

CANADA  
PROVINCE OF QUEBEC  
DISTRICT OF MONTREAL  
No.: 500-11-040900-116

**SUPERIOR COURT**  
**(Commercial Division)**  
***The Companies' Creditors Arrangement Act***

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**IN THE MATTER OF THE PLAN OF  
ARRANGEMENT WITH RESPECT TO:**

**KITCO METALS INC.**, a legal person duly  
incorporated under the laws of Canada, having its  
principal place of business at 620 Cathcart, 9<sup>th</sup>  
Floor, suite 900, Montreal, Quebec, H3B 1M1

**Petitioner**

-and-

**RICHTER ADVISORY GROUP INC. (formerly  
RSM RICHTER INC.)**, a duly incorporated legal  
person having its principal place of business at  
1981 McGill College, 12<sup>th</sup> Floor, in the city and  
district of Montreal, Quebec, H3A 0G6

**Monitor**

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**TWENTY SIXTH REPORT OF THE MONITOR  
ON THE STATE OF PETITIONER'S FINANCIAL AFFAIRS  
October 30, 2015**

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**INTRODUCTION**

1. On June 8, 2011, Kitco Metals Inc. (the "Petitioner" or "Kitco") filed a Notice of Intention to Make a Proposal and Richter Advisory Group Inc. (formerly known as RSM Richter Inc. ("Richter")) was named Trustee. Pursuant to a motion filed by Kitco and the resulting Order issued on June 10, 2011 ("Order") by the Honourable Martin Castonguay, J.S.C., Richter was further appointed Interim Receiver to Kitco.
2. On July 5, 2011, Kitco filed a Motion for the Issuance of an Initial Order pursuant to Section 11 of the Companies' Creditors Arrangement Act, R.S.C. 1985, C-36, as amended (the "CCAA"). On July 6, 2011, the Honourable Mark Schrager, J.S.C. issued an initial order (the "Initial Order"),

which inter alia appointed Richter as Monitor (the “Monitor”) with certain duties including duties similar to those that were originally provided for in the Interim Receiver Order.

3. The Stay Period was extended by the Court nine (9) times with the most recent extension to May 31, 2016 having been granted by the Court on June 18, 2015.
4. We refer to the Monitor’s prior reports for an overview of the CCAA proceedings and a summary of all motions issued and orders granted to date.
5. On June 16, 2015, the Monitor filed its Twenty Fifth Report providing an update to the Court and creditors with respect to the operations of the Petitioner and the activities of the Monitor for the period ended April 30, 2015.
6. Capitalized terms not defined in this Report have the meaning ascribed thereto in the Monitor’s previous reports and all amounts reflected in this report are stated in Canadian currency unless otherwise noted.
7. The purpose of this Twenty Sixth Report of the Monitor is to inform the Court of the following:
  - Financial Position (for the period from May 1, 2015 to August 31, 2015 (“Period”));
  - Update Regarding the Altitude Real Estate Transactions;
  - Movement in Customer Inventory Pool;
  - Customer Deposits;
  - Transactions Carried out by the Scrap Gold Purchasing Department;
  - Canadian Allocated Storage (“CAS”) Program;
  - Procedural Developments with Respect to the Contestation by the Petitioner of the Notices of Assessment Issued by the ARQ;
  - Penal Charges Filed against the Petitioner and Mr. Bart Kitner by the ARQ;
  - Activities of the Monitor.
8. The Monitor informs the Court that Richter has not conducted an audit or investigation of the information it was provided by the Petitioner and that accordingly, no opinion is expressed regarding the accuracy, reliability or completeness of the information contained within this Report. The information contained herein is based on a review of unaudited financial information provided to the Monitor by the Petitioner’s management as well as discussions with the Petitioner’s management and employees.

## FINANCIAL POSITION

9. In conjunction with the filing of the Twenty Fifth Report of the Monitor on June 16, 2015, the Petitioner submitted monthly cash flow projections covering the period from May 1, 2015 to June 30, 2016 (the "Projections"), a copy of which is attached as Exhibit "2" to the Twenty Fifth Report of the Monitor on the State of the Petitioner's Financial Affairs.
10. As of August 31, 2015, the Petitioner's cash balances amounted to \$14.0 million as compared to the projected balance of \$11.6 million. The \$2.4 million positive variance is explained by the Petitioner as follows:
  - \$1.8 million favorable variance in net results from operations as follows:
    - \$1.0 million relating to higher than budgeted net results from operations primarily due to higher than budgeted revenues. Management attributes the increase of sales to general market conditions;
    - \$0.8 million due to working capital fluctuations (primarily an increase in accounts payable) which management describes as temporary in nature and which reversed in September 2015.
  - \$0.6 million favorable variance on disbursements due to lower than budgeted costs and ongoing efforts to control expenditures;
  - We note that the \$14.0 million ending cash balances does not include a provision for an amount of \$0.7 million in respect of accrued welcome taxes on the Altitude residential condos. Kitco continues to await the receipt of a bill from the City of Montreal in respect of the purchase of these condos.
11. Since the filing of the CCAA, the Petitioner is paying its suppliers based on negotiated terms or upon receipt of invoices. The Petitioner advises that since the filing, it has not incurred significant liabilities which are not being paid in the normal course of its business.

For additional details, the Monitor refers you to Exhibit "1" attached hereto, entitled Reported vs. Projected Cash Flow for the Period.

## UPDATE REGARDING THE ALTITUDE REAL ESTATE TRANSACTIONS

12. As noted in our Twenty Third Report, on December 12, 2014, Kitco engaged Royal Lepage Heritage (“Royal”) and Jones Lang Lasalle (“JLL”) to continue to market the commercial space.
13. Pursuant to the agreement with Royal and JLL, a commission of 5% will be paid on the sale of the commercial space. The initial mandate to Royal and JLL expired on June 30, 2015, however Kitco extended the mandate for another year.
14. Despite ongoing marketing efforts, there are no active negotiations in process to sell any or all of the commercial space.
15. The Petitioner advises that it is in compliance with all the terms of its mortgage in respect of the commercial space.

## MOVEMENT IN CUSTOMER INVENTORY POOL

16. The position of the customer inventory pool is summarized below:

<b>Kitco Metals Inc. Customer Inventory Pool Variation</b>						
	June 8, 2011		April 30, 2015		August 31, 2015	
	<b>Ounces</b>	<b>Value</b>	<b>Ounces</b>	<b>Value</b>	<b>Ounces</b>	<b>Value</b>
	(in thousands)	(in \$ millions)	(in thousands)	(in \$ millions)	(in thousands)	(in \$ millions)
Gold	96	\$ 145.9	89	\$ 128.2	87	\$ 133.0
Silver	4 848	176.8	4 763	94.0	4 666	\$ 92.0
Platinum	6	11.7	7	10.4	8	\$ 10.0
Palladium	23	18.7	9	8.2	9	\$ 7.0
Rhodium	6	13.5	9	12.5	9	10.0
<b>Total</b>	<b>4 979</b>	<b>\$ 366.6</b>	<b>4 877</b>	<b>\$ 253.3</b>	<b>4 779</b>	<b>\$ 252.0</b>

17. Gold and silver pool positions decreased slightly from the positions reported as of April 30, 2015. Notwithstanding, the value of the gold inventory pool increased due to the increase in gold prices over the Period (from \$1,444 per ounce to \$1,518 per ounce).
18. Exhibit “2” attached hereto is a summary of the movement in all metals on a quarterly basis since the commencement of the restructuring.

## **CUSTOMER DEPOSITS**

19. Customer deposits which represent cash balances held by Kitco in segregated bank accounts on behalf of its customers, amount to \$49.5 million (vs. \$46.2 million as of April 30, 2015). As per the attached chart (Exhibit "3"), since the commencement of the restructuring proceedings, customer deposits have ranged from approximately \$43 million to \$78 million with an average monthly balance of \$51 million. Management believes that the current customer deposit balance is correlated with general market conditions and the overall activity levels of the Company.

## **TRANSACTIONS CARRIED OUT BY THE SCRAP GOLD PURCHASING DEPARTMENT**

20. The Monitor refers to Exhibit "4" attached hereto for a summary of the operations of the Petitioner's scrap metal department since it filed for protection on June 8, 2011. The Monitor notes that the value of scrap metal as of August 31, 2015 (as reflected in Exhibit "4") is based on spot pricing at that date. Kitco does not value its scrap metal position on a daily basis but rather only tracks the daily volume movements.
21. In respect of the more material scrap metal positions, the Monitor comments as follows:
- a) Gold:
- From May 1, 2015 to August 31, 2015, Kitco purchased approximately 3,800 ounces of scrap gold and shipped approximately 4,400 ounces for processing, resulting in a balance of scrap gold of approximately 1,400 ounces as of August 31, 2015;
  - Since the commencement of the restructuring, scrap gold purchases have totaled approximately 8,400 transactions with an average of approximately 5 ounces per transaction. As explained in our prior reports, according to management, this volume is significantly below its normal level of scrap gold purchases and is due to Kitco's inability to recover its input tax credits which are being withheld by ARQ.
- b) Silver:
- From May 1, 2015 to August 31, 2015, Kitco purchased approximately 17,500 ounces of scrap silver, sold approximately 2,800 ounces and shipped approximately 14,700 ounces for refining, predominantly to the Royal Canadian Mint ("RCM"), resulting in a August 31, 2015 balance of scrap silver of approximately 25,000 ounces;

- Since the commencement of the restructuring, scrap silver purchases have totaled approximately 5,000 transactions with an average of 71 ounces per transaction. As explained in our prior reports, according to management, this volume is significantly below its normal level of scrap gold purchases and is due to Kitco's inability to recover its input tax credits which are being withheld by ARQ.

## **CANADIAN ALLOCATED STORAGE ("CAS") PROGRAM**

22. As reflected in previous reports, Kitco's CAS program allows customers to store purchased physical metals on a segregated and allocated basis at a facility under the control of Kitco in Montreal, Quebec or at a third party storage facility (Garda). In terms of overall CAS positions held on behalf of its customers as at August 31, 2015, Kitco maintained approximately 9,900 ounces of gold for a reported value of \$15 million (vs. ~10,300 ounces as of April 30, 2015) and approximately 836,000 ounces of silver for a reported value of \$16.4 million (vs. ~678,500 ounces as of April 30, 2015).
23. Exhibit "5" attached hereto is a summary of the movement in the gold and silver CAS on a quarterly basis.

## **PROCEDURAL DEVELOPMENTS WITH RESPECT TO THE CONTESTATION BY THE PETITIONER OF THE NOTICES OF ASSESSMENT ISSUED BY THE ARQ**

24. The Monitor encloses herewith as Exhibit "6" a further update letter from Petitioner's tax counsel dated October 30, 2015 which summarizes current development

## **PENAL CHARGES FILED AGAINST THE PETITIONER AND MR. BART KITNER BY THE ARQ**

25. The Monitor encloses herewith as Exhibit "6" a further update letter from Petitioner's tax counsel dated October 30, 2015 which summarizes current development.

## **ACTIVITIES OF THE MONITOR**

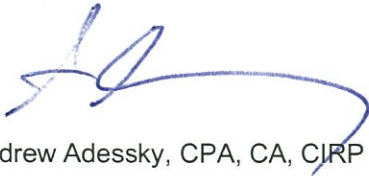
26. The Monitor's activities have included the following:
  - The Monitor has been at the premises of the Company as required to carry out its duties including the requirement to monitor i) the Petitioner's cash flow, ii) the position of the precious metals and participations in pool accounts, iii) position of segregated accounts and storage accounts and iv) transactions carried out by the scrap gold or metal purchasing department. As well, the Monitor has had meetings and conference calls with the Petitioner's management and

legal counsel with a view to keeping all parties apprised of material developments and to seek input with respect to the restructuring process;

- The Monitor continues to respond to queries from suppliers, customers or other unsecured creditors as they occur;
- The Monitor has communicated with Petitioner's counsel to follow the status of developments relating to the notices of assessment and penal charges;
- The Monitor reviewed the Petitioner's financial affairs and results;
- The Monitor reviewed the Petitioner's projections for the Budget Period;
- The Monitor has prepared and filed this Report;
- Other administrative and statutory matters relating to the Monitor's appointment.

Respectfully submitted at Montreal, this 30<sup>th</sup> day of October 2015

**Richter Advisory Group Inc.**  
**(formerly RSM Richter Inc.)**  
Monitor



Andrew Adessky, CPA, CA, CIRP

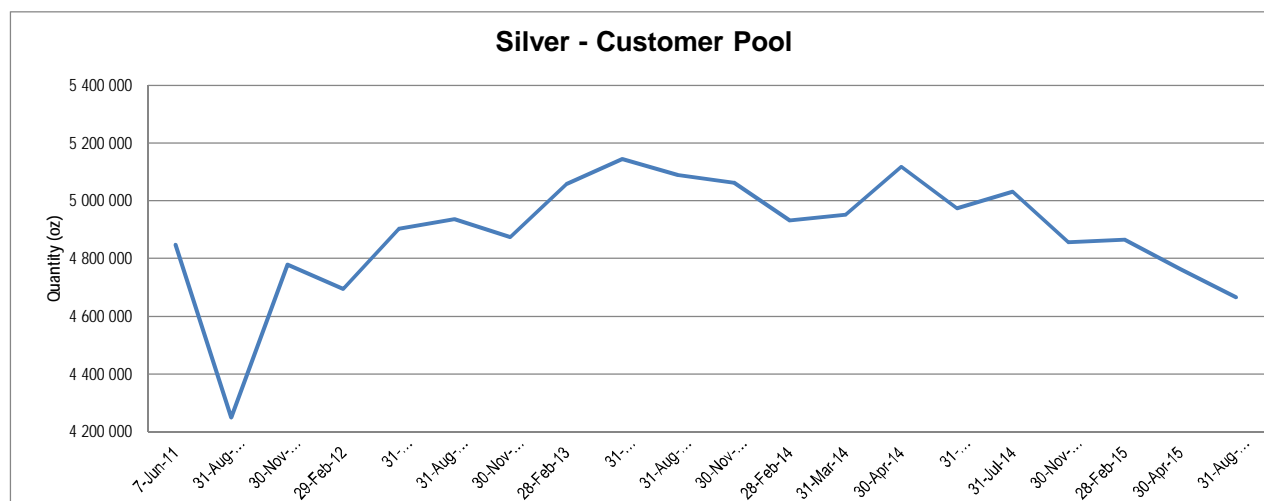
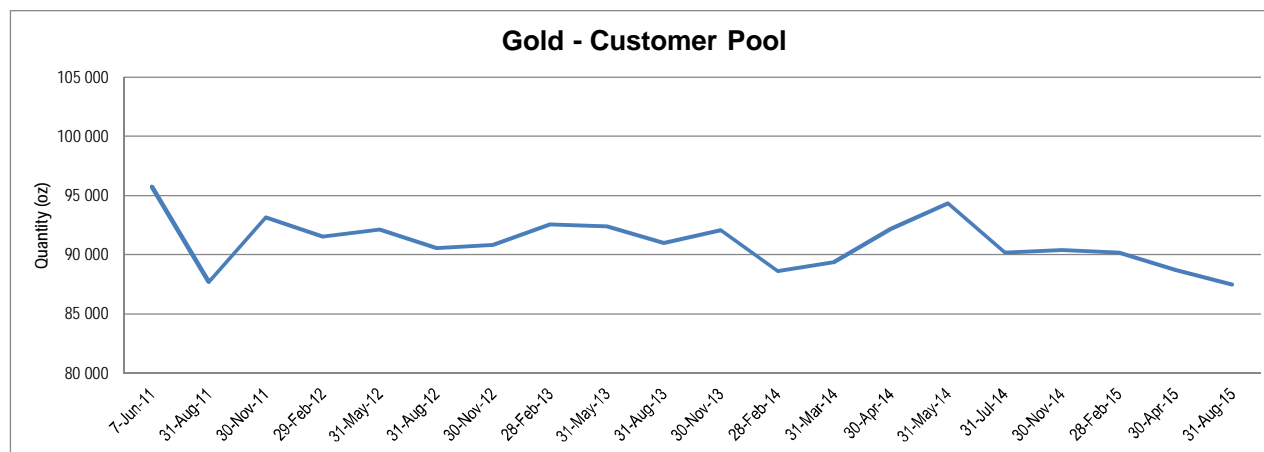
# **Exhibit 1**

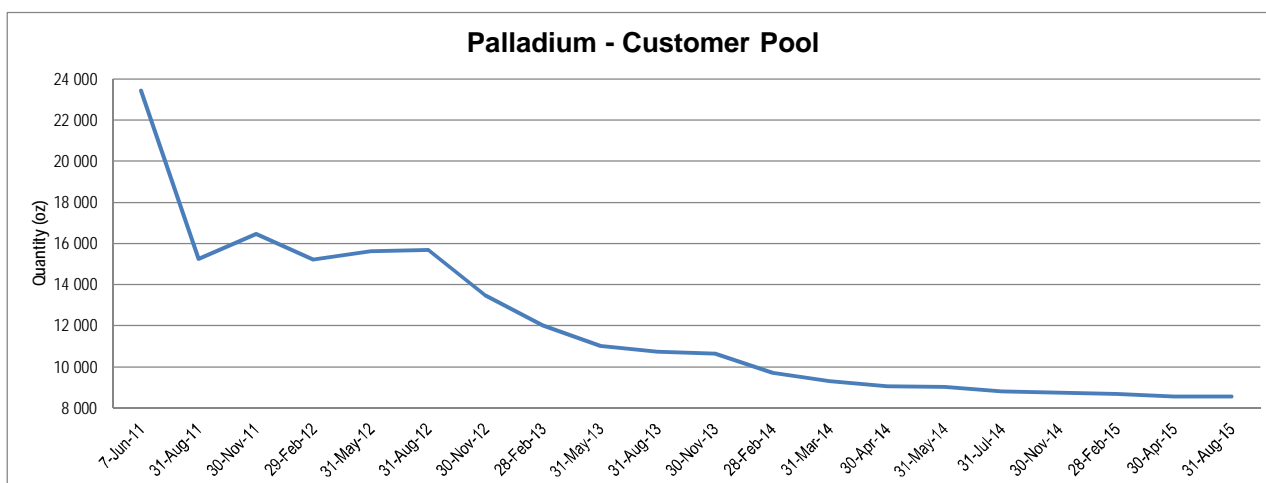
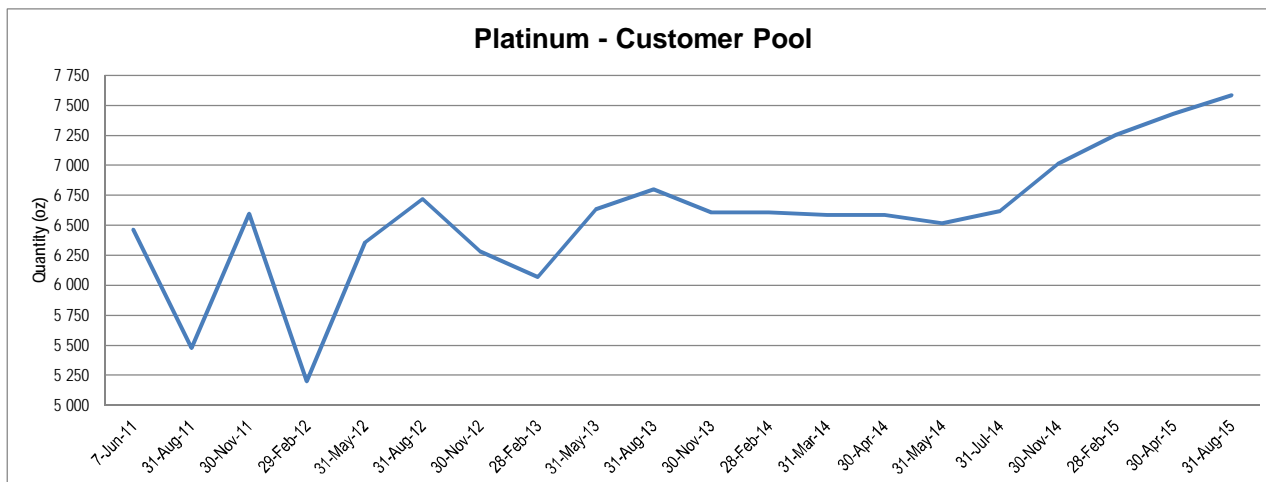


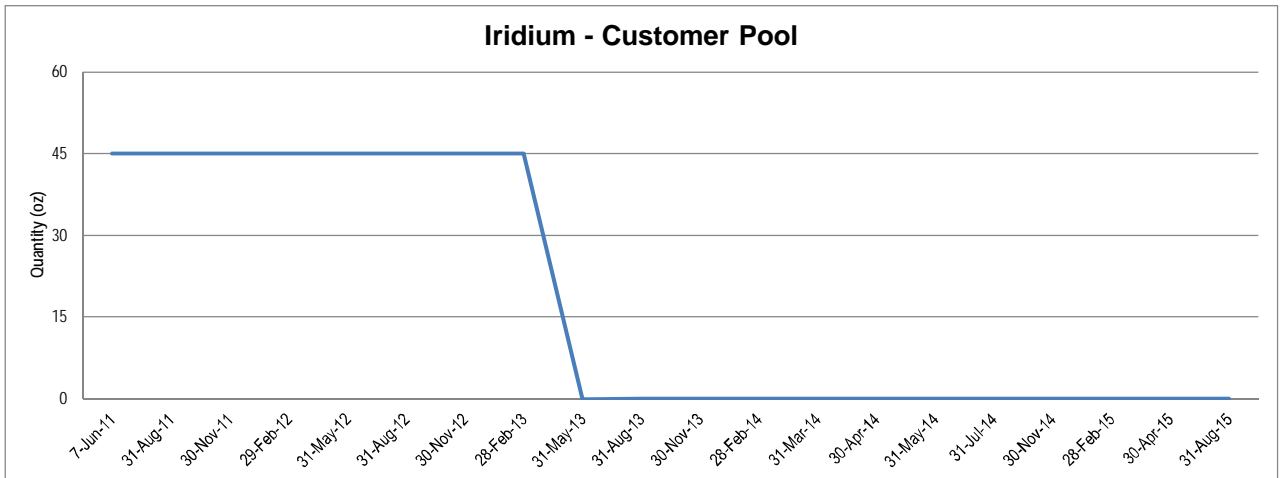
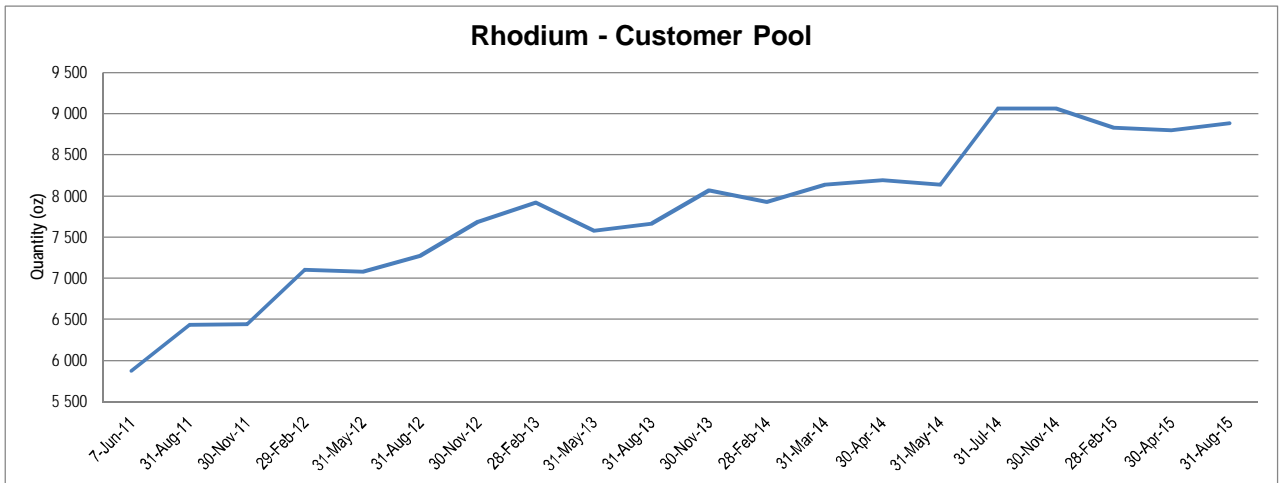
**Kitco Metals Inc.**  
**Reported vs. Projected Cash Flow**  
**For the Period: May 1, 2015 - August 31, 2015**  
**(in millions \$CAD)**  
**Unaudited**

	Reported	Projected	Variance	Note
<b>Net Results from Operations</b>	<b>\$ 5,3</b>	<b>\$ 3,5</b>	<b>\$ 1,8</b>	<b>1</b>
<b>Disbursements</b>				
Salary and Benefits	1,6	1,8	0,2	
General and Administrative	0,9	1,0	0,1	
Restructuring Costs	0,3	0,5	0,2	
	<u>2,8</u>	<u>3,3</u>	<u>0,5</u>	<b>2</b>
<b>Net Cash Flow from Operations</b>	<b>2,5</b>	<b>0,2</b>	<b>2,3</b>	
Other Transactions	-	(0,1)	0,1	<b>3</b>
Opening Consolidated Bank Balance per Book	<u>11,5</u>	<u>11,5</u>	-	
Closing Consolidated Bank Balance per Book	<u><b>\$ 14,0</b></u>	<u><b>\$ 11,6</b></u>	<u><b>\$ 2,4</b></u>	<b>4</b>
<p>Note 1: Management attributes the variance to higher than budgeted revenues and decreases in working capital which management describes as temporary in nature.</p> <p>Note 2: Management attributes the variance primarily to lower than budgeted salary and benefits and restructuring costs. Part of the variance might reverse in the future.</p> <p>Note 3: Management attributes the variance to a refund of \$0.07 million obtained during the period. The refund consists of the unutilized portion of the funds that were held in trust for the payment of taxes and expenses relating to the penthouse property sold on October 31, 2014.</p> <p>Note 4: Reported and Projected Closing Consolidated Bank Balance per Book does not include approximately \$0.6 million of cash on hand.</p>				

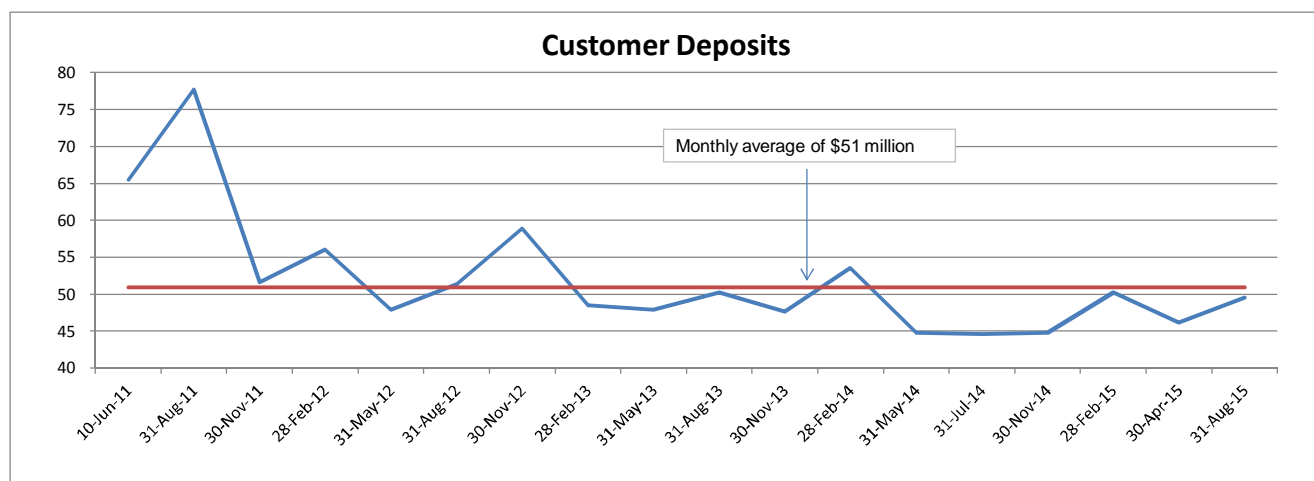
## **Exhibit 2**







## **Exhibit 3**



## **Exhibit 4**



**Kitco Metals Inc.**  
**Summary of Scrap Transactions**  
**For the period June 8, 2011 to August 31, 2015**

**Exhibit "4"**

<b>Gold</b>		
	Ounces	\$ (in \$ millions)
<b>Beginning balance</b>	<b>2 623</b>	
Purchase	44 460	
Sale	(327)	
Sent to refinery	(45 351)	
<b>Ending balance</b>	<b>1 405</b>	<b>\$ 2.0</b>

<b>Silver</b>		
	Ounces	\$ (in \$ millions)
<b>Beginning balance</b>	<b>101 633</b>	
Purchase	346 694	
Sale	(21 940)	
Sent to refinery	(401 416)	
<b>Ending balance</b>	<b>24 971</b>	<b>\$ 0.5</b>

<b>Platinum</b>		
	Ounces	\$ (in \$ millions)
<b>Beginning balance</b>	<b>1 293</b>	
Purchase	4 159	
Sale	(26)	
Sent to refinery	(5 274)	
<b>Ending balance</b>	<b>152</b>	<b>\$ 0.2</b>

<b>Palladium</b>		
	Ounces	\$ (in \$ millions)
<b>Beginning balance</b>	<b>266</b>	
Purchase	406	
Sale	(118)	
Sent to refinery	(512)	
<b>Ending balance</b>	<b>42</b>	<b>\$ -</b>

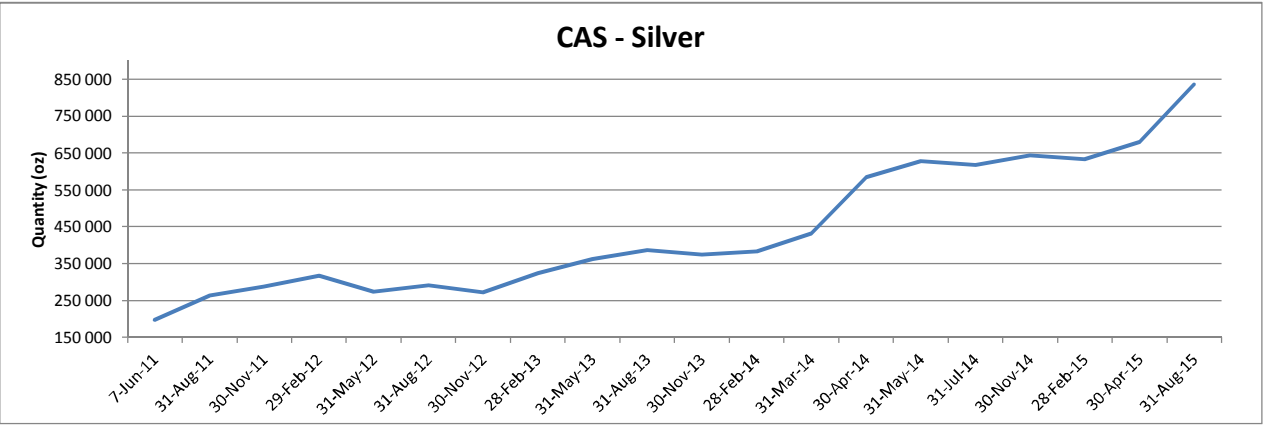
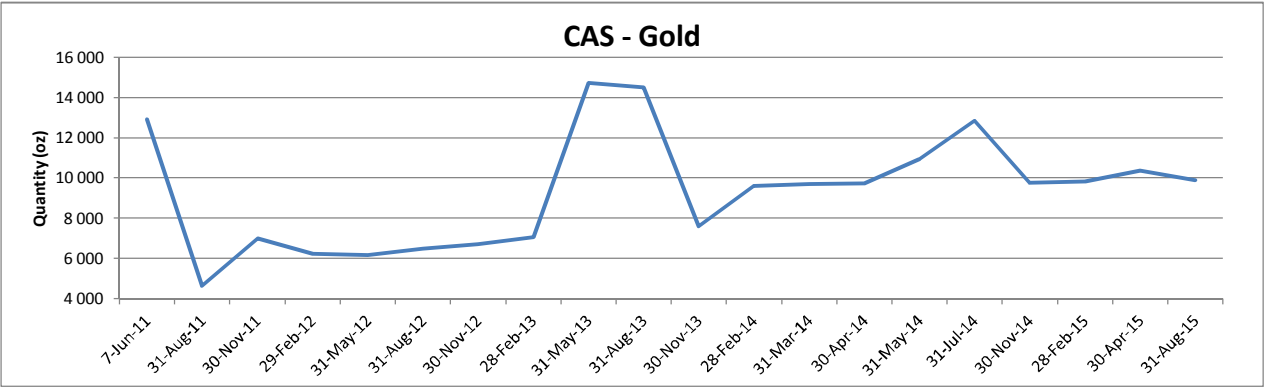
<b>Iridium</b>		
	Ounces	\$ (in \$ millions)
<b>Beginning balance</b>	<b>102</b>	
Purchase	142	
Sale	-	
Sent to refinery	(243)	
<b>Ending balance</b>	<b>1</b>	<b>\$ -</b>

<b>Rhodium</b>		
	Ounces	\$ (in \$ millions)
<b>Beginning balance</b>	<b>48</b>	
Purchase	166	
Sale	(49)	
Sent to refinery	(136)	
<b>Ending balance</b>	<b>28</b>	<b>\$ -</b>

Note 1: The value of the scrap metal as of August 31, 2015 is based upon spot pricing as of that date.

## **Exhibit 5**

**Kitco Metals Inc.**  
**Gold and Silver Canadian Allocated Storage Program**  
**For the Period June 7, 2011 to August 31, 2015**  
**Unaudited**



## **Exhibit 6**

Montréal, le 30 octobre 2015

**PAR COURRIEL**  
**ET PAR COURRIER**

Monsieur Gilles Robillard, CPA, CA  
RICHTER GROUPE CONSEIL INC.  
1981, avenue McGill College  
11<sup>ème</sup> étage  
Montréal (Québec) H3A 0G6

**Yves Ouellette**  
Associé  
Ligne directe 514-392-9521  
Télec. direct 514-876-9521  
yves.ouellette@gowlings.com

**Objet : In the matter of the Companies' Creditors Arrangement Act, R.S.C. 1985,  
ch. C-36  
Kitco Metals Inc. and Richter Advisory Group Inc. and L'Agence du revenu  
du Québec  
Cour supérieure, chambre commerciale  
NO. : 500-11-040900-116  
Notre dossier : L121970003**

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Cher Monsieur Robillard,

Suite à l'ordonnance initiale rendue par l'honorable juge Mark Schrager et à votre nomination comme contrôleur conformément à la *Loi sur les arrangements avec les créanciers des compagnies*, L.R.C. (1985), ch. C-36, nous désirons vous faire part des derniers développements à l'égard des dossiers de contestation des avis de cotisation émis en vertu de la *Loi sur la taxe de vente du Québec*, RLRQ, c. T-0.1 (ci-après la « L.T.V.Q. ») et en vertu de la *Loi sur la taxe d'accise – Partie IX – taxe sur les produits et services*, L.R.C. (1985), ch. E-15 (ci-après la « L.T.A. ») ainsi que des derniers développements dans les différents dossiers concernant la société Métaux Kitco Inc. ayant une influence directe et déterminante sur les dossiers de contestation des avis de cotisation.

Pour les fins des présentes, nous désirons vous faire part plus précisément des derniers développements suivants :

1. Le rapport portant la date du 10 juin 2015 qui vous a été transmis ainsi que les différents éléments mentionnés sont toujours pertinents et d'actualité.
2. Au niveau du dossier relatif aux documents pouvant être privilégiés, confidentiels et protégés par le secret professionnel, l'honorable juge Sophie Bourque a été désignée par l'honorable juge en chef de la Cour supérieure pour entendre les représentations des

procureurs de l'Agence du revenu du Québec et de la société Métaux Kitco Inc. et de l'avocate indépendante Me Danielle Ferron.

3. Une date d'audition a été fixée pour le 30 octobre 2015 et, à cette date, le dossier a été remis *pro forma* au 11 décembre 2015 afin d'aviser la Cour supérieure, chambre criminelle, de la position de Métaux Kitco Inc. quant à la contestation éventuelle des mandats de perquisition et afin de faire le point avec la Cour supérieure, chambre criminelle, suite à la conférence de gestion devant avoir lieu devant l'honorable juge Claude Leblond de la Cour du Québec, chambre criminelle et pénale, le 23 novembre 2015, à 14h00.
4. Également, une conférence téléphonique a été prévue pour le 27 novembre 2015, à 9h00, avec l'honorable juge Sophie Bourque de la Cour supérieure, chambre criminelle.
5. Au niveau du dossier des infractions pénales reprochées à Métaux Kitco Inc. et à M. Bart Kitner, le 8 septembre 2015, la conférence de gestion a été reportée au 23 novembre 2015 devant l'honorable juge Claude Leblond de la Cour du Québec, chambre criminelle et pénale.
6. De plus, tel que mentionné dans notre rapport portant la date du 15 juin 2015, des rencontres ont eu lieu avec les procureurs de l'Agence du revenu du Québec afin de faire le point sur l'ensemble des dossiers opposant Métaux Kitco Inc. et M. Bart Kitner à l'Agence du revenu du Québec et une rencontre a eu lieu le 1<sup>er</sup> octobre 2015, à Québec.
7. En prévision de la conférence de gestion prévue pour le 23 novembre 2015 devant l'honorable juge Claude Leblond de la Cour du Québec, chambre criminelle et pénale, nous sommes en train d'évaluer avec l'autre procureur représentant Métaux Kitco Inc. l'opportunité de demander une communication additionnelle de preuve et le cahier de preuve qui devait être soumis le 8 septembre 2015 par les procureurs de l'Agence du revenu du Québec n'a pas encore été transmis en date des présentes.
8. Nous réitérons que les demandes de complément de preuve qui avaient été faites le 15 août 2014 et le 25 septembre 2014 n'ont pas encore été satisfaites dans leur intégralité en date du 30 septembre 2015 et ne le sont pas encore en date des présentes.
9. Nous sommes en train d'évaluer l'opportunité avec l'autre procureur, Me Louis Belleau, de présenter une requête afin d'obtenir cette preuve et cette question fera partie des éléments qui seront discutés lors de la conférence de gestion prévue pour le 23 novembre 2015.
10. En considération de ce qui précède, vous comprendrez que, alors que l'enquête se poursuit selon l'Agence du revenu du Québec, il est impossible d'établir un calendrier précis des échéances puisque la communication de la preuve suite aux demandes additionnelles en date du 15 août 2014 et du 25 septembre 2014 n'ont pas encore été satisfaites et qu'il est plus probable qu'improbable que d'autres demandes additionnelles de divulgation de preuve seront faites.

Nous espérons ces quelques informations à votre satisfaction et nous vous prions d'agréer, cher Monsieur, l'expression de notre considération.

**GOWLING LAFLEUR HENDERSON S.E.N.C.R.L., s.r.l.**

A handwritten signature in black ink, appearing to read 'Yves Ouellette', with a long horizontal stroke extending to the right.

YO/ca