

SUPERIOR COURT
(Commercial Division)

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-11-040900-116

DATE: May 18, 2018

PRESENT: THE HONOURABLE MARIE-ANNE PAQUETTE, J.S.C.

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

KITCO METALS INC.

Debtor/Petitioner

-and-

RICHTER ADVISORY GROUP INC.

Monitor

SANCTION ORDER

CONSIDERING Kitco Metals Inc.'s (the "**Petitioner**" or "**Kitco**") *Application for the Issuance of an Order Sanctioning the Plan of Compromise and Arrangement and Other Relief* (the "**Application**"), pursuant to sections 6, 9 and 10 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), the sworn declaration and exhibits filed in support thereof, the Thirty-Fourth Report of Richter Advisory Group Inc. (the "**Monitor**") and the submissions of counsel for the Petitioner and of the Monitor;

CONSIDERING the particular circumstances of this matter as outlined in the Application;

CONSIDERING that, pursuant to previous orders of this Court, Kitco has paid all creditors having filed proven claims in these proceedings, with the exception of certain related entities, such that the Agence du Revenu du Québec ("**ARQ**") and the Canada Revenue Agency

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("CRA") remain the only creditors eligible to vote in favour of any plan of compromise and arrangement and to receive notice of same;

CONSIDERING that ARQ and CRA approve of the Plan (as defined below) and have voted in favour of same at a creditors' meeting held before this Court on April 27, 2018 (the "**Meeting**") and that no other votes were cast;

CONSIDERING the agreement reached between Kitco, Bart Kitner and ARQ on March 27, 2018 and the settlement agreement reached between Kitco and CRA on March 27, 2018 (collectively, the "**Settlement Agreements**");

CONSIDERING that ARQ and CRA have renounced to any right to appeal this Order;

GIVEN the provisions of the Initial Order issued by this Court in this matter on July 7, 2011 and of the Claims Procedure Order;

GIVEN the provisions of the CCAA;

FOR THESE REASONS, THE COURT:

[1] **GRANTS** the Application;

DEFINITIONS

[2] **ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in Kitco's Plan of Compromise and Arrangement dated April 3, 2018, filed by Kitco on April 4, 2018, a copy of which is attached hereto as **Schedule "A"** (as may be amended, restated, supplemented and/or modified in accordance with its terms, the "**Plan**");

SERVICE AND MEETING

[3] **ORDERS AND DECLARES** that there has been good and sufficient notice of the Plan and the Meeting and that the Meeting was duly called, convened, held and conducted in accordance with the CCAA;

[4] **DECLARES** valid and sufficient the service and the notices of presentation of the Application and of the Monitor's Thirty-Fourth Report filed for the purpose of this Order and **EXEMPTS** the Petitioner from service or providing any notice of presentation of the Application other than the service and notice already given;

SANCTION OF THE PLAN

[5] **ORDERS AND DECLARES** that:

- (a) the Plan has been approved by all the Affected Creditors with Proven Claims entitled to vote, namely ARQ and CRA, in conformity with the CCAA;

- (b) the Petitioner has complied with the provisions of the CCAA and all the Orders made by this Court in the context of these CCAA Proceedings in all respects;
- (c) the Court is satisfied that the Petitioner has neither done nor purported to do anything that is not authorized by the CCAA; and
- (d) the Petitioner has acted in good faith and with due diligence, and the Plan (and its implementation), is fair and reasonable, and in the best interests of the Petitioner, the Affected Creditors, the other stakeholders of the Petitioner and all other Persons subject to the Plan;

[6] **ORDERS AND DECLARES** that the Plan and its implementation, are hereby sanctioned and approved pursuant to Section 6 of the CCAA;

PLAN IMPLEMENTATION

- [7] **DECLARES** that the Petitioner and the Monitor are hereby authorized and directed to take all steps and actions, and to do all such things, as determined by the Monitor and the Petitioner, respectively, to be necessary or appropriate to implement the Plan in accordance with its terms and as contemplated thereby, and to enter into, adopt, execute, deliver, implement and consummate all of the steps, transactions and agreements, including the Settlement Agreements, which are hereby acknowledged, as required by the Monitor or the Petitioner, respectively, as contemplated by the Plan, and all such steps are hereby approved;
- [8] **ORDERS** that on the Plan Implementation Date, the directors and officers of the Petitioner shall be authorized and directed to issue, execute and deliver any and all agreements, documents, securities and instruments contemplated by the Plan, and to perform their respective obligations under such Settlement Agreements, documents, securities and instruments as may be necessary or desirable to implement and effect the Plan, and to take any further actions required in connection therewith;
- [9] **ORDERS** that the Plan and all associated steps, compromises, transactions, arrangements, releases, offsets and cancellations effected thereby are hereby approved, shall be deemed to be implemented and shall be binding and effective in accordance with the terms of the Plan or at such other time, times or manner as may be set forth in the Plan, in the sequence provided therein, and shall enure to the benefit of and be binding upon the Petitioner, the Released Parties and all Persons affected by the Plan;
- [10] **ORDERS** that from and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of the Petitioner then existing or previously committed or caused, directly or indirectly, by the Petitioner and that is not continuing, or any non-compliance then existing and that is not continuing, with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale, deed, licence, permit or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Petitioner arising directly or indirectly from the filing by the Petitioner of the CCAA Proceeding and the implementation of the Plan and any and all notices of default and demands for payment or any step or proceeding taken

or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse the Petitioner from performing its obligations under the Plan or be a waiver of defaults by the Petitioner under the Plan and the related documents;

- [11] **ORDERS** that upon fulfillment or waiver of the conditions precedent to implementation of the Plan as set out and in accordance with section 6.1 of the Plan, the Monitor shall deliver the Monitor's Certificate, substantially in the form attached as **Schedule "B"** to this Order, to the Petitioner in accordance with section 6.2 of the Plan and shall file with the Court a copy of such certificate as soon as reasonably practicable on or forthwith following the Plan Implementation Date and shall post a copy of same, once filed, on the Monitor's Website;

DISTRIBUTIONS AND CONSIDERATIONS

- [12] **ORDERS** that on the Plan Implementation Date, the Petitioner may proceed with the distributions to Kitco Logistics Inc. and Kitco Minerals and Metals Inc. in accordance with the Plan;
- [13] **CONFIRMS** that, on the Plan Implementation Date, ARQ shall keep its portion of the Retained Amount and apply said amount in full and final payment of the ARQ POC and any other Claim of ARQ;
- [14] **CONFIRMS** that, on the Plan Implementation Date, CRA shall keep its portion of the Retained Amount and apply said amount in full and final payment of the CRA POC and any other Claim of CRA;
- [15] **ORDERS AND DECLARES** that, notwithstanding:
- (a) the pendency of these proceedings and the declarations of insolvency made therein;
 - (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., c. B-3, as amended (the "**BIA**") in respect of the Petitioner and any bankruptcy order issued pursuant to any such application; and
 - (c) any assignment in bankruptcy made in respect of the Petitioner;

the transactions contemplated in the Plan and the payments or distributions and considerations made in connection with the Plan, whether before or after the Filing Date, and any action taken in connection therewith, including, without limitation, under this Order shall not be void or voidable and do not constitute nor shall they be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other challengeable transaction under the BIA, article 1631 and following of the Civil Code or any other applicable federal or provincial legislation, and the transactions contemplated in the Plan and the payments or distributions and considerations made in connection with the Plan, whether before or after the Filing Date, and any action taken in connection therewith, do not constitute conduct meriting an oppression remedy under any applicable statute and shall be binding on an interim receiver, receiver, liquidator or trustee in bankruptcy appointed in respect of the Petitioner;

RELEASES AND DISCHARGES

- [16] **ORDERS AND DECLARES** that the undertakings, compromises and releases set out in the Plan are approved and shall be binding and effective as of the Plan Implementation Date;
- [17] **ORDERS** that, without limitation to the Claims Procedure Order, any holder of a Claim that is not an Unaffected Claim or an Excluded Claim, including any Affected Creditor, who did not file a proof of claim in accordance with the provisions of the Claims Procedure Order, shall be and is hereby forever barred from making any Claim against the Petitioner and any of its successors and assigns, and shall not be entitled to any distribution under the Plan, and that such Claim is forever extinguished;
- [18] **PRECLUDES** the prosecution against the Released Parties or their successors and assigns, whether directly, derivatively or otherwise, of any claim, obligation, suit, judgment, damage, demand, debit, right, cause of action, liability or interest released, discharged or terminated pursuant to the Plan;

STAY OF PROCEEDINGS

- [19] **EXTENDS** the Stay Period (as defined in the Initial Order and as extended from time to time) to and including the Plan Implementation Date;
- [20] **ORDERS** that all orders made in the CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by, or inconsistent with, this Order, the Claims Procedure Order, or any further Order of this Court;

THE MONITOR

- [21] **ORDERS** that, effective upon the Plan Implementation Date, any and all claims against the Monitor in connection with the performance of its duties as Monitor of the Petitioner up to the Plan Implementation Date shall be and are hereby stayed, extinguished and forever barred and the Monitor shall have no liability in respect thereof except for any liability arising out of an intentional or gross fault of the Monitor, provided however that this paragraph shall not release the Monitor of its remaining duties pursuant to the Plan and this Order (the "**Remaining Duties**");
- [22] **ORDERS** that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor except with prior leave of this Court on ten (10) days notice to the Monitor and upon such terms as may be determined by the Court;
- [23] **DECLARES** that the protections afforded to the Monitor pursuant to the terms of the Initial Order and the other Orders made in the CCAA Proceedings shall not expire or terminate on the Plan Implementation Date and, subject to the terms hereof, shall remain effective and in full force and effect;
- [24] **DECLARES** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, be and is hereby authorized and empowered to the exclusion of all other Persons including the Petitioner, to perform its functions and fulfill its obligations under

the Plan, the Claims Procedure Order and this Order, to facilitate the implementation of the Plan;

- [25] **DECLARES** that the Monitor has been and shall be entitled to rely on the books and records of the Petitioner and any information provided by the Petitioner without independent investigation and shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information;
- [26] **DECLARES** that the Monitor shall incur no liability as a result of acting in accordance with the Plan and the Orders, including without limitation, this Order, other than any liability arising out of an intentional or gross fault of the Monitor;
- [27] **ORDERS** that upon the completion by the Monitor of its Remaining Duties the Monitor shall file with the Court the Monitor's Plan Completion Certificate, substantially in the form attached as **Schedule "C"** to this Order (the "**Monitor's Plan Completion Certificate**") stating that all of the Monitor's Remaining Duties have been completed and that the Monitor is unaware of any claims with respect to its performance of such Remaining Duties, and upon the filing of the Monitor's Plan Completion Certificate, Richter Advisory Group Inc. shall be deemed to be discharged from its duties as Monitor of the Petitioner in the CCAA Proceedings and released from any and all claims relating to its activities as Monitor in the CCAA Proceedings;
- [28] **ORDERS AND DECLARES** that the Petitioner, and its successors and assigns, as necessary, are authorized to take any and all actions as may be necessary or appropriate to comply with applicable tax withholding and reporting requirements. All amounts withheld on account of taxes shall be treated for all purposes as having been paid to the Affected Creditors in respect of which such withholding was made, provided such withheld amounts are remitted to the appropriate governmental authority;

GENERAL

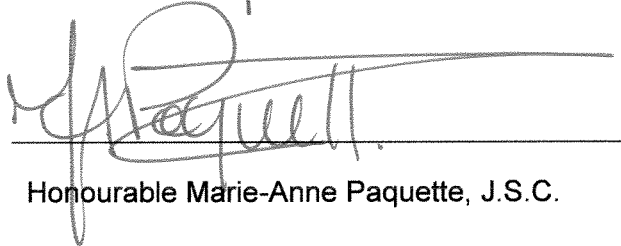
- [29] **DECLARES** that the Monitor or the Petitioner may, from time to time, apply to this Court for any advice, directions or determinations concerning the exercise of their respective powers, duties and rights hereunder or in respect of resolving any matter or dispute relating to the Plan or this Order, or to the subject matter thereof or the rights and benefits thereunder;
- [30] **DECLARES** that any other directly affected party that wishes to apply to this Court, including with respect to a dispute relating to the Plan, its implementation or its effects, must proceed by application presentable before this Court after a ten (10) day prior notice of the presentation thereof given to the Petitioner and the Monitor;
- [31] **DECLARES** that the Petitioner shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for an order recognizing the Plan and this Order and confirming the Plan and this Order are binding and effective in such jurisdiction;
- [32] **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or

administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order, including the registration of this Order in any office of public record by any such court or administrative body or by any Person affected by the Order;

- [33] **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the necessity of furnishing any security;

THE WHOLE WITHOUT COSTS.

Montreal, May 18, 2018.

A handwritten signature in dark ink, appearing to read 'M. Paquette', is written over a horizontal line. The signature is stylized with a large initial 'M' and a long horizontal stroke extending to the right.

Honourable Marie-Anne Paquette, J.S.C.

SCHEDULE "A"
PLAN OF COMPROMISE

[SEE ATTACHED]

Court File No. 500-11-040900-116

SUPERIOR COURT
(COMMERCIAL DIVISION)

SITTING AS A COURT DESIGNATED PURSUANT TO THE *COMPANIES'*
CREDITORS ARRANGEMENT ACT, R.S.C. C. C 36, AS AMENDED)

IN THE MATTER OF THE PLAN OF COMPROMISE AND ARRANGEMENT OF:

KITCO METALS INC. (MÉTAUX KITCO INC.)

PETITIONER

AND

RICHTER ADVISORY GROUP INC. (RICHTER GROUPE CONSEIL INC.)

MONITOR

PLAN OF COMPROMISE AND ARRANGEMENT

pursuant to the *Companies' Creditors Arrangement Act*
concerning, affecting and involving

KITCO METALS INC.

April 3, 2018

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Schedule "A" Draft Approval Order

**PLAN OF COMPROMISE AND ARRANGEMENT
(THE CAPITALIZED TERMS USED IN THIS DOCUMENT HAVE THE MEANING
ASCIBED THERETO IN SECTION 1.1 HEREOF)**

- A. **WHEREAS** ARQ and CRA issued a number of notices of assessment (an “**NOA**” or “**NOAs**”) to Kitco under the ETA, the AQST, the TA and the ITA in relation to all of the reporting periods for the period covered from January 1, 2006 to October 31, 2010 (the “**Reporting Period**”). Those NOAs, along with any and all other NOAs or notices of reassessment issued to Kitco by ARQ and/or CRA (i) in relation to the Reporting Period, (ii) in relation to all taxation years prior to the Filing Date, and (iii) prior to or after the Filing Date in relation to the reporting periods and taxation years prior to the Filing Date, are hereinafter collectively referred to as the “**Compromised NOAs**”;
- B. **WHEREAS** Kitco has filed notices of objection in relation to all the NOAs issued by ARQ and CRA for the Reporting Period and for all taxation years prior to the Filing Date (the “**Notices of Objection**”);
- C. **WHEREAS** ARQ conducted an audit and investigation of Kitco and Mr. Kitner in relation to Kitco’s activities over the course of the Reporting Period prior to the Filing Date (the “**Investigation**”);
- D. **WHEREAS** penal proceedings were instituted against Kitco and Mr. Kitner by way of statements of offence under section 62 of the ARMR and by way of a summons under section 327 ETA (the “**Penal Offences**”);
- E. **WHEREAS** on June 8, 2011, Kitco filed a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 (the “**BIA**”) and, on July 7, 2011, the CCAA Court issued the Initial Order in respect of Kitco;
- F. **WHEREAS** on April 20, 2012, the CCAA Court issued the Claims Procedure Order, essentially ordering that any Person that did not file a proof of claim by the claims bar date of July 20, 2012 is forever barred from advancing any Claim against Kitco based in whole or in part on facts existing prior to the Filing Date;
- G. **WHEREAS** on July 13, 2012, ARQ filed a proof of claim in the CCAA Proceedings in the amount of \$86,529,922.10 plus \$197,572,369.47 (the “**ARQ POC**”);
- H. **WHEREAS** on June 12, 2012, CRA filed a proof of claim in the CCAA Proceedings. It amended that proof of claim on September 6, 2013 and on March 14, 2018 to claim a total of \$19,049,813.68 (the “**CRA POC**”);
- I. **WHEREAS** with the approval of the CCAA Court and the consent of ARQ and CRA, Kitco has paid all Creditors having filed Proven Claims in the CCAA Proceedings, with the exception of certain related entities, such that the following remain the only outstanding proofs of claim:
- The ARQ POC;
 - The CRA POC;

- The proof claim of Kitco Logistics Inc., an entity related to Kitco, in the amount of \$89,276.52 (the “**Kitco Logistics Claim**”); and
 - The proof of claim of Kitco Minerals and Metals Inc., an entity related to Kitco, in the amount of \$371,846.28 (the “**Kitco Minerals Claim**” and, collectively with the Kitco Logistics Claim, the Related Party Claims);
- J. **WHEREAS** prior to the Filing Date, ARQ refused to distribute to Kitco \$47,051,044.47 of input tax refunds (“**ITR**”) and \$29,880,336.78 of input tax credits (“**ITC**”) totalling \$76,931,381.25 and exercised set-off against ITR and ITC claimed up to an amount of \$4,754,656.51 (including \$1,861,887.06 of ITC and \$2,892,769.45 of ITR). Consequently, an amount of \$81,686,037.76 is presently held by ARQ and CRA (the “**Retained Amount**”).
- K. **WHEREAS** Kitco instituted proceedings in damages against ARQ, CRA, AGQ, AGC, Heenan Blaikie SENCRL, SRL and the Professional Liability Insurance Fund of the Barreau du Québec in Superior Court file 500-17-072346-128 in order to claim, amongst other things, payment of the Retained Amount of \$81,686,037.76 (the “**Damages Claim**”);
- L. **WHEREAS** Kitco has reached independent agreements with ARQ and CRA in view of settling any and all disputes relating to the Compromised NOAs, the Notices of Objection, the Penal Offences, the CCAA Proceedings, the Damages Claim, the ARQ POC, the CRA POC and any and all other Claims ARQ and CRA may have, namely :
- An *Agreement* entered into between Kitco and ARQ on March 27, 2018 (the “**ARQ Settlement**”); and
 - A *Settlement Agreement* entered into between Kitco and CRA on March 27, 2018 (the “**CRA Settlement**” and, collectively with the ARQ Settlement, the “**Settlement Agreements**”);
- M. **WHEREAS** the present Plan seeks to acknowledge the Settlement Agreements, compromise Affected Claims, including the ARQ POC and the CRA POC, and provide for the payment of the Related Party Claims;

NOW THEREFORE, Kitco hereby proposes this plan of compromise and arrangement pursuant to the CCAA.

ARTICLE 1 INTERPRETATION

1.1 Defined Terms

Affected Claims	any and all Claims, other than any Unaffected Claim.
Affected Creditors	any holder of an Affected Claim.
AGC	Attorney General of Canada.
AGQ	Attorney General of Québec.

ARMR	<i>Act Respecting the Ministère du Revenu</i> , RLRQ, c. M-31.
ARQ	Agence du revenu du Québec.
ARQ POC	has the meaning ascribed thereto in the recitals.
ARQ Settlement	has the meaning ascribed thereto in the recitals.
Approval Date	the date on which the Approval Order is rendered.
Approval Order	an Order, as set out in Schedule A hereof, entered in the CCAA Proceeding, which Order shall, among other things, (i) approve, sanction and/or confirm the Plan, (ii) acknowledge the Settlement Agreements and authorize Kitco, to the extent such authorization is required, to undertake those Settlement Agreements and the transactions contemplated therein, (iv) acknowledge that ARQ and CRA are the only Creditors with a right to vote in respect of the Plan and receive notice of the Plan, and (v) acknowledge that ARQ and CRA have voted in favour of the Plan at a creditors' meeting held before the CCAA Court. .
AQST	<i>Act respecting the Québec sales taxes</i> , (CQLR, chapter T-0.1).
BIA	<i>Bankruptcy and Insolvency Act</i> , R.S.C. 1985, c. B-3.
Business Day	a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Montreal, Québec, Canada.
CCAA	<i>Companies' Creditors Arrangement Act</i> , R.S.C., 1985, c. C-36.
CCAA Court	Superior Court, Province of Quebec, as presiding over the CCAA Proceeding.
CCAA Filing Date	July 7, 2011.
CCAA Proceeding	<i>In the Matter of the Plan of Compromise or Arrangement of Kitco Metals Inc.</i> , Superior Court, Province of Quebec, No. 500-11-040900-116.
Claim or Claims	means any right of any Person against Kitco in connection with any indebtedness, liability or obligation of any kind of Kitco owed to such person and any interest accrued thereon or costs payable in respect thereof, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts existing prior

	to the Filing Date, or which would have been claims provable in bankruptcy had Kitco become bankrupt on the Filing Date, and, without limitation, shall include any Unaffected Claim but exclude any Excluded Claim as defined in the Claims Procedure Order.
Claimant	any Person holding or potentially holding any Claim (including any transferee or assignee of a Claim).
Claims Bar Date	has the meaning ascribed thereto in the Claims Procedure Order.
Claims Procedure	the procedure established for the filing of Claims in the CCAA Proceeding pursuant to the Claims Procedure Order.
Claims Procedure Order	The Corrected Order Approving a Process to Solicit Claims and for the Establishment of a Claims Bar Date rendered on April 20, 2012 in the CCAA Proceeding by the CCAA Court, establishing, among other things, a claims procedure in respect of Kitco, as such Order may be amended, restated or varied from time to time.
Compromised NOAs	has the meaning ascribed thereto in the recitals.
CRA	Canada Revenue Agency.
CRA POC	has the meaning ascribed thereto in the recitals.
CRA Settlement	has the meaning ascribed thereto in the recitals.
Creditors	collectively all Persons having Proven Claims and "Creditor" means any one of them.
Customer Deposit	means any and all funds forwarded to Kitco by its clients, deposited by Kitco in segregated accounts and held for the benefit of said clients, as appears from Kitco's customer deposit ledger.
Customer Pool	means any and all participations of Kitco's clients and managed by Kitco in any and all unallocated metal deposits of gold, silver, platinum, palladium, rhodium, or such other metals, purchased through Kitco, as appears from Kitco's customer pool ledger.
Damages Claim	has the meaning ascribed thereto in the recitals.
Effective Time	8:00 a.m. (Montreal time) on the Plan Implementation Date.
ETA	<i>Excise Tax Act</i> (R.S.C., 1985, c. E-15).
Filing Date	June 8, 2011.
Final Order	an order issued by the CCAA Court that has not been reversed, vacated, amended, modified or stayed and is no longer subject to further appeal, either because the time to appeal has expired without an appeal being filed, or because it has been affirmed by any and all courts with jurisdiction to consider any appeals

	therefrom, or because any Creditor having a right to appeal has clearly renounced to that right and has made this renunciation before the CCAA Court.
Initial Order	the order issued by the CCAA Court on July 7, 2011 pursuant to section 11.02 CCAA in respect of Kitco.
Investigation	has the meaning ascribed thereto in the recitals.
ITA	<i>Income Tax Act</i> (R.S.C., 1985, c. 1 (5 th Supp.)).
Kitco	Kitco Metals Inc.
Kitco Logistics Claim	has the meaning ascribed thereto in the recitals.
Kitco Minerals Claim	has the meaning ascribed thereto in the recitals.
Monitor	Richter Advisory Group Inc. (Richter Groupe Conseil Inc.), in its capacity as Monitor in the CCAA Proceeding.
Mr. Kitner	Bart Kitner.
NOA or NOAs	has the meaning ascribed thereto in the recitals.
Notice(s) of Objection	has the meaning ascribed thereto in the recitals.
Penal Offences	has the meaning ascribed thereto in the recitals.
Person	means and includes an individual, a natural person or persons, a group of natural persons acting as individuals, a group of natural persons acting in collegial capacity (e.g., as a committee, board of directors, etc.), a corporation, partnership, limited liability company or limited partnership, a proprietorship, joint venture, trust, legal representative, or any other unincorporated association, business organization or enterprise, any government entity and any successor in interest, heir, executor, administrator, trustee, trustee in bankruptcy, or receiver of any person or entity.
Plan	this plan of compromise and arrangement in the CCAA Proceeding.
Plan Implementation Date	the Business Day on which the Monitor has filed with the CCAA Court the certificate contemplated in Section 6.2 hereof.
Plan Termination Date	June 30, 2018.
Precious Metal in Storage	means any and all gold, silver, platinum, palladium, rhodium, or other such metals, kept in storage by Kitco on behalf of its clients, as appears from Kitco's precious metal storage ledger.
Professionals	Kitco's counsel (Gowling WLG (Canada) LLP), the Monitor and the Monitor's counsel (Woods LLP).

Proven Claim	a Claim finally determined, settled or accepted for voting and distribution purposes.
Related Party Claims	means the Kitco Logistics Claim and the Kitco Minerals Claim.
Released Parties	means Kitco and Mr. Kitner only with respect to claims described in section 5.1(1) CCAA.
Reporting Period	has the meaning ascribed thereto in the recitals.
Service List	the list of Persons who regularly receive service of proceedings and other documents filed in the CCAA Proceedings, as that list may be amended from time to time.
Settlement Agreements	means the ARQ Settlement and the CRA Settlement.
TA	<i>Taxation Act</i> , CQLR c. I-3.
Unaffected Claims	has the meaning given to that term in Section 3.3 hereof.
Website	the website maintained by the Monitor in respect of the CCAA Proceedings pursuant to the Initial Order at the following web address: https://www.richter.ca/en/Folder/Insolvency-Cases/K/Kitco-Metals .

1.2 Certain Rules of Interpretation

For the purposes of this Plan:

- (a) any reference in the Plan to an order, agreement, contract, instrument, release, exhibit or other document means such order, agreement, contract, instrument, release, exhibit or other document as it may have been or may be validly amended, modified or supplemented;
- (b) the division of the Plan into "articles" and "sections" and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of "articles" and "sections" intended as complete or accurate descriptions of the content thereof;
- (c) unless the context otherwise requires, words importing the singular shall include the plural and *vice versa*, and words importing any gender shall include all genders;
- (d) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;

- (e) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Montréal, Québec and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. (Montréal time) on such Business Day;
- (f) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (g) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and
- (h) references to a specified "article" or "section" shall, unless something in 'the subject matter or context is inconsistent therewith, be construed as references to that specified article or section of the Plan, whereas the terms "the Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to the Plan and not to any particular "article", "section" or other portion of the Plan and include any documents supplemental hereto.

1.3 Successors and Assigns

The Plan shall be binding upon and shall inure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Plan.

1.4 Governing Law

The Plan shall be governed by and construed in accordance with the laws of the Province of Québec and the federal laws of Canada applicable therein. All questions as to the interpretation or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the jurisdiction of the CCAA Court.

1.5 Schedules

The following Schedule to the Plan is incorporated by reference into the Plan and forms part of the Plan:

Schedule "A" Draft Approval Order

ARTICLE 2 PURPOSE AND EFFECT OF THE PLAN

2.1 Purpose

The purpose of the Plan is to:

- (a) acknowledge the Settlement Agreements;
- (b) effect a full, final and irrevocable compromise, release, discharge, cancellation and bar of all Affected Claims, including the ARQ POC and CRA POC, against the Released Parties;
- (c) provide for the payment of the Related Party Claims; and
- (d) effect the distributions and considerations to the Creditors as set forth in paragraph 4.1 of this Plan.

ARTICLE 3 CLASSIFICATION, VOTING AND RELATED MATTERS

3.1 Vote

The holders of the Related Party Claims shall abstain from voting such that ARQ and CRA are the only Creditors holding a right to vote in respect of this Plan and a right to receive notice of this Plan. They have both confirmed their consent to and agreement with the Plan and shall formally cast their votes in favour of the Plan by announcing same verbally to the CCCA Court and by consenting to the Approval Order at a creditors' meeting to be held before the CCAA Court on Kitco's application for the issuance of the Approval Order.

3.2 Claims Procedure

Creditors shall prove their respective claims, vote in respect of this Plan, and receive the distributions and considerations provided for under and pursuant to this Plan in accordance with the Claims Procedure Order, this Plan and the Approval Order. Any Person having a Claim that is not a Proven Claim is bound by such Orders, including that of being precluded from receiving a distribution under this Plan, and is forever barred and estopped from asserting such Claim against the Released Parties.

3.3 Unaffected Claims

Notwithstanding anything to the contrary herein, this Plan does not compromise, release, discharge, cancel, bar or otherwise affect:

- (a) the rights or claims of the Professionals for fees and disbursements incurred or to be incurred for services rendered in connection with or relating to the CCAA Proceedings, including the implementation of this Plan and of the Settlement Agreements.
- (b) Kitco's obligations under the Plan, the Settlement Agreements, and the Approval Order; and
- (c) any right of any client of Kitco in connection with any Customer Deposit, Customer Pool or Precious Metal in Storage;

All of the foregoing rights and claims set out in this Section 3.3, inclusive, are collectively referred to as the "**Unaffected Claims**" and any one of them is an "**Unaffected Claim**".

3.4 Treatment of Creditors

The Creditors shall receive the treatment provided for in this Plan on account of their Claims and, on the Plan Implementation Date, the Affected Claims will be compromised, released and otherwise extinguished against the Released Parties in accordance with the terms of this Plan.

3.5 Interest

Interest shall not accrue or be paid on any Claim from and after the Filing Date.

ARTICLE 4 DISTRIBUTIONS AND CONSIDERATIONS

4.1 Distributions and considerations to Creditors

The following Creditors having Proven Claims shall be entitled to distributions and/or considerations under this Plan as follows:

- (a) ARQ shall retain its share of the Retained Amount totalling \$49,943,813.92 and shall apply said amount in full and final payment of the ARQ POC and any other Claim of ARQ. ARQ shall be entitled to such further consideration as contemplated by the ARQ Settlement.
- (b) CRA shall retain its share of the Retained Amount totalling \$31,742,223.84 and shall apply said amount in full and final payment of the CRA POC and any other Claim of CRA. CRA shall be entitled to such further consideration as contemplated by the CRA Settlement.
- (c) Kitco Logistics Inc. shall receive 100% of its Claim, namely an amount of USD\$91,284.79, either by cheque or through the appropriate journal entries given that it is a related entity to Kitco. The amount of USD\$91,284.79 represents the original value of the Claim in USD prior to conversion to CAD\$89,276.52 pursuant to the Claims Procedure Order.
- (d) Kitco Minerals and Metals Inc. shall receive 100% of its Claim, namely an amount of \$371,846.52, either by cheque or through the appropriate journal entries given that it is a related entity to Kitco.

ARTICLE 5 RELEASES

5.1 Plan Releases

All Affected Claims shall be fully, finally, absolutely, unconditionally, completely, irrevocably and forever compromised, remised, released, discharged, cancelled and barred on the Plan Implementation Date as against the Released Parties.

5.2 Timing of Releases

All releases set forth in this Article 5 and in the ARQ Settlement shall become effective on the Plan Implementation Date at the Effective Time.

ARTICLE 6 CONDITIONS PRECEDENT AND IMPLEMENTATION

6.1 Conditions Precedent to Implementation of Plan

The implementation of this Plan shall be conditional upon the fulfillment of the following conditions before the Plan Implementation Date:

- (a) The fulfillment by the parties thereto of the undertakings and obligations set out in the ARQ Settlement, save and except for those provided for in Section 14 of the ARQ Settlement, which are to be executed over a number of years and shall thus not delay the implementation of the Plan;
- (b) The fulfillment by the parties thereto of the undertakings and obligations set out in the CRA Settlement, save and except for those provided for in Section 5 of the CRA Settlement, which are to be executed over a number of years and shall thus not delay the implementation of the Plan;
- (c) Entry of the Approval Order

The Approval Order shall have been granted by the CCAA Court and shall have become a Final Order.

- (d) Completion of Necessary Documentation

Kitco, ARQ and CRA, as applicable, shall have obtained the execution and delivery by all relevant Persons of all agreements, settlements, resolutions, indentures, releases, documents and other instruments that are necessary to be executed and delivered to implement and give effect to all material terms and provisions of this Plan and the Settlement Agreements.

6.2 Monitor's Certificate

Upon receipt of written confirmation from counsel to Kitco, ARQ and CRA of the satisfaction of the conditions set out in Section 6.1 hereof, the Monitor shall file with the CCAA Court in the CCAA Proceeding a certificate that states that all conditions precedent set out in Section 6.1 of this Plan have been satisfied and that the Plan Implementation Date has occurred.

6.3 Termination of Plan for Failure to Become Effective

If the Plan Implementation Date shall not have occurred on or before the Plan Termination Date, then, subject to further Order of the CCAA Court, this Plan shall automatically terminate and be of no further force or effect; provided that this Plan shall not automatically terminate pursuant to this section if the sole basis for the non-occurrence of the Plan Implementation Date is the pendency of any appeal or application for leave to appeal with

respect to the Approval Order.

ARTICLE 7 GENERAL

7.1 Binding Effect

On the Plan Implementation Date:

- (a) the Plan will become effective at the Effective Time;
- (b) the Plan shall be final and binding in accordance with its terms for all purposes on all Persons named or referred to in, or subject to the Plan and their respective heirs, executors, administrators and other legal representatives, successors and assigns; and
- (c) each Person named or referred to in, or subject to, the Plan will be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety and shall be deemed to have executed and delivered all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

7.2 Deeming Provisions

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

7.3 Non-Consummation

If the Approval Order is not issued or if the Plan Implementation Date does not occur before the Plan Termination Date, (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan or any Settlement Agreement, shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (i) constitute or be deemed to constitute a waiver or release of any Claims by or against the Released Parties or any other Person; or (ii) constitute an admission of any sort by the Released Parties, ARQ, CRA or any other Person.

7.4 Plan Amendment

Kitco reserves the right, at any time prior to the Plan Implementation Date, to amend, modify and/or supplement this Plan, provided that:

- (i) any amendment, modification or supplement that affects the rights of any party to or beneficiary of the Settlement Agreements may be made only with the written consent of those parties and beneficiaries, as the case may be, which can be provided at their sole discretion.
- (ii) any such amendment, modification or supplement must be contained in a written document that is filed with the CCAA Court;
- (iii) any supplementary plan or plans of compromise or arrangement filed with the CCAA Court by Kitco and, if required by this Section 7.4, approved by the CCAA Court shall, for all purposes, be and be deemed to be a part of and incorporated in this Plan.

7.5 Severability

In the event that any provision in this Plan (other than any provision herein that would materially adversely affect the rights of any of the parties to or beneficiaries of the Settlement Agreements) is held by the CCAA Court to be invalid, void or unenforceable, the CCAA Court shall, following due notice to the parties in interest and a hearing on the issue, have the power to alter and interpret such term or provision to make it valid and enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as altered and interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Approval Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

7.6 Paramountcy

- (a) From and after the Plan Implementation Date, any conflict between: (i) this Plan; and (ii) any information summary in respect of this Plan, or the covenants, warranties, representations; terms, conditions, provisions or obligations, express or implied, of any contract, mortgage, security agreement, indenture, loan agreement, commitment letter, document or agreement, written or oral, and any and all amendments and supplements thereto existing between Kitco and any Creditor, Released Party or other Person as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of this Plan and the Approval Order, which shall take precedence and priority.
- (b) Notwithstanding the foregoing, the rights and duties of the parties under each of the Settlement Agreements are set forth in and shall be governed by said Settlement Agreements. More particularly, the releases provided for in the Plan shall be in addition to and are intended to supplement any releases included in the Settlement Agreements as between the parties to such Settlement Agreements.
- (c) In the event of any inconsistency between this Plan or the Approval Order and a Settlement, the terms of said Settlement will apply with respect to the rights and obligations of the parties thereto, as between themselves.

7.7 Responsibilities of the Monitor

The Monitor is acting in its capacity as Monitor in the CCAA Proceeding, and the Monitor will not be responsible or liable for any obligations of Kitco hereunder. The Monitor will have only those powers granted to it by this Plan, by the CCAA and by any Order of the CCAA Court in the CCAA Proceedings, including the Initial Order.

7.8 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, ordinary mail or by facsimile or email addressed to the respective parties as follows:

(a) If to Kitco

Kitco Metals Inc.
C/o Gowling WLG (Canada) LLP
3700 – 1 Place Ville Marie
Montréal, Québec H3B 3P4

Attention: Me Yves Ouellette (yves.ouellette@gowlingwlg.com)
Attention : Me Alexander Bayus (alexander.bayus@gowlingwlg.com)
Fax : 514-876-9026

(b) If to the Monitor:

Richter Advisory Group
1981 McGill College Avenue, 11th Floor
Montréal, Québec H3A 0G6

Attention: Mr. Andrew Adessky (aadessky@richter.ca)
Fax: 514-934-3504

with a copy by email or fax (which shall not be deemed notice) to:

Attention: Me Sylvain Vauclair (svauclair@woods.qc.ca)
Fax: 514-284-2046

or to such other address as any party may from time to time notify the others in accordance with this section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or emailing, provided that such day in either event is a Business Day and the communication is so delivered, faxed or emailed before 5:00 p.m. (Montréal time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

7.9 Further Assurances

Kitco and any other Person named or referred to in the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein.

7.10 No Preference

Sections 38 and 95 to 101 BIA shall not apply to this Plan, save and except for the rights of set-off provided for in Section 97 BIA and 21 CCAA.

7.11 No Admission

Notwithstanding anything herein to the contrary, nothing contained in this Plan shall be deemed as an admission by the Released Parties with respect to any matter set forth herein including, without limitation, liability on any Claim.

DATED as of the 3rd day of April, 2018

SCHEDULE A

Draft Approval Order

SCHEDULE A – Draft Approval Order

Kitco Metals Inc. – Plan of Compromise and Arrangement – April 3, 2018

**SUPERIOR COURT
(Commercial Division)**

**CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

No: 500-11-040900-116

DATE:

PRESENT:

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

KITCO METALS INC.

Debtor/Petitioner

-and-

RICHTER ADVISORY GROUP INC.

Monitor

SANCTION ORDER

CONSIDERING Kitco Metals Inc.'s (the "**Petitioner**" or "**Kitco**") *Application for the Issuance of an Order Sanctioning the Plan of Compromise and Arrangement and Other Relief* (the "**Application**"), pursuant to sections 6, 9 and 10 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), the sworn declaration and exhibits filed in support thereof, the Thirty-Fourth Report of Richter Advisory Group Inc. (the "**Monitor**") and the submissions of counsel for the Petitioner and of the Monitor;

CONSIDERING the particular circumstances of this matter as outlined in the Application;

CONSIDERING that, pursuant to previous orders of this Court, Kitco has paid all creditors having filed proven claims in these proceedings, with the exception of certain related entities, such that the Agence du Revenu du Québec ("**ARQ**") and the Canada Revenue Agency

("CRA") remain the only creditors eligible to vote in favour of any plan of compromise and arrangement and to receive notice of same;

CONSIDERING that ARQ and CRA approve of the Plan (as defined below) and have voted in favour of same at a creditors' meeting held before this Court on April 27, 2018 (the "**Meeting**") and that no other votes were cast;

CONSIDERING the agreement reached between Kitco, Bart Kitner and ARQ on March 27, 2018 and the settlement agreement reached between Kitco and CRA on March 27, 2018 (collectively, the "**Settlement Agreements**");

CONSIDERING that ARQ and CRA have renounced to any right to appeal this Order;

GIVEN the provisions of the Initial Order issued by this Court in this matter on July 7, 2011 and of the Claims Procedure Order;

GIVEN the provisions of the CCAA;

FOR THESE REASONS, THE COURT:

[1] **GRANTS** the Application;

DEFINITIONS

[2] **ORDERS** that capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in Kitco's Plan of Compromise and Arrangement dated April 3, 2018, filed by Kitco on ●, a copy of which is attached hereto as **Schedule "A"** (as may be amended, restated, supplemented and/or modified in accordance with its terms, the "**Plan**");

SERVICE AND MEETING

[3] **ORDERS AND DECLARES** that there has been good and sufficient notice of the Plan and the Meeting and that the Meeting was duly called, convened, held and conducted in accordance with the CCAA;

[4] **DECLARES** valid and sufficient the service and the notices of presentation of the Application and of the Monitor's Thirty-Fourth Report filed for the purpose of this Order and **EXEMPTS** the Petitioner from service or providing any notice of presentation of the Application other than the service and notice already given;

SANCTION OF THE PLAN

[5] **ORDERS AND DECLARES** that:

- (a) the Plan has been approved by all the Affected Creditors with Proven Claims entitled to vote, namely ARQ and CRA, in conformity with the CCAA;

- (b) the Petitioner has complied with the provisions of the CCAA and all the Orders made by this Court in the context of these CCAA Proceedings in all respects;
- (c) the Court is satisfied that the Petitioner has neither done nor purported to do anything that is not authorized by the CCAA; and
- (d) the Petitioner has acted in good faith and with due diligence, and the Plan (and its implementation), is fair and reasonable, and in the best interests of the Petitioner, the Affected Creditors, the other stakeholders of the Petitioner and all other Persons subject to the Plan;

[6] **ORDERS AND DECLARES** that the Plan and its implementation, are hereby sanctioned and approved pursuant to Section 6 of the CCAA;

PLAN IMPLEMENTATION

[7] **DECLARES** that the Petitioner and the Monitor are hereby authorized and directed to take all steps and actions, and to do all such things, as determined by the Monitor and the Petitioner, respectively, to be necessary or appropriate to implement the Plan in accordance with its terms and as contemplated thereby, and to enter into, adopt, execute, deliver, implement and consummate all of the steps, transactions and agreements, including the Settlement Agreements, which are hereby acknowledged, as required by the Monitor or the Petitioner, respectively, as contemplated by the Plan, and all such steps are hereby approved;

[8] **ORDERS** that on the Plan Implementation Date, the directors and officers of the Petitioner shall be authorized and directed to issue, execute and deliver any and all agreements, documents, securities and instruments contemplated by the Plan, and to perform their respective obligations under such Settlement Agreements, documents, securities and instruments as may be necessary or desirable to implement and effect the Plan, and to take any further actions required in connection therewith;

[9] **ORDERS** that the Plan and all associated steps, compromises, transactions, arrangements, releases, offsets and cancellations effected thereby are hereby approved, shall be deemed to be implemented and shall be binding and effective in accordance with the terms of the Plan or at such other time, times or manner as may be set forth in the Plan, in the sequence provided therein, and shall enure to the benefit of and be binding upon the Petitioner, the Released Parties and all Persons affected by the Plan;

[10] **ORDERS** that from and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of the Petitioner then existing or previously committed or caused, directly or indirectly, by the Petitioner and that is not continuing, or any non-compliance then existing and that is not continuing, with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract, instrument, credit document, lease, guarantee, agreement for sale, deed, licence, permit or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and the Petitioner arising directly or indirectly from the filing by the Petitioner of the CCAA Proceeding and the implementation of the Plan and any and all notices of default and demands for payment or any step or proceeding taken

or commenced in connection therewith under any such agreement shall be deemed to have been rescinded and of no further force or effect, provided that nothing shall be deemed to excuse the Petitioner from performing its obligations under the Plan or be a waiver of defaults by the Petitioner under the Plan and the related documents;

- [11] **ORDERS** that upon fulfillment or waiver of the conditions precedent to implementation of the Plan as set out and in accordance with section 6.1 of the Plan, the Monitor shall deliver the Monitor's Certificate, substantially in the form attached as **Schedule "B"** to this Order, to the Petitioner in accordance with section 6.2 of the Plan and shall file with the Court a copy of such certificate as soon as reasonably practicable on or forthwith following the Plan Implementation Date and shall post a copy of same, once filed, on the Monitor's Website;

DISTRIBUTIONS AND CONSIDERATIONS

- [12] **ORDERS** that on the Plan Implementation Date, the Petitioner may proceed with the distributions to Kitco Logistics Inc. and Kitco Minerals and Metals Inc. in accordance with the Plan;
- [13] **CONFIRMS** that, on the Plan Implementation Date, ARQ shall keep its portion of the Retained Amount and apply said amount in full and final payment of the ARQ POC and any other Claim of ARQ;
- [14] **CONFIRMS** that, on the Plan Implementation Date, CRA shall keep its portion of the Retained Amount and apply said amount in full and final payment of the CRA POC and any other Claim of CRA;
- [15] **ORDERS AND DECLARES** that, notwithstanding:
- (a) the pendency of these proceedings and the declarations of insolvency made therein;
 - (b) any application for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C., c. B-3, as amended (the "**BIA**") in respect of the Petitioner and any bankruptcy order issued pursuant to any such application; and
 - (c) any assignment in bankruptcy made in respect of the Petitioner;

the transactions contemplated in the Plan and the payments or distributions and considerations made in connection with the Plan, whether before or after the Filing Date, and any action taken in connection therewith, including, without limitation, under this Order shall not be void or voidable and do not constitute nor shall they be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other challengeable transaction under the BIA, article 1631 and following of the Civil Code or any other applicable federal or provincial legislation, and the transactions contemplated in the Plan and the payments or distributions and considerations made in connection with the Plan, whether before or after the Filing Date, and any action taken in connection therewith, do not constitute conduct meriting an oppression remedy under any applicable statute and shall be binding on an interim receiver, receiver, liquidator or trustee in bankruptcy appointed in respect of the Petitioner;

RELEASES AND DISCHARGES

- [16] **ORDERS AND DECLARES** that the undertakings, compromises and releases set out in the Plan are approved and shall be binding and effective as of the Plan Implementation Date;
- [17] **ORDERS** that, without limitation to the Claims Procedure Order, any holder of a Claim that is not an Unaffected Claim or an Excluded Claim, including any Affected Creditor, who did not file a proof of claim in accordance with the provisions of the Claims Procedure Order, shall be and is hereby forever barred from making any Claim against the Petitioner and any of its successors and assigns, and shall not be entitled to any distribution under the Plan, and that such Claim is forever extinguished;
- [18] **PRECLUDES** the prosecution against the Released Parties or their successors and assigns, whether directly, derivatively or otherwise, of any claim, obligation, suit, judgment, damage, demand, debit, right, cause of action, liability or interest released, discharged or terminated pursuant to the Plan;

STAY OF PROCEEDINGS

- [19] **EXTENDS** the Stay Period (as defined in the Initial Order and as extended from time to time) to and including the Plan Implementation Date;
- [20] **ORDERS** that all orders made in the CCAA Proceedings shall continue in full force and effect in accordance with their respective terms, except to the extent that such Orders are varied by, or inconsistent with, this Order, the Claims Procedure Order, or any further Order of this Court;

THE MONITOR

- [21] **ORDERS** that, effective upon the Plan Implementation Date, any and all claims against the Monitor in connection with the performance of its duties as Monitor of the Petitioner up to the Plan Implementation Date shall be and are hereby stayed, extinguished and forever barred and the Monitor shall have no liability in respect thereof except for any liability arising out of an intentional or gross fault of the Monitor, provided however that this paragraph shall not release the Monitor of its remaining duties pursuant to the Plan and this Order (the "**Remaining Duties**");
- [22] **ORDERS** that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor except with prior leave of this Court on ten (10) days notice to the Monitor and upon such terms as may be determined by the Court;
- [23] **DECLARES** that the protections afforded to the Monitor pursuant to the terms of the Initial Order and the other Orders made in the CCAA Proceedings shall not expire or terminate on the Plan Implementation Date and, subject to the terms hereof, shall remain effective and in full force and effect;
- [24] **DECLARES** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, be and is hereby authorized and empowered to the exclusion of all other Persons including the Petitioner, to perform its functions and fulfill its obligations under

the Plan, the Claims Procedure Order and this Order, to facilitate the implementation of the Plan;

- [25] **DECLARES** that the Monitor has been and shall be entitled to rely on the books and records of the Petitioner and any information provided by the Petitioner without independent investigation and shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information;
- [26] **DECLARES** that the Monitor shall incur no liability as a result of acting in accordance with the Plan and the Orders, including without limitation, this Order, other than any liability arising out of an intentional or gross fault of the Monitor;
- [27] **ORDERS** that upon the completion by the Monitor of its Remaining Duties the Monitor shall file with the Court the Monitor's Plan Completion Certificate, substantially in the form attached as **Schedule "C"** to this Order (the "**Monitor's Plan Completion Certificate**") stating that all of the Monitor's Remaining Duties have been completed and that the Monitor is unaware of any claims with respect to its performance of such Remaining Duties, and upon the filing of the Monitor's Plan Completion Certificate, Richter Advisory Group Inc. shall be deemed to be discharged from its duties as Monitor of the Petitioner in the CCAA Proceedings and released from any and all claims relating to its activities as Monitor in the CCAA Proceedings;
- [28] **ORDERS AND DECLARES** that the Petitioner, and its successors and assigns, as necessary, are authorized to take any and all actions as may be necessary or appropriate to comply with applicable tax withholding and reporting requirements. All amounts withheld on account of taxes shall be treated for all purposes as having been paid to the Affected Creditors in respect of which such withholding was made, provided such withheld amounts are remitted to the appropriate governmental authority;

GENERAL

- [29] **DECLARES** that the Monitor or the Petitioner may, from time to time, apply to this Court for any advice, directions or determinations concerning the exercise of their respective powers, duties and rights hereunder or in respect of resolving any matter or dispute relating to the Plan or this Order, or to the subject matter thereof or the rights and benefits thereunder;
- [30] **DECLARES** that any other directly affected party that wishes to apply to this Court, including with respect to a dispute relating to the Plan, its implementation or its effects, must proceed by application presentable before this Court after a ten (10) day prior notice of the presentation thereof given to the Petitioner and the Monitor;
- [31] **DECLARES** that the Petitioner shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any other court or administrative body, whether in Canada, the United States of America or elsewhere, for an order recognizing the Plan and this Order and confirming the Plan and this Order are binding and effective in such jurisdiction;
- [32] **REQUESTS** the aid and recognition of any Court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or

administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of the Order, including the registration of this Order in any office of public record by any such court or administrative body or by any Person affected by the Order;

- [33] **ORDERS** the provisional execution of this Order notwithstanding any appeal and without the necessity of furnishing any security;

THE WHOLE WITHOUT COSTS.

Montreal, _____

Honourable Marie-Anne Paquette, J.S.C.

SCHEDULE "A"
PLAN OF COMPROMISE

[SEE ATTACHED]

SCHEDULE "B"
MONITOR'S PLAN IMPLEMENTATION DATE CERTIFICATE

CANADA

SUPERIOR COURT
 COMMERCIAL DIVISION

PROVINCE OF QUEBEC
 DISTRICT OF MONTREAL

N°: 500-11-040900-116

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

KITCO METALS INC.

Petitioner/Debtor

and

RICHTER ADVISORY GROUP INC.

Monitor

CERTIFICATE OF THE MONITOR OF KITCO METALS INC. (Plan Implementation)

All capitalized terms not otherwise defined herein have the meanings ascribed thereto in the Plan of Compromise and Arrangement of Kitco Metals Inc. pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, dated April 3, 2018 (as may be amended, restated, supplemented and/or modified in accordance with its terms, the "**Plan**").

Pursuant to section 6.2 of the Plan, Richter Advisory Group Inc. (the "**Monitor**"), in its capacity as the Court-appointed Monitor of Kitco Metals Inc., hereby certifies that it has been advised by Kitco Metals Inc., ARQ and CRA that all of the conditions precedent to implementation of the Plan as set out in section 6.1 of the Plan have been satisfied or waived. Pursuant to the Plan, the Plan Implementation Date has occurred on this day. This Certificate will be filed with the CCAA Proceedings and posted on the Monitor's Website.

DATED at the City of Montréal, in the Province of Québec, this ____ day of _____, 2018.

Richter Advisory Group Inc., in its capacity as
the Court-appointed Monitor of Kitco Metals Inc.

Per:

Name:

Title:

SCHEDULE "C"
MONITOR'S PLAN COMPLETION CERTIFICATE

CANADA

SUPERIOR COURT
COMMERCIAL DIVISION

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N°: 500-11-040900-116

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

KITCO METALS INC.

Petitioner/Debtor

and

RICHTER ADVISORY GROUP INC.

Monitor

**CERTIFICATE OF THE MONITOR
(Plan Completion)**

RECITALS:

- A. Pursuant to an Order of the Honourable Mark Schrager of the Québec Superior Court (Commercial Division) (the "**Court**") dated July 8, 2011, Richter Advisory Group Inc. was appointed as the Monitor (the "**Monitor**") of Kitco Metals Inc..
- B. Pursuant to an Order of the Honourable Marie-Anne Paquette of the Court dated April, ●, 2018 (the "**Sanction Order**"), the Court sanctioned and approved the Plan of Compromise and Arrangement of Kitco Metals Inc. pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, dated April 3, 2018 (as may be amended, restated, supplemented and/or modified in accordance with its terms, the "**Plan**").
- C. Pursuant to the Sanction Order, the Court ordered that upon the completion by the Monitor of its Remaining Duties, the Monitor shall file with the Court a certificate stating that all of the Remaining Duties have been completed and that the Monitor is unaware of any claims with respect to its performance of such Remaining Duties, and upon the filing of such certificate, Richter Advisory Group Inc. shall be deemed to be discharged from

its duties as Monitor of Kitco Metals Inc. in the CCAA Proceedings and released from any and all claims relating to its activities as Monitor in the CCAA Proceedings.

- D. All capitalized terms not otherwise defined herein shall have the meaning set out in the Sanction Order.

Pursuant to paragraph 27 of the Sanction Order, Richter Advisory Group Inc. in its capacity as Court-appointed Monitor of Kitco Metals Inc. (the "**Monitor**") hereby certifies that the Monitor has completed its Remaining Duties and that the Monitor is unaware of any claims with respect to its performance of such Remaining Duties.

DATED at the City of Montréal, in the Province of Québec, this ____ day of _____, ●.

Richter Advisory Group Inc., in its capacity as
the Court-appointed Monitor of Kitco Metals Inc.

Per:

Name:

Title:

SCHEDULE "B"

MONITOR'S PLAN IMPLEMENTATION DATE CERTIFICATE

CANADA

SUPERIOR COURT
COMMERCIAL DIVISIONPROVINCE OF QUEBEC
DISTRICT OF MONTREAL

N°: 500-11-040900-116

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

KITCO METALS INC.

Petitioner/Debtor

and

RICHTER ADVISORY GROUP INC.

Monitor

CERTIFICATE OF THE MONITOR OF KITCO METALS INC. (Plan Implementation)

All capitalized terms not otherwise defined herein have the meanings ascribed thereto in the Plan of Compromise and Arrangement of Kitco Metals Inc. pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, dated April 3, 2018 (as may be amended, restated, supplemented and/or modified in accordance with its terms, the "**Plan**").

Pursuant to section 6.2 of the Plan, Richter Advisory Group Inc. (the "**Monitor**"), in its capacity as the Court-appointed Monitor of Kitco Metals Inc., hereby certifies that it has been advised by Kitco Metals Inc., ARQ and CRA that all of the conditions precedent to implementation of the Plan as set out in section 6.1 of the Plan have been satisfied or waived. Pursuant to the Plan, the Plan Implementation Date has occurred on this day. This Certificate will be filed with the CCAA Proceedings and posted on the Monitor's Website.

DATED at the City of Montréal, in the Province of Québec, this ____ day of _____, 2018.

Richter Advisory Group Inc., in its capacity as
the Court-appointed Monitor of Kitco Metals Inc.

Per:

Name:

Title:

SCHEDULE "C"
MONITOR'S PLAN COMPLETION CERTIFICATE

CANADA

SUPERIOR COURT
COMMERCIAL DIVISION

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

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

N°: 500-11-040900-116

KITCO METALS INC.

Petitioner/Debtor

and

RICHTER ADVISORY GROUP INC.

Monitor

**CERTIFICATE OF THE MONITOR
(Plan Completion)**

RECITALS:

- A. Pursuant to an Order of the Honourable Mark Schrager of the Québec Superior Court (Commercial Division) (the "**Court**") dated July 8, 2011, Richter Advisory Group Inc. was appointed as the Monitor (the "**Monitor**") of Kitco Metals Inc..
- B. Pursuant to an Order of the Honourable Marie-Anne Paquette of the Court dated April, ●, 2018 (the "**Sanction Order**"), the Court sanctioned and approved the Plan of Compromise and Arrangement of Kitco Metals Inc. pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, dated April 3, 2018 (as may be amended, restated, supplemented and/or modified in accordance with its terms, the "**Plan**").
- C. Pursuant to the Sanction Order, the Court ordered that upon the completion by the Monitor of its Remaining Duties, the Monitor shall file with the Court a certificate stating that all of the Remaining Duties have been completed and that the Monitor is unaware of any claims with respect to its performance of such Remaining Duties, and upon the filing of such certificate, Richter Advisory Group Inc. shall be deemed to be discharged from

its duties as Monitor of Kitco Metals Inc. in the CCAA Proceedings and released from any and all claims relating to its activities as Monitor in the CCAA Proceedings.

- D. All capitalized terms not otherwise defined herein shall have the meaning set out in the Sanction Order.

Pursuant to paragraph 27 of the Sanction Order, Richter Advisory Group Inc. in its capacity as Court-appointed Monitor of Kitco Metals Inc. (the "**Monitor**") hereby certifies that the Monitor has completed its Remaining Duties and that the Monitor is unaware of any claims with respect to its performance of such Remaining Duties.

DATED at the City of Montréal, in the Province of Québec, this ____ day of _____, ●.

Richter Advisory Group Inc., in its capacity as
the Court-appointed Monitor of Kitco Metals Inc.

Per:

Name:

Title: