Documents**”), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Company is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

13. **THIS COURT ORDERS** that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the “**DIP Lender’s Charge**”) on the Property, which DIP Lender’s Charge shall not secure an obligation that exists before this Order is made. The DIP Lender’s Charge shall have the priority set out in paragraph 16 hereof.

14. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender’s Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender’s Charge, the DIP Lender, upon five (5) days notice to the Company and the

Proposal Trustee, may exercise any and all of its rights and remedies against the Company or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Company and set off and/or consolidate any amounts owing by the DIP Lender to the Company against the obligations of the Company to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Company and for the appointment of a trustee in bankruptcy of the Company; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Company or the Property.

15. **THIS COURT ORDERS AND DECLARES** that the DIP Lender shall be treated as unaffected in any Proposal filed by the Company under the BIA with respect to any advances made under the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES**

16. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Director's Charge, and the DIP Lender's Charge (together, the "**Charges**"), as among them, shall be as follows:

**First** – Administration Charge (to the maximum amount of \$150,000);

**Second-** the DIP Lender's Charge (to the maximum amount of \$1,500,000); and

**Third** – Director’s Charge (to the maximum amount of \$370,000).

17. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

18. **THIS COURT ORDERS** that the Charges shall constitute a charge on the Property and shall, subject to the priorities established in paragraph 16 herein, rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person.

19. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Company shall not grant any further Encumbrances over any Property that rank in priority to, or *pari passu* with the Charges, unless the Company also obtains the prior written consent of the Proposal Trustee, DIP Lender and, the beneficiaries of the Directors’ Charge and the Administration Charge, or further Order of this Court.

20. **THIS COURT ORDERS** that the Commitment Letter, the Definitive Documents and the DIP Lender’s Charge shall not be rendered invalid or unenforceable and the rights and remedies of the DIP Lender thereunder 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 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, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Company, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the DIP Charge nor the execution, delivery, perfection, registration or performance of the Commitment Letter or the Definitive Documents shall create or be deemed to constitute a breach by the Company of any Agreement to which it is a party;
- (b) the DIP Lender shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Company entering into the Commitment Letter, the creation of the DIP Charge, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Company pursuant to this Order, the Commitment Letter or the Definitive Documents, and the granting of DIP Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

## **GENERAL**

21. **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, to give effect to this Order and to assist the Company, the Proposal Trustee 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 Company and to the



Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Company and the Proposal Trustee and their respective agents in carrying out the terms of this Order.

22. **THIS COURT ORDERS** that any interested party (including the Company and the Proposal Trustee) may apply to this Court to vary or amend this Order on not less than seven (7) days notice 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.

23. **THIS COURT ORDERS** that notwithstanding Rule 59.05, this Order is effective from 12:01 a.m. on the date that it is made and is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or a motion for leave to appeal is brought to an appellate court. Any party may nonetheless submit a formal order for original signing, entry and filing.

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**Court File No. 31-2710553  
Estate No. 31-2710553**

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(COMMERCIAL LIST)**

*Proceedings commenced at Toronto*

**ORDER**

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